



# Fair Credit Reporting Act – New Summary of Consumer Rights Forms Now Required

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All entities and individuals required to provide “consumers” with a notice of rights pursuant to Fair Credit Reporting Act (“FCRA”) section 609 are now required to use the updated summary of rights forms authored by the Consumer Financial Protection Bureau (“CFPB”). See [Interim Final Rule \(83 FR 47027\)](#). Companies that use background check reports for employment purposes are subject to this rule.

Applicants and employees must receive a copy of the consumer report and a summary of their rights under the FCRA a “reasonable amount of time” (i.e. presumably at least five business days) prior to suffering any adverse employment action that is based, in whole or in part, on information contained within a consumer report. See 15 U.S.C. § 1681b(b)(3). Under the CFPB’s new rule, the summary of consumer rights forms have been updated to reflect recent statutory changes implemented by the Economic Growth, Regulatory Relief, and Consumer Protection Act. Therefore, employers that are required to provide the summary of consumer rights forms to applicants and employees under FCRA section 1681b(b)(3) must ensure that they are using the updated forms.

A copy of the new summary of consumer rights forms can be downloaded from [the CFPB’s website](#) and are also linked below:

- [Updated Summary of Consumer Rights Form](#)
- [Updated Summary of Consumer Identity Theft Rights](#)

The comments above are subject to two important caveats. First, for FCRA purposes, an “investigative consumer report” (i.e. a comprehensive search into a person’s background that includes personal interviews with neighbors, friends, or associates) is not the same as a normal “consumer report.” An employer that wants to obtain an investigative consumer report must comply with a different and more comprehensive set of notice requirements than what is described above. See 15 U.S.C. § 1681d. Second, additional and/or different notice rules may apply depending on which state or municipality the employer operates in.

## Key Takeaways

1. Employers that are required to provide notice to applicants and employees of their rights under the FCRA must start using the updated summary of consumer rights forms authored by the CFPB prior to taking adverse action.
2. Employers may be subject to different and/or additional notice requirements depending on the facts underlying their specific situation and the work site involved. Employers should consider seeking the advice of legal counsel prior to implementing changes based upon the CFPB’s Interim Final Rule.

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