

## New York City Limits Employers' Use of Credit Information of Applicants, Employees

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New York City legislation prohibiting employers generally from requesting or using the consumer credit histories of applicants or employees for employment purposes, or otherwise discriminating against applicants or employees with respect to hiring, compensation, or the terms, conditions, or privileges of employment based on their consumer credit history, will become effective on September 3, 2015, 120 days after signing by Mayor Bill de Blasio.

The "Stop Credit Discrimination in Employment Act" amends the City Human Rights Law and defines "consumer credit history" to include written and other information obtained through credit reports or credit scores, or other information obtained directly from the applicant or employee, about that individual's creditworthiness, credit standing, credit capacity, or payment history.

The law permits employers to request and consider the consumer credit history information of applicants and employees in certain, limited circumstances, as well as in response to any lawful subpoena, court order, or law enforcement investigation. Narrow exemptions to the new prohibition include the following:

- positions for which employers are required by law, regulation, or a self-regulatory organization to use an individual's consumer credit history for employment purposes;
- certain public safety positions;
- positions that require the employee to be bonded under city, state, or federal law;
- positions requiring a security clearance under federal or state law;
- non-clerical positions that entail regular access to trade secrets (*which are the end product of significant innovation and do not include, among other things, access to or the use of client, customer, or mailing lists*), intelligence information (*compiled for the purpose of criminal investigation or counterterrorism*), or national security information;
- positions with signatory authority over third-party funds or assets valued at \$10,000 or more;
- positions that involve a fiduciary responsibility to the employer with the authority to enter financial agreements valued at \$10,000 or more on behalf of the employer; or
- positions with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of networks or databases of the employer or the employer's client.

Jackson Lewis attorneys in our [Background Checks](#) practice are available to answer inquiries regarding this new law and assist in employers' compliance efforts.

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