

## New York City Enacts Protections Against Discrimination Based on Credit History

MAY 14, 2015

New York City Mayor Bill de Blasio signed The Stop Credit Discrimination in Employment Act [legislation](#) into law extending protections against discrimination based on consumer credit history to applicants and employees within the city. The law takes effect on or about September 3, 2015, and will amend the New York City Human Rights Law (NYCHRL). New York City joins California, Colorado, Connecticut, Hawaii, Illinois, Maryland, Nevada, Oregon, Vermont, and Washington, as well as the city of Chicago in limiting the use of credit checks for employment purposes.

The new law makes it “an unlawful discriminatory practice for an [New York City] employer, labor organization, employment agency, or agent thereof to request or to use for employment purposes the consumer credit history of an applicant for employment or employee, or otherwise discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment based on the consumer credit history of the applicant or employee.” “Consumer credit history” is defined as any information bearing on an individual’s credit worthiness, credit standing, or credit capacity, including but not limited to an individual’s credit score, credit account and other consumer account balances, and payment history.

The following employers and positions are excluded from coverage:

- An employer that is required by state or federal law or regulations, or by a self-regulatory organization (as defined in the Securities Exchange Act of 1934) to use an individual’s consumer credit history for employment purposes;
- The position is for a police officer or a peace officer, or has a law enforcement or investigative function at the Department of Investigation;
- The position is subject to background investigation by the Department of Investigation, provided that the appointing agency may not use consumer credit history information for employment purposes unless the position is an appointed position in which a high degree of public trust (as defined by commission on human rights rules) has been placed;
- The job requires an employee to be bonded under city, state, or federal law;
- The position requires an employee to possess a security clearance under federal law or the law of any state;
- The position (a) has signatory authority over third-party funds or assets valued at \$10,000 or more, or (b) involves a fiduciary responsibility to the employer with authority to enter financial agreements valued at \$10,000 or more

on behalf of the employer;

- The job has regular duties that permit the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.
- The job is for a non-clerical position that has regular access to intelligence information, national security information, or trade secrets;

Trade secret is defined to include information that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (c) can reasonably be said to be the end product of significant innovation. The term "trade secrets" does not include general proprietary company information, such as handbooks and policies. "Regular access to trade secrets" does not include access to or the use of client, customer, or mailing lists.

Additionally, employers are able to request or receive consumer credit history information through a lawful subpoena, court order, or law enforcement investigation.

Individuals will be able to file a complaint with the New York City Commission on Human Rights or file an action directly in state court. Successful plaintiffs may be able to recover back pay, compensatory and punitive damages, attorneys' fees and costs, reinstatement, and/or other equitable relief.

New York City employers should note that as of September 3, 2015, subject to limited exceptions, they may not utilize credit reports, bankruptcies, and liens to disqualify applicants from employment. Further, New York City employers should consult with counsel to review their application forms, offer letters, and handbooks to ensure the removal of any reference to credit checks for positions that do not meet one of the law's limited exceptions.

All employers should remember the Fair Credit and Reporting Act requires employer to obtain written permission from applicants or employees prior to procuring a consumer report and imposes additional requirements on employers who use information contained in an individual's consumer report to take an adverse employment action.

3 Min Read

## Related Locations

Charlotte

Chicago

Los Angeles

New York

Paris

San Francisco

Washington, DC

## Related Topics

Labor & Employment

## Related Capabilities

Labor & Employment

## Related Regions

North America

Europe

## Related Professionals

---



Derek G. Barella



Shane Blackstone



Joan Fife



Aviva Grumet-Morris



Deborah S.K. Jagoda



Scott E. Landau



Laura Petroff



Michael Roche



Stephen Sheinfeld



Cardelle Spangler



William Sunkel



Emilie Woodhead