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New York State Prohibits Employers' Consideration of Credit History in Most Employment-Related Decisions

Effective April 18, 2026, an amendment to the New York State Fair Credit Reporting Act [1] will ban employers from using an applicant's or employee's credit history for employment decisions, such as hiring or determining employee compensation. Narrow exceptions apply. This new prohibition generally expands New York City's Stop Credit Discrimination in Employment Act, which has banned NYC employers from engaging in similar practices since 2015, subject to limited exemptions. As of April 18, 2026, comparable restrictions will apply statewide.

Key Features

The new amendment strictly limits an employer's ability to utilize information related to an applicant's or employee's credit history when evaluating that individual for employment, promotion, reassignment, or retention.

Under this new law, it is an unlawful discriminatory practice for an employer, labor organization, employment agency, or any agents thereof to request or use for employment purposes the consumer credit history of a job applicant or employee. The Act also prohibits employers from discriminating against applicants or employees with regard to hiring, compensation, or the terms, conditions, or privileges of employment based on that individual's consumer credit history.

The Act defines "consumer credit history" as an individual's credit worthiness, credit standing, credit capacity, or payment history, as shown by:

1. A consumer credit report generated by a consumer reporting agency;
2. A credit score;

3. Information an employer obtains from the individual regarding credit account details, including the number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, or prior credit report inquiries; or
4. Information an employer obtains from the individual regarding bankruptcies, judgments, or liens.

Exceptions to General Prohibitions

Several exceptions apply to the new Act's prohibitions. First, under this new amendment, employers are permitted to request or use an individual's consumer credit history for employment-related decisions when the employer is required by state or federal law, or by a self-regulatory organization, to do so.

Additionally, employers may request or use the consumer credit history of individuals in the following positions:

- Peace or police officers, or applicants to such positions;
- Positions with law enforcement or investigative functions in a law enforcement agency;
- Positions subject to background investigation by state agency, so long as the appointing agency does not use consumer credit history for employment purposes unless the position is appointed and involves a high degree of public trust;
- Positions in which the employee is required to be bonded under state or federal law;
- Positions for which state or federal law requires security clearance;
- Non-clerical positions in which the employee has regular access to trade secrets, intelligence information, or national security information;
- Positions in which the employee has signatory authority over a third-party's assets valued at $10,000 or more;
- Positions in which the employee has a fiduciary responsibility to the employer and authority to enter financial agreements valued at $10,000 or more on the employer's behalf; or
- Positions with ability to modify digital security systems established to prevent unauthorized use of employer's or client's networks.

Employers should consult with counsel prior to requesting or using an individual's consumer credit history under any listed exceptions.

Other Applicable Notice and Reporting Requirements

New York's Fair Credit Reporting Act expressly requires employers to comply with other local laws and ordinances concerning the use of consumer credit reports for employment purposes. Employers should be particularly mindful of New York City's legislation, which requires city employers to follow additional record-keeping procedures when considering an employee's or applicant's consumer history pursuant to an exception.

New York employers also remain subject to the federal Fair Credit Reporting Act, which sets forth additional specific procedures for requesting and using consumer reports when making employment-related decisions.

Employer Best Practices

To ensure compliance with the amendment to New York State's Fair Credit Reporting Act, employers should consider the following measures:

- Review hiring, promotion, termination, and other applicable policies and revise as necessary to ensure elimination of any credit check requirements, unless an exemption applies.
- Revise job applications, offer letters, termination letters, and other documentation involving employment-related decisions to ensure elimination of any credit check questions or references, unless an exemption applies.
- Train HR department and other employees involved in hiring and other employment-related decisions concerning the Act's requirements.
- Coordinate with consumer reporting agencies and background screening vendors to ensure compliance with the Act's requirements.
- Consult counsel prior to requesting consumer credit histories from job applicants or employees.
- Maintain detailed records anytime an individual's consumer credit history is requested or used pursuant to any exception.

Failure to comply with New York's Fair Credit Reporting Act, and other legislation discussed in this article, may subject employers to penalties, fines, and liability in court or with governmental agencies.

This client alert was drafted by Catherine Weiss Butto, an attorney in the Spencer Fane New York City office. For more information, visit https://www.spencerfane.com.

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1 (N.Y. Gen. Bus. Law § 380 et seq.)

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