

# NYC Bans Credit Background Checks

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On April 16, 2015, New York City became the twelfth jurisdiction in the country to bar the use of credit background checks in hiring and employment decisions. The New York City Council passed [Intro-261-A](#), informally named the “Stop Credit Discrimination in Employment Act,” by a 47-3 vote. The bill would amend the New York City Human Rights Law to make it an unlawful discriminatory practice for an employer to make any hiring or employment decisions based on an individual’s consumer credit history.

Under the bill, but for a few exceptions, New York City employers with four or more employees are prohibited from requesting an applicant’s credit history for employment purposes all together. The measure goes further – protecting not only applicants during the hiring process, but even current employees by prohibiting employers from considering consumer credit history in decisions regarding “compensation, or the terms, conditions or privileges of employment.”

The measure defines “consumer credit history” broadly, encompassing not only an individual’s creditworthiness, credit standing, and credit capacity, as indicated by consumer credit report or credit score, but also information directly obtained from the applicant or employee regarding his or her (i) prior bankruptcies, judgments, or liens, or (ii) number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, or prior credit report inquiries.

After much lobbying and negotiation by business groups, the Council carved out a few exceptions for certain employers, namely those (i) required by state or federal law or regulation, or by a self-regulatory organization, to use consumer credit history for employment purposes; (ii) various public safety and law enforcement positions; (iii) position requiring bonding under city, state, or federal law; (iv) positions requiring possession of security clearance under federal or state law; (v) non-clerical positions with regular access to trade secrets, intelligence or national security information; (vi) positions with signatory authority over third party funds or assets valued at or involving fiduciary responsibility to the employer of \$10,000 or more; or (vii) positions that allow modification of digital security systems protecting the employer or client’s network or databases.

The NYC ban on the use of credit history for employment purposes, for its part, is much more expansive than its counterparts in the ten states (California, Maryland, Connecticut, Hawaii, Illinois, Washington, Oregon, Vermont, Colorado, and Nevada) and two other localities (Chicago and Madison, WI).

The law will be effective **120 days after it is signed into law** by Mayor Bill de Blasio. Once it becomes effective, the measure will afford aggrieved applicants and employees a private right of action and seek the same broad remedies available under other NYC Human Rights Law claims (ie. back pay, front pay, and compensatory damages).

In the interim, New York City employers using credit checks for employment purposes are well advised to review and modify their practices as necessary in anticipation of the law taking effect.