

ANDERSON KILL EMPLOYMENT LAW INSIDER

ALERT

NYC Enacts Law Banning Credit Screenings for Most Job Applicants

By Bennett Pine

On May 6, 2015, New York City Mayor Bill de Blasio signed into law the Stop Credit Discrimination in Employment Act that would prevent employers from using credit checks, bankruptcies and liens to disqualify most applicants from employment. The bill was passed by the New York City Council by a vote of 47–3 in April. The law amends the city’s Human Rights Law to add protections prohibiting discrimination on the basis of an individual’s credit history by limiting most employer inquiries into, or basing employment decisions upon, the credit history of a current or prospective employee.

Purpose

Councilman Brad Lander, the sponsor of the law, explained the view of many consumer advocates that the use of credit checks in employment unfairly prevents law abiding citizens from obtaining employment due to student loans or medical bills that have ruined their credit and that the use of credit histories can have a disproportionately negative effect on low income and minority applicants. “Credit checks for employment unfairly lock New Yorkers out of jobs. There is no link that can be shown between credit history and job performance and now New York City reflects that fact,” stated Lander.

Exclusions

The ban on credit checks does not apply to:

- police, law enforcement, public safety and other appointed positions subject to background investigations by the NYC Department of Investigation;
- bonded and financial services positions;
- non-clerical jobs providing access to trade secret or national security/intelligence information;
- jobs with signatory or fiduciary authority over funds valued at \$10,000 or more;

ANDERSON KILL
1251 Avenue of the Americas
New York, NY 10020
(212) 278-1000 Fax: (212) 278-1733

ANDERSON KILL
864 East Santa Clara Street
Ventura, CA 93001
(805) 288-1300 Fax: (805) 288-1301

ANDERSON KILL
1600 Market Street, Suite 2500
Philadelphia, PA 19103
(267) 216-2700 Fax: (215) 568-4573

ANDERSON KILL
1055 Washington Boulevard, Suite 510
Stamford, CT 06901
(203) 388-7950 Fax: (203) 388-0750

ANDERSON KILL
1717 Pennsylvania Avenue, Suite 200
Washington, DC 20006
(202) 416-6500 Fax: (202) 416-6555

ANDERSON KILL
One Gateway Center, Suite 1510
Newark, NJ 07102
(973) 642-5858 Fax: (973) 621-6361

ANDERSON KILL
JP Morgan International Plaza III
14241 Dallas Parkway, Suite 650
Dallas, TX 75254
(972) 728-8753 Fax: (805) 288-1301

www.andersonkill.com





who's who

Bennett Pine is a shareholder in Anderson Kill's New York and

Newark offices and is chair of the firm's employment & labor group.

Mr. Pine has broad-based labor and employment law experience and regularly plays a hands-on role offering preventative maintenance advice and counseling to employers in the full range of legal issues affecting the workplace.

bpine@andersonkill.com

(212) 278-1288

(973) 642-5006

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- jobs where security clearance is required by any federal or state law; and
- positions allowing the employee access to modify digital security systems designed to prevent the unauthorized use of networks or databases.

Growing Trend

The law adds New York City to a list that includes 10 states (California, Colorado, Connecticut, Hawaii, Illinois, Maryland, Nevada, Oregon, Vermont and Washington) and the city of Chicago, all of which currently ban the use of credit checks of job applicants. Chicago (and several of the states) allow credit checks to be performed for any job involving money handling.

According to a 2012 study by the Society for Human Resource Management, nearly half of all employers utilized credit checks in evaluating prospective employees. The stated rationale for those employers doing so, according to the SHRM study, is that an individual who acts responsibly with respect to his/her own finances tends to be a better performer.

Effective Date

The New York City law goes into effect on September 3, 2015, 120 days after being signed by Mayor de Blasio.

Remedies

Aggrieved applicants and employees would have the full range of rights and remedies available to individuals asserting other rights under the NYC Human Rights Law.

Conclusion

New York City employers should look carefully at the scope of their credit and background check protocols to ensure that they are in compliance with the Stop Credit in Discrimination in Employment Act and/or fall within any of the new law's exclusions, prior to September 3, 2015. ▲

Please contact the author if you have any questions or require additional information.

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