Proskauer

New York State to Restrict Use of Consumer Credit Information in Hiring and Employment

Law and the Workplace on **December 30, 2025**

Beginning April 18, 2026, New York State employers will be restricted from using an applicant's or employee's consumer credit information when making employment-related decisions. S.B. 3072, signed by Governor Kathy Hochul as part of an end-of-year legislative push, will extend statewide credit history protections similar to those already in effect under New York City law.

Restrictions on Collection and Use of Consumer Credit History

The law will amend the New York State Fair Credit Reporting Act (Gen. Bus. Law § 380 *et seq*.) to make it an unlawful discriminatory practice for an employer, labor organization, employment agency, or their agent to:

- request or use the consumer credit history of an applicant or employee for employment purposes, or
- otherwise use an applicant's or employee's consumer credit history to discriminate against the individual with regard to hiring, compensation, or other terms, conditions, or privileges of employment, subject to certain exceptions.

"Consumer credit history" is defined as "an individual's credit worthiness, credit standing, credit capacity or payment history, as indicated by: (1) a consumer credit report; (2) credit score; or (3) information an employer obtains directly from the individual regarding (i) details about credit accounts, including the individual's number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit or prior credit report inquiries, or (ii) bankruptcies, judgments or liens."

Interestingly, the law also prohibits consumer reporting agencies (such as companies in the business of compiling background check reports) from providing, for employment purposes, consumer reports that contain consumer credit history unless the employer or position is exempted from the law's protections (as discussed further below).

Employers and Positions Exempted Under the Law

Exempted from the law's restrictions are:

1. employers required by state or federal law or by a self-regulatory organization (as defined under the Securities Exchange Act) to use an individual's consumer credit history for employment purposes;
2. certain law enforcement positions;
3. certain appointed positions subject to background investigation by a state agency;
4. positions requiring bonding under state or federal law;
5. positions where an employee is required to possess security clearance under state or federal law;
6. non-clerical positions having regular access to trade secrets, intelligence information, or nation security information (as defined under the law);
7. positions having signatory authority over third party funds or assets valued at $10,000 or more, or 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; and
8. positions with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.

The law further permits employers to request or receive consumer credit history information pursuant to a lawful subpoena, court order, or law enforcement investigation.

The New York State Division of Human Rights will be tasked with requesting information from employers regarding the employers' use of the exemptions for purposes of hiring and employment. Within two years of the effective date of the law, the Division shall submit a report to the state legislature concerning the results of such requests and "any relevant feedback" from employers.

No Preemption of Local Law

In recognition of existing protections in New York City, the law provides that it does not preempt any local law with respect to the use of consumer credit history for employment purposes and makes clear that applicants and employees must receive the broadest protections available under all applicable laws.

* * *

New York State employers should begin taking steps to review their pre-employment and post-hire background screening processes to ensure compliance in advance of the law's April 2026 effective date.

Related Professionals

- **Allan S. Bloom**
  Partner
- **Laura M. Fant**
  Special Employment Law Counsel