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## Legislative Update

# New York State Bans Use of Consumer Credit History for Employment Purposes

By [Marc E. Bernstein](#), [Patrick W. Shea](#), [Sara B. Tomezsko](#), [Kaveh Dabashi](#) and [Dan Richards](#)

Last month, New York Governor Kathy Hochul signed [S3072](#), which amends the New York State Fair Credit Reporting Act to preclude New York employers from using applicant or employee consumer credit history for employment purposes, with limited exceptions. The new law goes into effect on April 18, 2026.

In 2015, New York City employers stopped using consumer credit history for employment purposes after the City enacted the Stop Credit Discrimination in Employment Act to outlaw the practice (except in cases where exceptions apply). Now, employers statewide will be subject to analogous rules, as the new State law is a near-verbatim copy of the City law, bringing uniformity throughout the State. The new State law also brings New York in line with nearly a dozen other jurisdictions that proscribe the use of consumer credit history for employment purposes.

### Ban on Employer Inquiry About or Use of Consumer Credit History

The law applies new restrictions on employers' use of consumer credit history. The law defines "consumer credit history" 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."

The law provides that it is an unlawful discriminatory practice for an employer, labor organization, employment agency, or any agent thereof either to request or use for employment purposes an applicant's or employee's consumer credit history, including for decisions affecting hiring, compensation, or other terms, conditions, or privileges of employment. The law also precludes consumer reporting agencies from supplying a report containing consumer credit history information for any employment purpose or decision described above.

## Exceptions to the Ban

The law contains exceptions for the following eight categories of positions for which an employer can lawfully inquire about or use candidates' consumer credit history:

1. If state or federal law or a self-regulatory organization requires the employer to do so.
2. Peace officers, police officers, or other positions with law enforcement or investigative functions in law enforcement agencies.
3. Appointed positions requiring a high degree of public trust and a background investigation by a state agency.
4. Positions requiring the employee to be bonded under state or federal law.
5. Positions requiring a federal or state security clearance.
6. Non-clerical positions involving regular access to trade secrets, intelligence information, or national security information. A "trade secret" is defined as 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[s] . . ."; (B) is the subject of reasonable efforts to maintain its secrecy; and (C) is reasonably the result of "significant innovation." Trade secrets exclude "general proprietary company information such as handbooks and policies" and "client, customer or mailing lists."
7. Positions with signatory authority over \$10,000 or more in third-party funds or assets or with fiduciary responsibility and authority to enter financial agreements on the employer's behalf worth \$10,000 or more.
8. Positions requiring the employee to regularly modify digital security systems to prevent the unauthorized use of the employer's or its clients' networks or databases.

## Takeaways

New York employers should review their policies and practices before April 18, 2026, to ensure they are not requesting or considering consumer credit history for employment purposes unless an exemption applies. Employers operating in compliance with the New York City law should determine if they can extend their existing policies and practices to their operations throughout the State, given the similarities between the State and City laws.

We are here to support and collaborate with employers as they navigate the potential impact of the new State law.

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*If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings New York lawyers:*

Marc E. Bernstein  
+1-212-318-6907

[marcbernstein@paulhastings.com](mailto:marcbernstein@paulhastings.com)

Sara B. Tomezsko  
+1-212-318-6267

[saratomezsko@paulhastings.com](mailto:saratomezsko@paulhastings.com)

Dan Richards  
+1-212-318-6739

[danrichards@paulhastings.com](mailto:danrichards@paulhastings.com)

Patrick W. Shea  
+1-212-318-6405

[patrickshea@paulhastings.com](mailto:patrickshea@paulhastings.com)

Kaveh Dabashi  
+1-212-318-6658

[kavehdabashi@paulhastings.com](mailto:kavehdabashi@paulhastings.com)

Paul Hastings LLP

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