

STATE OF NEW YORK

2611--C

2019-2020 Regular Sessions

IN ASSEMBLY

January 24, 2019

Introduced by M. of A. DINOWITZ, L. ROSENTHAL, CRESPO, BUCHWALD, WEPRIN, M. G. MILLER, RODRIGUEZ, OTIS, ABINANTI, SEAWRIGHT, SOLAGES, REYES, TAYLOR, SAYEGH, GOTTFRIED, EPSTEIN, D'URSO, STIRPE, ARROYO, BLAKE, HYNDMAN, DE LA ROSA, STECK, COOK, GLICK, CRUZ, ZEBROWSKI, ORTIZ, WALLACE, FALL, FRONTUS, FERNANDEZ, RAYNOR -- Multi-Sponsored by -- M. of A. DenDEKKER, GALEF, GRIFFIN, JAFFEE, PERRY, SIMON -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the disclosure or use of a person's consumer credit history to an employer, labor organization, employment agency or agent thereof for purposes of employment decisions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 380-a of the general business law is amended by
2 adding a new subdivision (u) to read as follows:

3 (u) The term "consumer credit history" means an individual's credit
4 worthiness, credit standing, credit capacity or payment history, as
5 indicated by:

6 (1) a consumer credit report;

7 (2) credit score; or

8 (3) information an employer obtains directly from the individual
9 regarding (i) details about credit accounts, including the individual's
10 number of credit accounts, late or missed payments, charged-off debts,
11 items in collections, credit limit or prior credit report inquiries, or
12 (ii) bankruptcies, judgments or liens.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD01243-12-9

1 A consumer credit report shall include any written or other communi-
2 cation of any information by a consumer reporting agency that bears on a
3 consumer's creditworthiness, credit standing, credit capacity or credit
4 history.

5 § 2. Subdivision (d) of section 380-b of the general business law is
6 relettered subdivision (g) and three new subdivisions (d), (e) and (f)
7 are added to read as follows:

8 (d) (1) Except as provided in this subdivision, it shall be an unlaw-
9 ful discriminatory practice for an employer, labor organization, employ-
10 ment agency or any agent thereof to request or to use for employment
11 purposes the consumer credit history of an applicant for employment or
12 employee, or otherwise discriminate against an applicant or employee
13 with regard to hiring, compensation, or the terms, conditions or privi-
14 leges of employment based on the consumer credit history of the appli-
15 cant or employee.

16 (2) Paragraph one of this subdivision shall not apply to:

17 (i) an employer, or agent thereof, that is required by state or feder-
18 al law or by a self-regulatory organization as defined in section
19 3(a)(26) of the securities exchange act of 1934, as amended to use an
20 individual's consumer credit history for employment purposes, provided,
21 however, that the provisions of this subparagraph shall not apply if the
22 employer is required by state or federal law to use a consumer credit
23 report for employment decisions;

24 (ii) persons applying for positions as or employed as peace officers
25 or police officers, as such terms are defined in subdivisions thirty-
26 three and thirty-four of section 1.20 of the criminal procedure law,
27 respectively, or in a position with a law enforcement or investigative
28 function in a law enforcement agency.

29 (3) Paragraph one of this subdivision shall not be construed to affect
30 the obligations of persons required by state or local law relating to
31 disclosures by public employees of conflicts of interest.

32 (4) Nothing in this subdivision shall preclude an employer from
33 requesting or receiving consumer credit history information pursuant to
34 a lawful subpoena, court order or specific law enforcement investi-
35 gation.

36 (e) (1) Except as otherwise provided in this subdivision, it shall be
37 an unlawful discriminatory practice for any state or municipal agency to
38 request or use for licensing or permitting purposes information
39 contained in the consumer credit history of an applicant, licensee or
40 permittee for licensing or permitting purposes.

41 (2) Paragraph one of this subdivision shall not apply to an agency
42 required by state or federal law to use an individual's consumer credit
43 history for licensing or permitting purposes.

44 (3) Paragraph one of this subdivision shall not be construed to affect
45 the ability of an agency to consider an applicant's, licensee's, regis-
46 trant's or permittee's failure to pay any tax, fine, penalty or fee for
47 which liability has been admitted by the person liable therefor, or for
48 which judgment has been entered by a court or administrative tribunal of
49 competent jurisdiction, or any tax for which a government agency has
50 issued a warrant, or a lien or levy on property.

51 (4) Nothing in this subdivision shall preclude a licensing agency from
52 requesting, receiving, or using consumer credit history information
53 obtained pursuant to a lawful subpoena, court order or specific law
54 enforcement investigation.

55 (f) This section does not annul, alter, affect or exempt any employer,
56 labor organization, employment agency or any agent thereof subject to

1 the provisions of this section from complying with any local law, ordi-
2 nance or regulation with respect to the use of consumer credit history
3 for employment purposes except to the extent that those laws are incon-
4 sistent with any provision of this section, and then only to the extent
5 of such inconsistency. For purposes of this subdivision, a local law,
6 ordinance or regulation is not inconsistent with this section if the
7 protection such law or regulation affords an employee or job applicant
8 is greater than the protection provided by this section.

9 § 3. The division of human rights shall request information from state
10 and local agencies and non-governmental employers regarding the agen-
11 cies' and employers' use of the exemptions established in subdivision
12 (d) of section 380-b of the general business law for purposes of hiring
13 and employment. Within two years of the effective date of this act, the
14 division of human rights shall submit to the legislature a report
15 concerning the results of such request and any relevant feedback from
16 agencies and employers.

17 § 4. This act shall take effect on the one hundred twentieth day after
18 it shall have become a law.