

D.C. Council Passes Ban on Credit History Screens on Job Applicants, Interns, Employees

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The Washington D.C. Council unanimously passed the “Fair Credit in Employment Amendment Act” (Bill 21-244) to amend the Human Rights Act of 1977 and prevent employers from taking discriminatory action against applicants, interns and employees based on the individual’s “credit information.”

The Fair Credit law prohibits most employers from requiring an applicant, intern, or employee to submit credit information as part of the hiring process or during the individual’s employment with the employer. It also prohibits most employers from using, referring to, or inquiring into an applicant, intern, or employee’s credit information. This law does not apply to federal jobs, D.C. police, special police, campus police, or financial institutions where the job involves access to personal financial information, or otherwise required by D.C. law or pursuant to lawfully issued subpoena.

The Fair Credit law is similar to D.C.’s 2014 “Ban the Box” law prohibiting employers from asking applicants about their criminal history before making a conditional offer of employment. (See our article, [District of Columbia Enacts Ban-the-Box Legislation Limiting Employers’ Criminal Background Inquiries on Applicants](#).) However, unlike D.C.’s “Ban the Box” law, where employers can check for criminal convictions *after* the conditional offer is made and rescind an offer under certain circumstances, the D.C. Council concluded that credit history is rarely, if ever, relevant to the hiring process. Therefore, the Fair Credit law bans most employers from inquiring into or using an applicant or employee’s credit history at any point during the hiring process.

The purpose of the Fair Credit legislation is to protect District residents from being disqualified from potential employment opportunities because of irrelevant, inaccurate, or misleading credit information. Poor or inaccurate credit ratings have disproportionately affected minorities, women, and low-wage workers from finding employment, according to some research.

Under the law, individuals can report violations to the D.C.’s Office of Human Rights, which will investigate any charges filed. Fines can be issued if violations are found:

- \$1,000 for the first offense,
- \$2,500 for the second offense, and
- \$5,000 for each offense thereafter.

The law is under review by Mayor Muriel Bowser. The Mayor has not indicated whether she supports the law and will sign the legislation, but the Fair Credit law would be veto-proof if the unanimous support of the D.C. Council holds. Once approved by Mayor Bowser (or approved by at least two-third vote of the D.C. Council should the Mayor veto the bill), the Act will be submitted to the U.S. Congress for a 30-day Congressional review. If after 30 days Congress fails to enact a joint resolution disapproving the D.C. Council’s law (which must be approved by the President), the Fair Credit Act would become law in D.C. This process could be complete as early as spring 2017.

D.C. employers should review their hiring and background check policies for the potential changes that may be needed if the Fair Credit law passes and takes effect. If you have questions or concerns about this or other workplace developments, please contact your Jackson Lewis attorney.

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