OUR INSIGHTS

New Orleans Adopts Legislation Prohibiting City Contractors From Conducting Employment-Related Credit Checks

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The New Orleans City Council recently approved legislation making it unlawful for city contractors to seek or use the consumer credit history of a current or prospective employee for any decision regarding the hiring or compensation of an employee or the terms, conditions, or privileges of his or her employment. The ordinance, entitled the "Equal Access to Employment Act," was adopted by the New Orleans City Council on June 23, 2016, and Mayor Mitch Landrieu approved it on July 1, 2016. The ordinance will become effective on December 23, 2016—six months after its adoption by the city council.

The Equal Access to Employment Act will eliminate the use of credit history for employment purposes by city contractors except in certain very narrow circumstances. In order to ensure compliance, the Office of Workforce Development will be responsible for investigating employee complaints and monitoring compliance. City contractors will also be required to post a notice regarding the applicability of the Equal Access to Employment Act in every workplace where current or prospective employees are under the city contractor's custody and control. The ordinance applies to all city contractors regardless of size and becomes effective upon the execution of a city contract. The ordinance covers all employees who perform at least 40 hours of work in a calendar year in New Orleans on a city contract.

Exceptions to the ordinance were designed to alleviate employers' concerns regarding employees who occupy certain sensitive roles. For instance, the ordinance does not apply to prospective or current employees in positions with fiduciary responsibility for assets worth $10,000 or more. It also doesn't apply to positions where the employee is required by law to possess security clearances, or to those positions with access to trade secrets, information from criminal investigations, or those involved in counterterrorism efforts.

The Equal Access to Employment Act is the latest sign that New Orleans is moving in the direction of other large, metropolitan areas seeking to enact greater protections for employees. Effective January 1, 2016, the City now requires city contractors to pay their employees a "living wage" of $10.55 per hour and to provide paid sick leave.

While the ordinance only applies to contractors for the City of New Orleans, Louisiana, all employers

should stay tuned in to this issue. Indeed, after the City of New Orleans "banned the box" in January of 2014, the State of Louisiana followed suit during the 2016 legislative session and barred criminal background checks for certain state employees. If history is any indication, it may only be a matter of time before the state legislature takes up the issue of employment-related credit checks.

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Katie Pizzini graduated from Loyola University New Orleans College of Law in 2011, and joined Ogletree Deakins after over three years' experience litigating cases on the plaintiff side. While attending law school, Katie was Selection Chairman on the Moot Court Board, a competitor on the Worker's Compensation Moot Court Team, and a *Loyola Law Review* Member. She graduated *magna cum laude,* and was a William L. Crowe Scholar.

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