

# NEW YORKERS ARE MORE THAN THEIR CREDIT SCORES.

**NYC just passed the nation's strongest ban on employment credit checks. Let's grow New York businesses and workforces with fairness and equal opportunity for all.**

## ■ INFORMATION FOR EMPLOYERS

NYCCHR is a resource to help you strengthen your business, become a more inclusive employer, and conform your employment practices to comply with the NYC Human Rights Law ("NYCHRL"). This document provides information regarding an important change in the law affecting your employment application processes and other employment decision-making processes.

As of September 3, 2015, the NYCHRL will prevent employers from asking job applicants or current employees questions about their credit history; running a credit check on them; and using credit history to decide whether to hire, fire, or promote an individual.

Credit history includes credit worthiness, credit capacity, and payment history. It encompasses credit accounts, charged-off debts, items in collections, bankruptcies, judgments, and liens. Some examples of credit history are credit card debt, child support obligations, student loans, and home foreclosures. **Credit history cannot be used to decide whether to hire, fire, or promote an individual.**

Even if credit checks have been part of your application process in the past, such practices now violate the NYCHRL. Employment forms requiring applicants to authorize a credit or background check are prohibited. The law does not prevent you, however, from researching potential employees' background and experience, evaluating their resumes and references, and conducting online searches (e.g., Google and LinkedIn).

## ■ Does the NYCHRL cover my business?

Yes, if you have four or more employees (including owners). The four employees need not work in the same location, nor all work in NYC.

## ■ Does the NYCHRL cover my potential or current employee?

In most cases, yes. Many people have rights under the NYCHRL, even if they are not full-time employees, including interns, undocumented workers, domestic workers, most independent contractors, and probationary and part-time employees.

There are just a few positions for which you are still allowed to ask about credit history, do a credit check, and use credit history in an employment decision. These positions include:

- Police and peace officers (not private security guards); and
- Executive-level jobs with control over finances, computer security, or trade secrets.

This law covers you even if you are hiring for positions like bank tellers, cashiers, movers, construction workers, salespeople, clerical and administrative staff, and restaurant and bar workers.

## ■ What is the best way to comply with this law?

Employers can avoid liability by not asking potential or current employees about their credit, not running credit checks, and not considering credit history information in employment decisions.

If you believe a position at your business is exempt from the SCDEA, check with an attorney knowledgeable about the new law before you risk legal exposure. Even if your business is properly exempted from the law, you should inform applicants and employees of the applicable exemption and keep a record of your business's use of exemptions.

To help your company respond to Commission requests for information, your records should be kept for five years and include:

1. The claimed exemption;
2. Why the claimed exemption covers the exempted position;
3. The name and contact information of the applicant or employee who was considered for the exempted position;
4. The job duties of the exempted position;
5. The qualifications necessary to perform the exempted position;
6. A copy of the applicant's or employee's credit history that was obtained pursuant to the claimed exemption;
7. How the credit history was obtained; and
8. How the credit history led to the employment action.

Employers may be required to share their records with the Commission upon request. Prompt responses to Commission requests may help you avoid a Commission-initiated investigation into your practices.

### ■ What are the penalties for violating the law?

Employers who violate the NYCHRL may have to pay lost wages and other damages to affected employees and may be subject to civil penalties of up to \$125,000. A willful violation may result in civil penalties of up to \$250,000.

Additional guidance and information about free trainings on how to comply with the law are available at [nyc.gov/humanrights](https://nyc.gov/humanrights).