

# STATE OF NEW YORK

3072

2025-2026 Regular Sessions

## IN SENATE

January 23, 2025

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

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 (w) to read as follows:

3 (w) 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.

13 A consumer credit report shall include any written or other communi-  
14 cation of any information by a consumer reporting agency that bears on a  
15 consumer's creditworthiness, credit standing, credit capacity or credit  
16 history.

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

20 (d) (1) Except as provided in this subdivision, it shall be an unlaw-  
21 ful discriminatory practice for an employer, labor organization, employ-  
22 ment agency or any agent thereof to request or to use for employment  
23 purposes the consumer credit history of an applicant for employment or

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

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1 employee, or otherwise discriminate against an applicant or employee  
2 with regard to hiring, compensation, or the terms, conditions or privi-  
3 leges of employment based on the consumer credit history of the appli-  
4 cant or employee.

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

6 (i) an employer, or agent thereof, that is required by state or feder-  
7 al law or by a self-regulatory organization as defined in section  
8 3(a)(26) of the securities exchange act of 1934, as amended to use an  
9 individual's consumer credit history for employment purposes;

10 (ii) persons applying for positions as or employed as peace officers  
11 or police officers, as such terms are defined in subdivisions thirty-  
12 three and thirty-four of section 1.20 of the criminal procedure law,  
13 respectively, or in a position with a law enforcement or investigative  
14 function in a law enforcement agency;

15 (iii) persons in a position that is subject to background investi-  
16 gation by a state agency, provided, however, that the appointing agency  
17 may not use consumer credit history information for employment purposes  
18 unless the position is an appointed position in which a high degree of  
19 public trust, as defined by the commission in rules, has been reposed.

20 (iv) persons in a position in which an employee is required to be  
21 bonded under state or federal law;

22 (v) persons in a position in which an employee is required to possess  
23 security clearance under federal law or the law of any state;

24 (vi) persons in a non-clerical position having regular access to trade  
25 secrets, intelligence information or national security information;

26 (vii) persons in a position: (A) having signatory authority over third  
27 party funds or assets valued at ten thousand dollars or more; or (B)  
28 that involves a fiduciary responsibility to the employer with the  
29 authority to enter financial agreements valued at ten thousand dollars  
30 or more on behalf of the employer; or

31 (viii) persons in a position with regular duties that allow the  
32 employee to modify digital security systems established to prevent the  
33 unauthorized use of the employer's or client's networks or databases.

34 (3) As used in this subdivision the following terms shall have the  
35 following meanings:

36 (i) "intelligence information" means records and data compiled for the  
37 purpose of criminal investigation or counterterrorism, including records  
38 and data relating to the order or security of a correctional facility,  
39 reports of informants, investigators or other persons, or from any type  
40 of surveillance associated with an identifiable individual, or investi-  
41 gation or analysis of potential terrorist threats;

42 (ii) "national security information" means any knowledge relating to  
43 the national defense or foreign relations of the United States, regard-  
44 less of its physical form or characteristics, that is owned by, produced  
45 by or for, or is under the control of the United States government and  
46 is defined as such by the United States government and its agencies and  
47 departments; and

48 (iii) "trade secrets" means information that: (A) derives independent  
49 economic value, actual or potential, from not being generally known to,  
50 and not being readily ascertainable by proper means by other persons who  
51 can obtain economic value from its disclosure or use; (B) is the subject  
52 of efforts that are reasonable under the circumstances to maintain its  
53 secrecy; and (C) can reasonably be said to be the end product of signif-  
54 icant innovation. The term "trade secrets" does not include general  
55 proprietary company information such as handbooks and policies. The term

1 "regular access to trade secrets" does not include access to or the use  
2 of client, customer or mailing lists.

3 (4) Nothing in this subdivision shall preclude an employer from  
4 requesting or receiving consumer credit history information pursuant to  
5 a lawful subpoena, court order or law enforcement investigation.

6 (5) Paragraph one of this subdivision shall not be construed to affect  
7 the obligations of persons required by state or local law relating to  
8 disclosures by public employees of conflicts of interest.

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

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

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

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

28 (f) This section does not annul, alter, affect or exempt any employer,  
29 labor organization, employment agency or any agent thereof subject to  
30 the provisions of this section from complying with any local law, ordi-  
31 nance or regulation with respect to the use of consumer credit history  
32 for employment purposes except to the extent that those laws are incon-  
33 sistent with any provision of this section, and then only to the extent  
34 of such inconsistency. For purposes of this subdivision, a local law,  
35 ordinance or regulation is not inconsistent with this section if the  
36 protection such law or regulation affords an employee or job applicant  
37 is greater than the protection provided by this section.

38 § 3. The division of human rights shall request information from state  
39 and local agencies and non-governmental employers regarding the agen-  
40 cies' and employers' use of the exemptions established in subdivision  
41 (d) of section 380-b of the general business law for purposes of hiring  
42 and employment. Within two years of the effective date of this act, the  
43 division of human rights shall submit to the legislature a report  
44 concerning the results of such request and any relevant feedback from  
45 agencies and employers.

46 § 4. Paragraph 3 of subdivision (a) of section 380-b of the general  
47 business law, as amended by chapter 797 of the laws of 1984, is amended  
48 to read as follows:

49 (3) To a person whom it has reason to believe intends to use the  
50 information (i) in connection with a credit transaction involving the  
51 consumer on whom the information is to be furnished and involving the  
52 extension of credit to, or review or collection of an account of, the  
53 consumer, or (ii) for employment purposes, except that a consumer report  
54 may be furnished for such purposes only if such report excludes informa-  
55 tion that bears on a consumer's credit worthiness, credit standing,  
56 credit capacity or credit history and is based on the consumer's finan-

1 cial transactions, except that such information is permitted to be  
2 disseminated to employers or persons set forth in paragraph two of  
3 subdivision (d) of this section, or (iii) in connection with the under-  
4 writing of insurance involving the consumer, or (iv) in connection with  
5 a determination of the consumer's eligibility for a license or other  
6 benefit granted by a governmental instrumentality required by law to  
7 consider an applicant's financial responsibility or status, or (v) to a  
8 person in connection with a business transaction involving the consumer  
9 where the user has a legitimate business need for such information, or  
10 (vi) in connection with the rental or lease of a residence.  
11 § 5. This act shall take effect on the one hundred twentieth day after  
12 it shall have become a law.