



February 12, 2015

Mayor Bill de Blasio  
City of New York  
City Hall  
New York, NY 10007

Speaker Melissa Mark-Viverito  
Council of the City of New York  
City Hall  
New York, NY 10007

**RE: City Council Intro. 261, legislation to ban credit checks in employment**

Dear Mayor de Blasio and Council Speaker Mark-Viverito,

The New York business community is concerned about the escalation in local legislative proposals that intrude into the relationships between private sector employers and their employees when it comes to hiring, compensation and other workplace decisions. New York already has one of the nation's most heavily regulated business environments. There will be consequences for our economy if additional legal and regulatory burdens are imposed without regard to their impact on employers.

One immediate example is Intro. 261, City Council legislation that would prohibit New York City employers from using credit background checks to help them vet job candidates. Most employers limit credit checks to a small number of senior positions where credit history is one of a number of factors considered. Identity theft and other cybercrimes make careful vetting more essential than ever, especially for jobs that have access not just to company assets but to confidential consumer data as well.

Most of our city's employers do not oppose the concept of a legal requirement that credit checks are limited to applicants for jobs where credit history may be relevant. They object to the language of this Council bill because it applies to all jobs and allows for no discretion on the part of employers, who must have the ability to protect their customers and themselves from loss and liability. We have urged sponsors of the legislation to consider a more balanced approach, to no avail.

Ten states and the City of Chicago have passed laws that regulate credit checks. All contain targeted exemptions for positions where credit history is relevant. The exemptions in these laws align with the U.S. Equal Employment Opportunity Commission's guidance on the issue.

New York City employers seek exemptions in Intro. 261 along the lines of Connecticut's law, including:

1. For financial institutions
2. To comply with state or federal law or regulations
3. As part of an investigation when an employer reasonably suspects an employee has used the position to engage in criminal activity
4. When credit history could be substantially related to the position because it:
  - Is managerial/involves setting direction of business
  - Has access to personal or financial info of consumers/employees
  - Involves fiduciary responsibility to employer
  - Has expense account or corporate credit card
  - Has access to trade secrets/proprietary info
  - Has access to employer's nonfinancial assets (>\$2,005)
  - Has special access to computer network and could get around firewall

When credit reports are used in the vetting process, standard practice among employers is to allow candidates to explain any credit history problems and to ignore debt associated with medical and education costs or home foreclosure.

New York employers are in serious competition for the most talented and capable employees. They are not seeking to exclude candidates unfairly or unnecessarily. We would hope that city policy makers, legislators and regulators would give New York employers the benefit of the doubt on this matter rather than assuming that they are seeking ways to discriminate or otherwise narrow the field of job candidates for nefarious reasons.

We urge the Council not to enact Intro. 261 without exemptions that are important to safeguard consumers and employers. Thank you for your consideration.

Sincerely,



Kathryn Wylde  
President & CEO

Cc: Members of the New York City Council