

# PUBLICATION

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## Background (Credit) Checks Under Attack

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**February 07, 2017**

**Washington, D.C. joins 11 other jurisdictions (California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Nevada, Oregon, Vermont and Washington) in banning employers' use of employees' or applicants' credit histories.**

The D.C. Council recently and unanimously passed the Fair Credit in Employment Amendment Act (the Act), which amends the Human Rights Act of 1977, and which prohibits most employers from directly or indirectly requiring, requesting, suggesting or causing applicants, interns or employees to submit "credit information" as part of the hiring process or during the individual's employment.

"Credit information" means any written, oral or other communication of information bearing on creditworthiness, credit standing, credit capacity or credit history. As such, if the Act becomes law, most D.C. employers will no longer be able to consider credit histories of applicants, employees or interns at any point in the hiring process or when making other employment decisions.

Generally, the Act does not apply to federal jobs, police jobs, financial institution jobs with access to personal financial information, or where otherwise required by D.C. law or pursuant to a lawfully issued subpoena.

Those individuals who believe an employer has violated the Act can file a charge with the D.C. Office of Human Rights (OHR), which has the authority to investigate any such charges filed. As with the D.C. "ban the box" law, fines may be issued if the OHR finds that an employer violated the Act: \$1,000 for the first violation, \$2,500 for the second violation and \$5,000 for each subsequent violation.

The Act would become law following approval by D.C. Mayor Muriel Bowser, a 30-day period of congressional review as provided by the D.C. Home Rule Act and publication in the D.C. Register, which could all occur over the next few months.

Employers, particularly D.C. employers, should take the time now to review hiring and background check practices and policies in anticipation of the impact of the Act on those practices and processes.