

**ORDINANCE**  
**CITY OF NEW ORLEANS**

CITY HALL: April 7, 2016

CALENDAR NO. 31,258

NO. \_\_\_\_\_ **MAYOR COUNCIL SERIES**

BY: <sup>13</sup> **COUNCILMEMBER BRUSSETT**

AN ORDINANCE to ordain Sections 70-504 through 70-509 of Division 4, Article IV, of Chapter 70 of the Code of the City of New Orleans, to be designated as the "Equal Access to Employment Act," to prohibit the use of consumer credit reports against current or prospective employees for the purpose of making employment decisions; and otherwise to provide with respect thereto.

WHEREAS, Credit checks exclude qualified applicants — including people whose credit was damaged as a result of medical expenses, student loans, payday loans and predatory lenders, identity theft, job lay-offs and long-term unemployment caused by the Great Recession, divorce, or unexpected emergencies and other events beyond their control — from the employment they desperately need; further, credit checks also discriminate against low-income people and people of color, who are disproportionately impacted by the economic downturns; and

WHEREAS, qualified job seekers find themselves in the position where they cannot secure employment because of their consumer credit report; and thus, cannot repay their debts and improve their credit history because they cannot secure employment; and

WHEREAS, accordingly, the City of New Orleans finds and declares that the purposes of this ordinance are (1) to protect current and prospective employees from discriminatory hiring

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practices; and (2) guarantee equitable access to employment opportunities created by public projects funded by the City of New Orleans; **NOW, THEREFORE**

**SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS,** That Division 4 of Article IV, Chapter 70 of the Code of the City of New Orleans, containing Sections 70-551 through 70-555 is hereby ordained to read as follows:

**“Division 4. Equal Access to Employment Act.**

**Sec. 70-504. Purpose.**

The purpose of Equal Access to Employment Act is to prohibit City Contractors from using a current or prospective employee’s consumer credit report, or causing a current or prospective employee’s consumer credit report to be procured, for any employment purpose, including but not limited to decisions with regard to hiring and compensation or the terms, conditions or privileges of employment.

**Sec. 70-505. Definitions.**

For the purposes of this Division, the following definitions shall apply:

- 1) "Consumer Credit History" means an individual's credit worthiness, credit standing, credit capacity, or payment history, as indicated by: (a) a consumer credit background check; (b) credit score; or (c) information an employer obtains directly from the individual regarding (1) details about credit accounts, including the individual's number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limits, prior credit report inquiries, creditworthiness, credit standing, credit capacity (2) bankruptcies, judgments or liens, or (3) savings or checking account balances.

- 20 2) "Consumer Credit Report" means any written or other communication of any information  
21 by a bank or consumer reporting agency that bears on a consumer's credit history,  
22 creditworthiness, credit standing, credit capacity or credit history.
- 23 3) "City" means the City of New Orleans and any of its department, agencies, offices,  
24 boards, commissions, or public benefit corporations.
- 25 4) "City Contract" means (a) any contract to which the City is a party for professional  
26 services, (b) any contract to which the City is a party for construction, alteration, or  
27 demolition of public property or public works of the City of New Orleans on or after this  
28 law becomes effective, or (c) any cooperative endeavor agreement to which the City is a  
29 party and through which the City provides tax incentives for economic development  
30 projects executed on or after this law becomes effective.
- 31 5) "City Contractor" means any contractor that has entered into a City Contract.
- 32 6) "Contractor" means any person, firm, partnership, owner operator, limited liability  
33 company, corporation, joint venture, proprietorship, trust, association, or other entity  
34 selected to perform an applicable contract.
- 35 7) "Employee" means any person who performs at least 40 hours of work within a calendar  
36 year while physically present within the geographic boundaries of the City of New  
37 Orleans for an Employer, pursuant to the fulfillment of an applicable City contract or  
38 City financial assistance agreement."
- 39 8) "Prospective Employee" means any person who has applied or has expressed interest in  
40 applying to perform work on a full-time, part-time, temporary, or seasonal basis,  
41 including employees, temporary workers, contracted workers, contingent workers, and

persons who have applied or have expressed interest in applying through temporary services, staffing, or employment agencies or similar entities.

9) "Intelligence Information" means records and data compiled for the purpose of criminal investigation or counterterrorism, including records and data relating to the order or security of a correctional facility, reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual, or investigation or analysis of potential terrorist threats.

10) "National Security Information" means any knowledge relating to the national defense or foreign relations of the United States, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States government and is defined as such by the United States government and its agencies and departments.

11) "Trade Secrets" means information that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (c) can reasonably be said to be the end product of significant innovation.

The term "trade secrets" does not include general proprietary company information such as handbooks and policies. The term "regular access to trade secrets" does not include access to or the use of client, customer or mailing lists.

#### **Sec. 70-506. Use of Consumer Credit History Prohibited for Employment Purposes.**

(a) Except as provided in this Division, it shall be impermissible for a City Contractor or agent, representative, or designee thereof to use a current or prospective employee's

65 consumer credit report, or cause a current or prospective employee's consumer credit  
66 report to be procured for any decision regarding the hiring and compensation or the  
67 terms, conditions or privileges of employment.

68 (b) Notwithstanding the prohibitions set for in paragraph (a), an employer may request or  
69 use the consumer credit history of a current or prospective employee if credit history is  
70 established as a bona fide occupational qualification of a particular position or  
71 employment classification. Consumer credit history shall be considered a bona fide  
72 occupational qualification for any current or prospective employee being evaluated for:

73 (i) a position that is required by state or federal law or regulations or by a self-  
74 regulatory organization to use an individual's consumer credit history for  
75 employment purposes;

76 (ii) a position in which an employee is required to be bonded under city, state or  
77 federal law;

78 (iii) a position in which an employee is required to possess security clearance under  
79 city, state or federal law, or a position having regular access to trade secrets,  
80 intelligence information or national security information;

81 (iv) a position (i) having signatory authority over third party funds or assets valued at  
82 \$10,000 or more; or (ii) that involves a fiduciary responsibility to the employer  
83 with the authority to enter financial agreements valued at \$10,000 or more on  
84 behalf of the employer; or (iii) with access to customers', employees', or  
85 employers' personal or financial information; and

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

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

(d) A City Contractor shall not require an individual to waive or limit any protection granted under this Division as a condition of applying for or receiving an offer of employment.

**Sec. 70-507. Compliance and Enforcement.**

(a) The Office of Workforce Development shall have the primary responsibility for general oversight, administration, compliance, monitoring, and enforcement of this Division.

(b) City contractors shall: (a) post a notice in a prominent place regarding the applicability of this Division in every workplace in which current or prospective employees are under the city contractor's custody and control.

(c) Any person who desires to register a complaint or report a violation this Division may do so by contacting the Office of Workforce Development. Upon receipt of such a complaint or report, the Office of Workforce Development shall have ninety (90) days to conduct and resolve an investigation.

**Secs. 70-508—70-550. - Reserved.”**

**SECTION 2. THE COUNCIL OF THE CITY OF NEW ORLEANS**

**HEREBY ORDAINS**, That the provisions of this ordinance shall become effective after  
six (6) months of the date of its adoption.

**ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS** \_\_\_\_\_

\_\_\_\_\_  
**PRESIDENT OF THE COUNCIL**

**DELIVERED TO THE MAYOR ON** \_\_\_\_\_

**APPROVED:**

**DISAPPROVED:** \_\_\_\_\_

\_\_\_\_\_  
**MAYOR**

**RETURNED BY THE MAYOR ON** \_\_\_\_\_ **AT** \_\_\_\_\_

\_\_\_\_\_  
**CLERK OF COUNCIL**

**ROLL CALL VOTE:**

**YEAS:**

**NAYS:**

**ABSENT:**

**RECUSED:**