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Suffolk County Bans Salary History Inquiries and Consideration

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New York's Suffolk County has joined an ever-growing list of jurisdictions that ban pre-employment inquiries into and/or consideration of an applicant's salary history. On November 30, 2018, Suffolk County Executive Steven Bellone signed into law the Restrict Information Regarding Salary and Earnings Act (RISE Act), which echoes bans already in place in New York City and in Westchester and Albany Counties.

The RISE Act

Intended to "break the cycle of wage discrimination and close the wage gap," the RISE Act amends the county's human rights law to make it an unlawful discriminatory practice for employers, employment agencies, and employees/agents thereof to inquire about a job applicant's wage or salary history, including both compensation and benefits. "Inquire" includes direct questions to the applicant as well as searches of publicly available records or reports.

Significantly, the RISE Act also prohibits reliance on salary history in determining wages/salary of the applicant at any stage of the employment process. This is a break from other jurisdictions' bans, which permit the consideration of voluntarily provided salary history.

Consequences for violation of the salary history ban include compensatory damages, disgorgement of profits, civil fines and

penalties, and attorneys' fees. The ban becomes effective on June 30, 2019.

Statewide Ban on the Horizon

New York will likely see a statewide ban on salary history inquiries in the coming year. Legislation proposed this past spring passed the Assembly but stalled in the Senate. Given last month's elections and the coming change in control in the Senate, passage in both houses may be a foregone conclusion. Governor Cuomo, who originally proposed the ban, would undoubtedly sign. Yet to be determined is whether a statewide ban will preempt more comprehensive local legislation like that in Suffolk County.

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