



## Public Comments on Proposed Regulations Regarding Commercial Crime Coverage Exclusions

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Dear Ms. Koeleveld:

The Coalition of Reentry Advocates (CoRA) is a New York State coalition of advocates who work to change laws and policies to ensure that people who have had contact with the criminal justice system have a fair chance to succeed as full community members. We respectfully submit the following comments in response to the Notice of Proposed Rule Making (I.D. No. DFS-41-16-00012-P) published in the New York State Register on October 12, 2016.

We enthusiastically support the proposed regulations, which build on longstanding state employment protections for individuals with criminal conviction histories. In 1976, well before any other state began addressing this issue, New York recognized both the human and public safety value of ensuring that individuals who had been convicted of crimes be able to return to gainful employment. The proposed regulations will ensure that employers no longer find themselves in a Catch-22 that requires them to either break longstanding state anti-discrimination law or be unable to obtain and maintain needed commercial crime coverage insurance to protect their businesses. Enacting these balanced provisions will ensure that employers are able to remain in compliance with state law. More importantly, these regulations will also support increased employment opportunities for individuals with criminal records, thereby improving public safety and saving the state significant financial resources.

We have one substantive comment. Proposed Regulation § 76.2 currently states that “[n]o policy issued, renewed or delivered in this state that provides commercial crime coverage may exclude or limit coverage for loss or damage caused by an employee *if*: (a) the employee was convicted of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer . . .” (emphasis added). We suggest the following edit to better effectuate the Department of Finance’s intentions:

§ 76.2 Prior convictions.

No policy **which** provides commercial crime coverage that is issued, renewed or delivered in this state may exclude or limit coverage for loss or damage caused by an employee on the basis of the employee's conviction of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer, if, after learning about an employee's past criminal conviction or convictions, the employer made a determination to hire or retain the employee utilizing the factors set out in Correction Law Article 23-A.

Thank you very much for your attention to our comments, and for your leadership in this matter.

Respectfully submitted

The Bronx Defenders

Brooklyn Defender Services

Center for Community Alternatives

College and Community Fellowship

Community Service Society

The Fortune Society

JustLeadershipUSA

Legal Action Center

The Legal Aid Bureau of Buffalo, Inc.

MFY Legal Services

Neighborhood Defender Service of Harlem

Open Hands Legal Services

The Prisoner Reentry Institute at John Jay College

The Mental Health Project at the Urban Justice Center

The Sex Workers Project at the Urban Justice Center

Youth Represent