

ENDING UNJUST EMPLOYMENT CREDIT CHECKS

by AMY TRAUB, *Senior Policy Analyst*

In the midst of the worst economic downturn in decades, millions of Americans are out of work and struggling to keep up with bills for even the most basic expenses. What they need more than anything is a job. But for too many people, access to employment is blocked by the growing practice of employment credit checks. Employers in the public and private sectors now routinely check the credit histories of prospective employees and may use the information to deny them jobs.

Credit checks exclude qualified applicants — including people whose credit was damaged as a result of medical debt, divorce, layoffs, predatory lending, identity theft, or other events beyond their control — from the employment they desperately need. Credit checks also discriminate against low-income people and people of color, who have been disproportionately impacted by the economic downturn.

The campaign to end employment credit checks, which is widely supported by dozens of national civil rights organizations, is fundamentally about economic justice. It's about putting qualified people back to work and ensuring that all job seekers be given a fair shot at gainful employment.

CREDIT REPORTS WERE DEVELOPED TO PREDICT LOAN REPAYMENT, BUT ARE INCREASINGLY USED TO DENY EMPLOYMENT

Credit reports were developed as a tool for *lenders* to evaluate whether someone would be a good credit risk based on their past payment history. These reports detail whether someone has fallen behind on their bills, whether they have had to declare bankruptcy, and if they've faced foreclosure. Research has raised concerns about the prevalence of errors in credit reports and the difficulties in getting incorrect information removed from a report.¹ Yet over the past few years, the credit reporting industry, which is dominated by three large multinational corporations, has reaped profits from selling this personal consumer information to employers. According to a poll by the Society for Human Resources Management, *60 percent of employers now conduct employment credit checks for some or all positions when they are hiring.*²

CREDIT CHECKS ARE NOT RELIABLE FOR EMPLOYMENT

Credit reports are marketed to employers as a means to gauge an applicant's character or likelihood to commit theft or fraud. Yet no empirical evidence has demonstrated a correlation between personal credit reports and propensity to commit a crime. In fact, one study recently featured in the *New York Times* found no such correlation.³ A spokesperson for TransUnion, one of the major credit reporting companies, even admitted: *"we don't have any research to show any statistical correlation between what's in somebody's credit report... and their likelihood to commit fraud."*⁴ Credit reports can be a good indicator of the tremendous economic stresses that are facing households, including whether they have had to incur debts to pay for basic expenses or medical care, but they are not a crystal ball revealing who will be a reliable employee.

EMPLOYMENT CREDIT CHECKS ARE DISCRIMINATORY

The Equal Employment Opportunity Commission has repeatedly warned that employment credit checks have a discriminatory impact on African American and Latino applicants, whose credit histories have suffered from discrimination in lending, housing and employment itself.⁵ Studies from the Federal Reserve Board, the Federal Trade Commission and others have consistently found that average credit scores of African Americans are lower than those of whites.⁶ In addition, credit continues to be offered on discriminatory terms: in the last decade predatory lending schemes targeting

communities of color compounded historic disparities in wealth and assets, leaving African-Americans, Latinos, and other people of color at greater risk of foreclosure and default on loans. Employment credit checks can perpetuate and amplify this injustice, translating a legacy of unfair lending into another subtle means of employment discrimination. Numerous civil rights organizations including the NAACP, the National Council of La Raza, and the Leadership Conference on Civil and Human Rights, have publicly opposed the use of employment credit checks. The EEOC has sued two employers over its use of credit reports as a hiring tool, demonstrating that credit reports may introduce legal liability to employers.

EMPLOYMENT CREDIT CHECKS ARE A VIOLATION OF PRIVACY

Americans should not have to expose a painful divorce or past medical condition just to get a job. Yet because family break-up and medical problems are among the leading reasons that Americans become unable to pay their debts, these deeply personal concerns are often revealed in an employment credit check, particularly if an applicant is asked to “explain” an imperfect credit history. Medical confidentiality and long-standing protections against disability discrimination may fall by the wayside when a prospective employer scrutinizes a job applicant’s personal credit history.

STATES & CITIES ARE TAKING ACTION TO END THIS UNJUST PRACTICE

Political leaders are waking up to the need to remove this unfair barrier to employment. Seven states — Washington, Connecticut, Hawaii, Illinois, California, Maryland and Oregon — have recently passed laws restricting the use of credit reports in employment. More than twenty additional states considered legislation on employment credit checks in 2011. The city of Hartford, Connecticut has also acted to end the use of credit checks for its own municipal hiring. A federal bill, the Equal Employment for All Act, is currently pending before the U.S. Congress. Yet much work remains to be done. Today, too many Americans are trapped in an untenable Catch-22: they are unable to secure a job because of damaged credit and unable to escape debt and improve their credit because they cannot find work. At a time when so many are confronting economic hardship, we must act to lower barriers to employment and give people the opportunity to work their way out of debt.

ENDNOTES

1. See for example: Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003* (December 23, 2008); Robert Avery, Paul S. Calem, and Glenn B. Canner, “Credit Report Accuracy and Access to Credit,” *Federal Reserve Bulletin*, Summer 2004; Testimony of Chi Chi Wu, National Consumer Law Center before the U.S. House Committee on Financial Services, “Credit Reports: Consumers’ Ability to Dispute and Change Inaccurate Information,” June 19, 2007.
2. Society of Human Resources Management, *Background Checking: Conducting Credit Background Checks*, January 22, 2010, <http://www.shrm.org/Research/SurveyFindings/Articles/Pages/BackgroundChecking.aspx>
3. Ann Carrns, “No Link Seen Between Low Credit Scores and Bad Job Behavior,” *New York Times*, November 8 2011. <http://bucks.blogs.nytimes.com/2011/11/08/no-link-seen-between-low-credit-scores-and-bad-job-behavior/>; J.B. Bernerth, et. al. “An Empirical Investigation of Dispositional Antecedents and Performance-Related Outcomes of Credit Scores,” *Journal of Applied Psychology*, October 2011.
4. Andrew Martin, “As a Hiring Filter, Credit Checks Draw Questions,” *New York Times*, April 9, 2010. <http://www.nytimes.com/2010/04/10/business/10credit.html>.
5. See for example, Equal Employment Opportunity Commission, “Pre-Employment Inquiries and Credit Rating or Economic Status,” http://www.eeoc.gov/laws/practices/inquiries_credit.cfm.
6. Board of Governors of the Federal Reserve System, “Report to the Congress on Credit Scoring and Its Effects on the Availability and Affordability of Credit,” 2007; Federal Trade Commission, “Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance,” 2007; Robert B. Avery, Paul S. Calem, and Glenn B. Canner, “Credit Report Accuracy and Access to Credit,” *Federal Reserve Bulletin*, 2004; Matt Fellowes, “Credit Scores, Reports, and Getting Ahead in America,” Brooking Institution, 2006.

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220 Fifth Avenue, 2nd Floor
New York, New York 10001
Phone: (212) 633-1405
Fax: (212) 633-2015
info@demos.org

MEDIA CONTACT

Lauren Strayer
Associate Director of Communications
lstrayer@demos.org
Phone: (212) 389-1413