

Why New York Needs The Stop Credit Discrimination in Employment Act

by Amy Traub

Discrimination has no place in New York. At our best, we're a city where people of all races, ethnicities, creeds, and backgrounds have an opportunity to work hard and make their mark. But today in New York, many qualified job seekers are turned away from employment because of their personal credit history. The practice disproportionately harms people of color, who are more likely to have poor credit as a result of predatory lending that continues to target communities of color, as well as the enduring impact of racial discrimination in employment, lending, education, and housing. But the problem isn't limited to any one community: New Yorkers from all walks of life whose credit is damaged as a result of medical debt, student loans, a layoff, divorce, identity theft or simple error are shut out of jobs—despite lacking evidence connecting someone's credit history with their job performance.

The Stop Credit Discrimination in Employment Act, intro 261 which has 39 sponsors on the New York City Council, would prohibit the use of personal credit history in employment, eliminat-



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ing a serious barrier to economic security for many New Yorkers. If passed, it would provide the strongest protection against credit discrimination in the nation. This fact sheet discusses the major reasons why the Stop Credit Discrimination in Employment Act is critical to ensuring fair and equal access to job opportunities.

Nearly half of all employers run credit checks on new job applicants.

Employment credit checks are widespread, and used by employers to screen job applicants for a wide range of positions. For example, credit checks may be required for jobs doing maintenance work, offering telephone tech support, working as a delivery driver or selling frozen yogurt as well as financial posts. A 2012 survey by the Society of Human Resources Management found that 47 percent of employers use credit checks when hiring for some or all positions at their firm.¹

New Yorkers are denied jobs because of credit checks.

Personal stories of New Yorkers like Marine Corps veteran Emmett Pinkston of Brooklyn and Gustavo Panesso of Queens underscore the high cost of credit checks on economic opportunity throughout our city.² A nationally representative survey by Demos finds that among low- and middle-income households with credit card debt, one in four unemployed Americans has been asked to submit to a credit check as part of a job application.³ One in ten job applicants in this survey group were told they would not be hired for a position because of their credit.⁴

Credit checks were never designed to assess potential job performance—or measure character.

Credit reports were developed to help lenders assess the risks associated with making a loan. Over the last few years, they have been aggressively marketed to employers as a means to gauge an applicant's character or likelihood to commit theft or fraud. Yet there is no proven link between personal credit reports and criminal behavior or performance of a specific job.⁵ A spokesperson for TransUnion, one of the major credit reporting companies, admitted in 2010: "We don't have any research to show any statistical correlation between what's in somebody's credit report and their job performance or their likelihood to commit fraud."⁶

A weak or poor credit history is often linked to medical debt and unemployment.

Research by the Federal Reserve Board finds that more than half of all accounts reported by collection agencies on credit reports consist of medical debt.⁷ Demos' study of Americans with credit card debt similarly finds that poor credit is associated with lack of health coverage and medical debt as well as household unemployment.⁸ Unemployed workers in particular can become trapped in a Catch-22: job-seekers are unable to secure a work because of damaged credit and are then unable to escape debt and improve their credit because they cannot find work.

Employment credit checks can have a discriminatory impact on people of color.

Research from the Federal Trade Commission, the Federal Reserve Board, and other investigators concludes that African American and Latino households tend to have worse credit, on average, than white households.⁹ Racial disparities in credit history may reflect the damage done by predatory lending that continues to target communities of color, as well as the enduring impact of racial discrimination in employment, lending, education, and housing. One result is that when credit history is used to evaluate job candidates, people of color may disproportionately be screened out. Numerous civil rights organizations, including the NAACP, National Council of La Raza, and Leadership Conference on Civil and Human Rights, have publicly opposed the use of employment credit checks.¹⁰

Credit reporting errors are common and impact employment decisions in unpredictable ways.

A comprehensive 2013 study by the Federal Trade Commission found that one in five American consumers had a material error (an error that negatively impacted their credit history) on a credit report from one of three major credit reporting companies.¹¹ While not all of these errors are serious enough to affect consumer borrowing, the impact on employment is far broader because what employers look for in a credit report—and how much they weigh different factors like late bills, foreclosures, or accounts in collection—is entirely subjective. A credit reporting mistake that is too small to make a difference in applying for credit might nevertheless stand out to an employer and cost someone a job. At the same time, credit reporting errors are notoriously difficult for consumers to resolve.

Employment credit checks are an invasion of privacy— a particular concern for people with disabilities and victims of domestic abuse.

Domestic abuse, divorce, and medical bills are among the leading contributors to credit problems. In cases of domestic abuse, it is not uncommon for the abuser to purposely ruin a spouse's credit as a way of controlling the spouse.¹² Despite common sense and legal recognition that questions about marital status, medical conditions, and abuse ought to be out of bounds in the hiring process, many employers ask prospective employees to “explain” any credit problems brought to light by a credit report,¹³ leaving job applicants to choose between discussing a recent divorce, confidential medical issues, and/or very personal details regarding the abusive dynamics in a relationship, or risk losing a job opportunity. Questions about medical debt particularly impact people with disabilities, for whom disclosure of a medical condition may lead to discriminatory treatment.

The use of personal credit history to screen job applicants illegitimately obstructs access to employment, placing an unnecessary obstacle in the path of job seekers who are often already disadvantaged by racial discrimination, disability status, lack of health coverage, unemployment and other economic challenges. **The Stop Credit Discrimination in Employment Act** would remove this unwarranted barrier, increasing job opportunities for qualified applicants.

For a deeper look at this issue, see Demos' study, [*Discredited: How Employment Credit Checks Keep Qualified Workers out of a Job.*](#)

Endnotes

1. “Background Checking—The Use of Credit Background Checks in Hiring Decisions” Society of Human Resources Management, July 19, 2012.
2. To view video testimonials from Pinkston, Panesso, and other New Yorkers harmed by employment credit checks, see <http://creditcatch22.org/wordpress/testimonial/>
3. Amy Traub, “Discredited: How Employment Credit Checks Keep Qualified Workers out of a Job,” Demos, 2013.
4. Traub, “Discredited.”
5. For a discussion of the research, see: Laura Koppes Bryan and Jerry K. Palmer, “Do Job Applicant Credit Histories Predict Performance Appraisal Ratings or Termination Decisions?” *The Psychologist-Manager Journal*, 2012.
6. Andrew Martin, “As a Hiring Filter, Credit Checks Draw Questions,” *New York Times*, April 9, 2010.
7. Robert Avery, Paul Calem, Glenn Canner & Raphael Bostic, “An Overview of Consumer Data and Credit Reporting,” *Federal Reserve Bulletin*, 2003.
8. Traub, “Discredited.”
9. See for example: 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,” Brookings Institution, 2006.
10. See the list of supporters to the Leadership Conference on Civil Rights advocacy letter in support of the Equal Employment for All Act.
11. “Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003,” Federal Trade Commission, December 2012. Released to the public February 2013.
12. Angela Littwin, “Coerced Debt: The Role of Consumer Credit in Domestic Violence,” *California Law Review*, 2012.
13. “Background Checking” Society for Human Resources Management.

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