

## **Notice to Employers Regarding Job Bank Nondiscrimination and Hiring Restrictions Based on Credit Information**

**We advise employers not to automatically exclude job seekers based on their credit history unless the employer can show that a credit history restriction is related to the job posted and consistent with the employer's business needs. While employers are permitted to use credit reports in hiring and other decisions, this type of screening requirement may unjustifiably limit the employment opportunities of applicants in protected groups and may therefore violate federal civil rights laws. Any employer that submits a job announcement containing restrictions or exclusions based on an applicant's credit information will have an opportunity to edit or remove the announcement.**

### Practical Considerations:

- Screening job seekers based on their credit information may be imprudent because:
  - Negative information on credit reports may reflect that applicants have experienced difficult circumstances beyond their control that have no relationship to their ability to perform the job, such as a medical emergency, disability, layoff, loss of a spouse, or identity theft.
  - Credit reports may contain inaccuracies.
  - No reliable body of evidence supports the use of credit history in hiring decisions.
  - Using credit history as an employment screening tool may disproportionately exclude certain racial and ethnic groups, women, and people with disabilities from hiring consideration.
- Best practices to avoid or minimize improper decisions based on an applicant's credit history:
  - An employer should only take credit information into account if:
    - the employer will be able to show that it has an objective, clearly-defined reason why credit information used to disqualify an applicant is job-related for the position in question and consistent with business necessity (for example, necessary for the safe and efficient performance of the job in question);
    - the use of credit histories is not prohibited by governing state or local law; and
    - the employer will comply with the Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681 et seq., which mandates certain procedures when employers screen applicants using credit reports (see below).
  - If the employer has an objective, clearly-defined reason why credit information is relevant to a particular job, to ensure consistency with business necessity, the employer should:
    - verify whether the information in an applicant's credit report is accurate and how recent it is;
    - determine the reasons the applicant may have negative information on a credit report;

- determine whether the applicant has taken steps, such as credit counseling, to improve any of the circumstances reflected in the negative information;
- not discourage job seekers by stating in vacancy announcements that only those with “good credit” need apply; and
- not rely exclusively on negative information in a credit report to automatically disqualify applicants; instead, the employer should always consider other relevant information regarding the applicant’s fitness for the job the applicant is seeking.

### **Relevant Information from Federal Agencies**

The U.S. Department of Labor, Civil Rights Center (CRC), is responsible for investigating complaints concerning public workforce system entities and programs that allege discrimination on the basis of race, color, religion, sex, national origin, or disability, among others. More information about the laws CRC enforces and its external complaint process is available at <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>, (202) 693-6500 (voice) or 202-693-6516 (TTY); by relay at 800-877-8339 (TTY/TDD), or 877-709-5797 or myfedvrs.tv (video); or by e-mail at [CivilRightsCenter@dol.gov](mailto:CivilRightsCenter@dol.gov).

The Equal Employment Opportunity Commission (EEOC) is responsible for investigating charges of employment discrimination on the basis of race, color, religion, national origin, or sex under Title VII of the Civil Rights Act of 1964, and disability under Title I of the Americans with Disabilities Act of 1990. Both laws apply to employers with 15 or more employees. More information about the laws EEOC enforces and its complaint process is available at <http://www.eeoc.gov/facts/howtofil.html>, (800) 669-4000 (voice), or (800) 669-6820 (TTY).

The Federal Trade Commission enforces the Fair Credit Reporting Act, which requires that employers:

- Tell the applicant that the employer may obtain a credit report and get the applicant’s written consent before asking a consumer reporting agency for a credit report.
- Provide the applicant with a copy of the report and a summary of the applicant’s rights before the employer takes an adverse action (such as denying an application for employment) based on information in the credit report.

For more information, please visit: <http://business.ftc.gov/documents/bus08-using-consumer-reports-what-employers-need-know>.