NCLC National Consumer Law Center
Fighting Together for Economic Justice

An Act reducing barriers to employment through credit discrimination
H.1434/S.1144, the Fair Chance in Employment Act (FCEA)
Massachusetts Senator Barrett, Representative Cutler

Why We Need the FCEA to Keep Credit Reports out of Hiring Decisions Now

1. **Credit Reports Don't Predict Job Performance:** Almost one-third of employers obtain credit reports on at least some of their job applicants, and 16% obtain them for all applicants, totaling about half of employers. Yet such reports don't predict job performance. In fact, the Legislative Director for a top credit reporting bureau once said, *"…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."* Instead, the practice can lead to qualified candidates being disqualified for jobs simply because of an error in their report or a difficult financial situation they were in many years earlier.
2. **Credit Reports Are Riddled with Errors**: Even if credit reports *did* predict job performance (which they don't) employers shouldn't be allowed to rely on them because, as found in a Federal Trade Commission study, 20% of consumers had verified errors in their reports, with 5% having a error so serious that it would cause them to be denied credit or pay more for credit. Between October 2021 and September 2022, the Consumer Financial Protection Bureau received nearly half a million complaints against Equifax, Experian, or TransUnion for inaccurate information or inadequate investigations of disputes over inaccuracies.
3. **Credit Reports Perpetuate Historic Racial Inequities and Injustices:** The economic consequences of the nation's long history of racial discrimination—including in housing (redlining), employment, and debt collection—are the foundation of the data in credit reports. As a result, credit scores are often lower in communities of color—in Boston, 91 points lower in non-white areas than in predominantly white areas. Using credit data for jobs amplifies these inequities and perpetuates them as applicants are denied employment because their forebears were denied housing and employment explicitly based on race.
4. **Credit Reports Will Be Negatively Impacted by Ongoing Financial Stresses**: 14% of Bay Staters in predominantly white communities have a debt in collections—rising to 31% in communities of color. Ongoing inflationary pressures on basic family necessities like food and fuel have strained budgets all while Bay Staters pay rent in the third most expensive state to rent housing (after only CA and HI). This will inevitably lead to credit report blemishes, but no one in the Commonwealth should be denied housing simply because their credit report shows the financial hardship they have suffered.

What the FCEA Does

The bill (H.1434/S.1144) says that employers cannot consider an employee or job applicant's credit report in making hiring or employment decisions. Specifically it:

1. Prevents an employer from considering an employee or job applicant's credit report in employment decisions, such as hiring, firing, promotion, demotion, discipline, or compensation.
2. Makes it unlawful for an employer to ask an employee or job applicant about their credit report or about information regarding their credit history.
3. Would allow an employer to use credit reports in making employment decisions where federal or state law or a self-regulatory financial organization requires it or where the position at hand requires national security clearance.

Joining a Movement

A number of states and municipalities have limited the use of credit reports as decision makers recognize that the practice of checking a job applicant's credit report when making hiring decisions creates a vicious cycle. Job seekers may not get hired due to bad credit; without regular income their credit report will likely suffer more.

- 11 states and at least 2 large cities have passed laws restricting the use of credit reports by employers.
- The U.S. House of Representatives passed a bill with provisions similar to the FCEA, the Comprehensive CREDIT Act of 2020, restricting the use of credit reports with exceptions only for security clearances or where federal or state law requires it. Senator Warren has filed similar legislation—though federal action is uncertain and state action is needed.

Building on Previous MA Reforms

Massachusetts has led the way in this area by being one of three states (CA, HI, MA) banning the use of credit scores in auto insurance decisions or pricing. This act will continue our state's progress by preventing employers from using credit reports in employment decisions.

Please Cosponsor the FCEA! Restricting the use of credit reports in employment decisions will reduce barriers to employment for low-income and workers of color and help build a strong and equitable economic recovery for all Bay Staters.

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