



March 2, 2016

Labor and Public Employees Committee
Legislative Office Building, Room 3800
Hartford, CT 06106

RE: Connecticut Senate Bill 40 - Limiting the use of credit checks for employment purposes

To Members of the Joint Committee on Labor and Public Employees:

We understand that the Committee is considering the Senate Bill 40 which amends Public Act No. 11-223 further limiting the instances when an employer may inquire into an employee or prospective employee's credit history. We urge the Committee to closely review how employers are responsibly using credit history today.

The National Association of Professional Background Screeners (NAPBS), representing over 850 providers of professional screening services, are writing to express our concern with legislation, which would, further limit an employer's ability to responsibly consider credit history information in employment background checks.

Credit checks, when requested by employers, are done responsibly.

A 2012 SHRM survey indicates that employers have continued to curtail their use of credit history so that current use is only in those limited instances where it is appropriate for the position. Use of credit is important to and therefore used when the position involves financial responsibilities for the organization or where the candidate is being considered for a senior executive position and/or will have access to highly confidential employee information. As the survey reports, employers use credit checks as part of a background check very responsibly and in a limited number of instances. Further limiting an employer's ability to access to credit history negatively impacts their ability to mitigate risk related to theft, embezzlement and negligent hiring.

Credit checks are not in and of themselves a barrier to employment.

The vast majority of employers do not view credit information as a "yes or no" determining factor. In fact, of the minority of employers that use credit checks 80% report that they have hired a candidate whose credit report presented his or her financial situation negatively.¹ In fact, credit background check results ranked as less important to employers generally than the following (shown in order of importance):

- Previous Work Experience
- Whether the candidate was a good fit for the job/organization
- Skills necessary for the job
- Interview performance

¹ <http://www.shrm.org/research/surveyfindings/articles/pages/creditbackgroundchecks.aspx>

- Favorable references
- Applicable education
- Favorable criminal background check results
- Applicable certifications

Additionally, most employers allow candidates to explain the results of their credit check before a hiring decision is made.

Employers review several years of credit history, not a “snap-shot” of an individual’s current financial situation.

When looking at credit history as part of a background check, employers do not limit their examination to a recent “snap-shot” of a person’s credit profile.

- Employers do not have access to credit scores.
- Employers do not use credit scores when evaluating credit history for employment.
- Credit scores are not sold for employment purposes.
- Employers do not use credit scores for hiring decisions.

Most employers look at credit history across a 6-year window or longer.² This holistic review of a person’s credit history enables employers to see beyond possible short-term problems and gives potential employees the ability to demonstrate a long-term, stable payment history. Any difficulties associated with a person’s current financial condition can be offset by many years of prior positive credit history.

Personal financial health can be an indicator of potential employee fraud.

The Association of Certified Fraud Examiners (ACFE) reviewed occupational fraud between 2006 and 2008, and found that the top two red flag warnings exhibited by perpetrators leading up to engaging in fraudulent activity were (1) living beyond his or her financial means (present in 39% of all cases, with a median loss of \$250,000) and (2) experiencing financial difficulties (present in 34% of all cases with a median loss of \$111,000).³

Not all financial difficulties will or could lead to fraud, but Congress should not tie the hands of employers and undercut fraud prevention measures by outlawing the use of information that shows a correlation between past / current behavior and future fraud.

Credit checks can help protect companies, particularly small businesses, from fraud.

According to the ACFE, the typical organization loses 5% of its revenues to fraud each year.⁴ Small businesses are particularly vulnerable to financial fraud. As the ACFE 2012 report shows, the smallest organizations in the study suffered the largest median losses.

² <http://www.shrm.org/Research/SurveyFindings/Articles/Pages/BackgroundChecking.aspx>

³ <http://www.acfe.com/press-release.aspx?id=1677>

⁴ <http://www.acfe.com/rtn-highlights.aspx>

Small businesses implement fewer anti-fraud controls than their larger counterparts, which increases their vulnerability to fraud. Because small businesses do not have the resources to establish internal controls to monitor for fraud, it is especially important that these companies be allowed to incorporate credit checks into the hiring process.

Significant consumer protections already exist when employers use credit information as part of the hiring process.

Existing law tightly regulates the use of consumer reports in employment situations. Under current law:

- Prior to requesting a consumer credit report, an employer must provide to the prospective employee a written notice stating the source of the information and how it will be used.
- If adverse action against the candidate is considered, the employer must first advise the candidate that they are considering adverse action, provide a copy of the consumer credit report, a copy of the Consumer Financial Protection Bureau's prescribed "Summary of Rights" and an opportunity to dispute the incompleteness or accuracy of information in the report.
- If an adverse employment action is taken against a prospective employee due to the information contained in a consumer credit report, the employer must provide to the consumer the name and contact information for the reporting agency.
- Any employer who willfully fails to comply with these consumer protections is liable to that consumer in an amount equal to the sum of (1) any actual damages sustained by the consumer as a result of the failure or damages of not less than \$100 and not more than \$1,000; or (2) such amount of punitive damages as the court may allow; and (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

Given these important considerations, we urge you to consider that in the limited circumstances in which employers are using credit reports today it is an important tool that is being used responsibly before further restricting an employer's access to credit history.

Sincerely,



Melissa L. Sorenson
Executive Director
National Association of Professional Background Screeners