

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON CIVIL RIGHTS

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HELD AT: Council Chambers-City Hall

B E F O R E:

DARLENE MEALY
Chairperson

COUNCIL MEMBERS:

Mathieu Eugene
Brad Lander
Mark Levine
Daniel Dromm
Stephen Levin

A P P E A R A N C E S (CONTINUED)

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CHAIRPERSON MEALY: Good morning. We're going to start this hearing. My name is Darlene Mealy. I am the chair of the Committee on Civil Rights. Today, we will be holding a hearing on Introductory Bill Number 261, a Local Law to amend the administrative code of the city of New York in relations to prohibiting discrimination based on one's consumer credit history. I'd like to thank my colleagues, Mathieu Eugene; Brad Lander for joining us today at this hearing.

Introductory Bill Number 261 was introduced by Council Member Brad Lander earlier this year. When passed, Intro 261 would prohibit employers, labor organizations, employment agencies and licensing agencies from requesting or using information found in a consumer credit history of an application or employee for employment purposes. This would not apply to employees that are required by the state or federal law to be used an individual's consumer credit history for employment purposes.

Discrimination in employment on the basis of one's credit history risks potential that persons unemployed and further damaging his or her credit

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2 history. We must adopt policies with an eye towards
3 the unemployed, not hurting them. I believe that
4 Intro 261 has the potential to assist prospective
5 employees who have been adversely affected by a
6 negative credit report. With that, I will give my
7 colleague, Brad Lander, the opportunity to say a few
8 words since he is the sponsor of this bill. Are you
9 ready, Brad?

10 COUNCIL MEMBER LANDER: Yes, thank you...

11 [crosstalk]

12 CHAIRPERSON MEALY: Thank you.

13 [crosstalk]

14 COUNCIL MEMBER LANDER: Very much, Chair
15 Mealy for...

16 [crosstalk]

17 CHAIRPERSON MEALY: And my colleagues...
18 I'm sorry. We have our Public Advocate here also,
19 Tish James.

20 COUNCIL MEMBER LANDER: Thank you very
21 much, Chair Mealy, for conducting this hearing on
22 Intro 261 and I do also want to say thank you and
23 welcome the Public Advocate and Council Member
24 Mathieu Eugene.

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2 Intro 261 would prohibit employment
3 discrimination based on consumer credit history and
4 end the credit check catch-22, the unfair process,
5 which damages the lives and job prospects of
6 thousands of New Yorkers. The bill is about simple
7 fairness. We want New Yorkers who apply for jobs or
8 promotions to be judged on their qualifications and
9 experience for the position, not on whether they have
10 enough money to pay their bills. According to a
11 recent study by the Society for Human Resource
12 Management, about half of employers conduct credit
13 checks as part of the hiring process. While
14 employers cite fraud and integrity most frequently as
15 their reason for conducting credit checks, several
16 studies have found that credit histories have no
17 demonstrated correlation to job performance, no
18 demonstrated correlation to the likelihood to commit
19 fraud or theft and in fact, a TransUnion lobbyist;
20 one of the lobbyists, Eric Rosenberg, even admitted
21 this, saying quote, "We don't have any research to
22 show any statistical correlation between what's in
23 somebody's credit report and their job performance or
24 their likelihood to commit fraud," quote unquote. So
25 credit checks aren't useful to employers.

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2 Unfortunately, they are deeply harmful to job
3 seekers. In many cases, poor credit histories are
4 the result of uncontrollable events. Medical
5 expenses, divorce, a death in the family, leaving an
6 abusive spouse, the unexpected loss of a job all
7 contribute to poor credit histories that have no
8 connection to an individual's financial decisions or
9 to their integrity. With skyrocketing student debt,
10 recent graduates who have been unable to find
11 employment in the faltering economy are at risk of
12 poor credit. Youth employment credit checks: a
13 simple way to think about it, they discriminate
14 against people who had to take out loans to go to
15 college in favor of people whose parents were
16 fortunately able to pay for them to go to college.

17 As many as 25 percent of consumer credit
18 reports contain serious errors due to identity theft
19 or other reporting errors, making the use of this
20 information in hiring practices even more harmful,
21 and I'm guessing in the audience today are many
22 people who know there are errors on their credit
23 reports.

24 Credit checks can violate applicants'
25 privacy since they often reveal deeply personal

1 information about medical debt, disability, divorce,
2 domestic violence, all information that our anti-
3 discrimination laws are intended to protect and
4 because poor credit history is strongly correlated
5 with race as a result of predatory lending and other
6 practices, employment credit checks
7 disproportionately impact applicants from low-income
8 and communities of color who are hardest hit by the
9 economic downturn.
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11 We'll hear today, after the
12 administration, who I'm very pleased is here and
13 thank you to counsel to the Mayor, Maya Wiley...
14 we'll hear stories today from individuals who have
15 been directly impacted by this process and illustrate
16 how easily any of us could find ourselves in these
17 situations and I want to thank them for their courage
18 to testify in advance. I have also had the chance to
19 talk to employers about the legislation. Many
20 support the bill. Small businesses, in particular,
21 don't use credit checks for the most part. They do
22 interviews, reference checks, background checks and
23 are able to get the information that they need to
24 protect their businesses and their customers without
25 using discriminatory credit checks. Now, some have

1 called for exemptions or loopholes for particular
2 industries or job categories. We're here at this
3 hearing to listen and we're eager for anyone who
4 wants to come forward and testify, but I am going to
5 ask people to really provide some evidence of what
6 the connection is between credit histories and
7 particular industries or job categories. Some of
8 those exemptions have been passed in other states
9 exempting entire industry sectors for very large job
10 categories, still, in my opinion, based simply on
11 prejudice. We have prejudices in this society about
12 debt in the absence of evidence. Again, if we don't
13 have evidence that credit history correlates to
14 relevant factors for hiring, then the default that it
15 should be used is simply a prejudice and we really
16 have to look hard at it. To carve out specific
17 industries or occupations is to deny that fact and
18 prioritize the commercial desires of the credit
19 reporting agencies over the legitimate needs of both
20 employers and job seekers.

22 I look forward to the hearing. We do
23 want to conduct a thorough collection of the
24 evidence; hear stories from everyone who's here to
25 testify. We invite people who aren't here today, but

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2 who are watching on the webs stream to provide
3 information afterwards. We want to use that
4 information coming out of this hearing to make sure
5 that we move forward to pass a strong law. With a
6 strong law, New York City can set a new standard for
7 protecting New Yorkers from employment discrimination
8 based on their credit history and take a real step
9 forward for equal opportunity and fairness. Thank
10 you very much again, Madam Chair. I look forward to
11 the hearing.

12 CHAIRPERSON MEALY: Thank you. Without
13 further ado, we're going to call on the counsel to
14 the Mayor's Office, Maya Wiley, and we have her
15 Deputy. Deputy Brittany Saunders from the Mayor's
16 Office will be testifying. Thank you for being here.

17 MAYA WILEY: Thank you, Madam Chair and
18 I'd like to just note it's a special honor for me to
19 be here today, not only because this issue is so
20 important to New Yorkers, but also because it is my
21 first opportunity to testify before my council
22 member, Council Member Eugene, so and I also want to
23 thank the Public Advocate for being here today and
24 for your leadership.

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2 Madam Chair and members of the Council,
3 thank you for the opportunity to testify. As a civil
4 rights advocate with 25 years of experience, I
5 obviously find this issue incredibly important, but
6 as well, it's also one that's of incredible
7 importance to the administration for obvious reasons.
8 So the opportunity to testify regarding Intro 261,
9 which would amend the New York City Human Rights Law
10 to prohibit employers from using an individual's
11 credit history in making employment decisions,
12 whether they are hiring decisions or decisions made
13 about the terms of condition of employment, are very
14 important to this administration. The administration
15 supports the Council's efforts to remove unnecessary
16 barriers to employment for New Yorkers who are eager
17 to support their families and contribute to the
18 city's economy. As you know, credit histories are a
19 useful tool in helping underwriters assess whether or
20 not to extend credit to an individual. That being
21 said, it is also important to ensure that credit
22 histories are used for appropriate purposes I think,
23 as Council Member Lander has pointed out and for
24 many, poor credit scores are triggered by a job loss,
25 medical crisis, overwhelming student debt, identity

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2 theft or scams. Moreover, the city's still in the
3 process of emerging from a punishing economic crisis
4 that has devastated the finances of many residents.
5 far too many New Yorkers, no matter their race, age,
6 gender or religion have lost a job; faced a personal
7 crisis that may forced them deep into debt and new
8 Yorkers of color, as Council Member Lander's also
9 noted, are particularly likely to find themselves
10 impacted.

11 There's an important Woodstock Institute
12 report from 2010 that shows that residents in New
13 York City's predominantly communities of color in New
14 York City are more likely to have non-prime credit
15 scores than residents of predominantly white
16 communities in New York City. It found that 21.6
17 percent of people had credit scores below 620, a
18 common boundary for consideration for prime credit,
19 and when we break that down by race, what we find is
20 that 38.6 percent of people in highly African
21 American neighborhoods had scores below 620, 38.6
22 percent. In the majority of Latino communities, 34.2
23 percent of individuals had credit scores below 620,
24 and in predominantly white communities, the
25 percentage was 13.2 percent below 620. Obviously,

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2 13.2 percent is way too high, so we would certainly
3 not dismiss the importance of that for communities
4 that are predominantly white, but just to note that
5 there's no question that as Council Member Lander has
6 identified, there are disproportionate impacts based
7 on race for a variety of historic and structural
8 reasons.

9 So as an administration that cares deeply
10 about equity and opportunity; about lifting all
11 boats; about ensuring that we no longer have "A Tale
12 of Two Cities," we believe it is particularly
13 important that we do not place senseless roadblocks
14 in the path of residents who seek work to support
15 themselves and their families. However, this
16 administration also believes that there are certain
17 contexts in which aspects of individuals' consumer
18 financial history may... may in fact be relevant to
19 an employer's decision making and in these cases we
20 believe that it may be important to consider the
21 impact of one's financial histories on the
22 individual's ability to serve or continue to serve in
23 the position in question.

24 10 states and the city of Chicago
25 currently limit the use of credit histories in

1 employment decisions, as well as many other states
2 obviously considering similar legislation. They
3 recognize some instances in which credit history may
4 be considered. Oregon, for example, different from
5 the Chicago model that Council Member Lander
6 identified, allows the use of credit history if it is
7 substantially job-related and actually lists some
8 conditions to try to determine substantial job-
9 relatedness. California, of course, similar to
10 Chicago, lists several job categories for which it is
11 permissible to examine an applicant's credit history,
12 including law enforcement and retail positions with
13 access to credit card informa... oh, to various forms
14 of credit information that are not generally
15 consumer-related transactions.

17 We look forward to working with the
18 Council to identify possible exemptions that would be
19 appropriate for New York City. The administration
20 shares the Council's deep commitment to removing
21 obstacles that needlessly bar New Yorkers, a
22 disproportionate number of them, from gainful
23 employment; however, it is critically important that
24 we also recognize the important and nuance role of
25 the considerations of certain consumer financial

1 information may play in a particular context. We
2 look forward to working with the Council to protect
3 residents from discrimination, while safeguarding
4 other important city interests. Thank you.

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6 CHAIRPERSON MEALY: I just have one
7 question; then we'll turn it over to my colleague,
8 Brad Lander. We have questions. Do you think that
9 other protections exist to help New Yorkers with the
10 poor histories that they are seeking to work out?

11 MAYA WILEY: Mm-hm. Yeah well, one of
12 the things that is important to note is the
13 Department of Consumer Affairs, which has 30
14 financial support sites throughout the city, actually
15 actively works with anyone who walks through the door
16 on consumer credit issues, which includes also
17 erroneous reports on their credit histories. That's
18 something we're very proud of. That... DCA alone has
19 seen I believe it's 11,000 people in the past year
20 alone, so I think that's an important service that
21 the city offers; it's critically important. We know
22 from the Federal Trade Commission that one in five
23 people surveyed have erroneous information on their
24 credit history; fortunately, only five percent that
25 actually impact their credit scores, but nonetheless,

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2 it's incredibly important to support people
3 identifying and able to correct any erroneous
4 information on their credit history.

5 CHAIRPERSON MEALY: So what do you have
6 out there to let people know or... and how do you
7 advertise that...

8 MAYA WILEY: [interposing] Yeah.

9 CHAIRPERSON MEALY: To people to let them
10 know? Is it in the newspapers?

11 MAYA WILEY: Yeah, I think that's an
12 important for the Commissioner for the Department of
13 Consumer Affairs, but they've done a fantastic job of
14 advertising in a variety of ways, including
15 pamphlets. The fact that they have sites, 30
16 different sites throughout the city itself, making it
17 more accessible for consumers to get access to the
18 support they give is incredibly important and this
19 administration's going to look for ways to build that
20 up, support that and make sure we're helping
21 residents get the support services they need.

22 CHAIRPERSON MEALY: Okay, I have a few
23 questions, but I will turn it over to the sponsor of
24 the bill, Brad Lander.

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2 COUNCIL MEMBER LANDER: Thank you, Madam
3 Chair. Thank you, Madam Counsel. It is wonderful to
4 have a civil rights advocate in your position and in
5 that seat. Last term, we had a hearing on this bill,
6 and the counsel to the Mayor testified in strong
7 opposition to it and I think to have someone who's
8 you know, known or does the research on the
9 discriminatory impacts of credit and sees this in the
10 big context of our broader work to help people get
11 the opportunities that they deserve and really
12 achieve equal opportunity is a great credit to the
13 Mayor and the administration and to you, so I thank
14 you for it and I want to build first on what the
15 chair just asked about. I do think there's a nice
16 opportunity. Once we pass this law, there'll need to
17 be outreach and the Department of Consumer Affairs
18 and the Office of Financial Empowerment, DCA will be
19 the logical place both to do outreach to help
20 employers know about the bill, but that will be a
21 great opportunity to connect more New Yorkers who are
22 struggling with poor credit histories to some of the
23 opportunities that you're talking about. This bill
24 is one important step in helping people have access
25 to employment, without which, they're not going to be

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2 able to get back on their feet, but there's a lot
3 more that we need to do to address issues of
4 financial justice and discrimination, so thank you.

5 So I want to talk a little about the
6 question of the possibility of exemptions that you
7 mentioned in your testimony and I guess my main
8 questions go to what kinds of evidence we can get and
9 look at here. First off, well, I guess as you know
10 that the bill as it exists does contain what I think
11 is the most important and the most specific
12 exemption, which is if state or federal law require a
13 credit check, this law would of course, allow that
14 and that's not trivial. You know, one of the
15 examples that I heard; I sat down with the banking
16 industry is that Regulation Z of the Truth and
17 Lending Act, as amended by Dodd-Frank, requires that
18 for some mortgage loan originators a credit check be
19 conducted, so that's you know, a provision of federal
20 law and that category will be allowed by this bill,
21 so that's pretty straightforward. As I've talked to
22 other people, both in other states and here, what
23 I've said to people is provide me some evidence of
24 relevance and connection, and I have to say for the
25 most part, no one has done this. There are other set

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2 of studies that show... you know, that don't show
3 correlation between credit histories and either
4 performance; job performance or likelihood to commit
5 fraud or theft, so if someone had that, okay, then we
6 would look at that and I just wonder how you think we
7 should evaluate the evidence as we move forward to
8 think about this question...

9 MAYA WILEY: [interposing] Mm-hm.

10 COUNCL MEMBER LANDER: Following the
11 hearing.

12 MAYA WILEY: Yeah well, thank you for
13 those kind words, Council Member, in terms of my
14 position and just to go back to something I think
15 that was very important that you said earlier, in
16 addition to the Department for Consumer Affairs
17 actually playing an active role in getting
18 information and the word out, I think there's also
19 role for the Commission on Human Rights and one of
20 the things that I think this administration is
21 committed to do is finding all the levers of
22 government to make sure that people understand what
23 their rights are, are receiving the protections of
24 the law and getting the support they need from
25 government, so...

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[crosstalk]

COUNCIL MEMBER LANDER: Absolutely.

[crosstalk]

MAYA WILEY: Just to...

[crosstalk]

COUNCIL MEMBER LANDER: Thank you for...

[crosstalk]

MAYA WILEY: Just to....

[crosstalk]

COUNCIL MEMBER LANDER: Pointing that out
for us.

[crosstalk]

MAYA WILEY: Elevate that.

COUNCIL MEMBER LANDER: A very important
point to make.

MAYA WILEY: Uh-huh. So going back to
your question, I think you know this administration's
very open to examining this question and having a
conversation about what makes sense and what's
rational because we certainly agree with the
principle and share the principle with you that it
should be related to the job functions, right? There
should be some legitimate interests if there is going
to be any credit history check, so that's something

1 we should continue to explore together. The one
2 thing that... and I haven't actually looked at all of
3 the research, so the correlative research you know,
4 is both useful and important and doesn't answer all
5 the questions in and of itself. For example, and
6 this is something that is worth looking into, there
7 are jobs that require an employee or an independent
8 contractor to be bonded, and in the bonding process
9 an employer may have a legitimate interest in
10 ensuring that assurity can be extended by virtue of
11 the fact that they can have their employees bonded.
12 So that would be something that wouldn't necessarily
13 be covered by federal law, but might... but where an
14 employer might have a legitimate business interest in
15 being able to check those credit histories because it
16 will affect their ability to do business if their
17 employees are not able to be individually bonded and
18 then there'll be the question of whether it applies
19 to independent contractors, given other conversations
20 about amending the Human Rights Law. So it's just
21 something to consider and I think the question is an
22 important one, which is where is it rational, where
23 does it make sense and that there shouldn't be
24 barriers where it doesn't.

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2 COUNCIL MEMBER LANDER: Thank you. I
3 think that's a useful answer and I'll just you know,
4 invite... I'm going to you know, use the web stream
5 as well. You know, we are eager to listen. Our ears
6 are open and I think you know that's... I gave one
7 example; now you've given another of where there are
8 things to look at, but I also do want to just flag
9 for people, most of what we've heard when people come
10 forward to talk about exemptions still, at least the
11 ones that I have heard, default to that prejudice
12 that debt tells us something about someone and I
13 think all the evidence says that that's not true. So
14 we'll listen. We urge you to come forward and give
15 us these examples and ideas, but we are going to push
16 because where we have prejudices we really need to
17 examine them and make sure we're making decisions
18 based on evidence, especially when there are such
19 harmful impacts where we don't act, so thank you very
20 much for your testimony and your answers and thank
21 you, Madam Chair.

22 CHAIRPERSON MEALY: Yes, just to
23 piggyback on that, you said that it is prejudice, but
24 do you think this goes far enough in regards to if
25 someone did have a bad credit report, isn't this

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2 legislation... is it a provision for them to explain
3 why their credit was really bad 'cause a lot of
4 people now are going through so much exactly like
5 identity theft, so that's one of the main things that
6 I'm saying. Do the federal law goes just the same as
7 this law?

8 MAYA WILEY: This law, it's my
9 understanding this law, and Council Member Lander
10 obviously know it better than I do, is broader than
11 what's covered in federal law and I mean I think
12 that's true of all of the states and localities that
13 are looking at these kinds of protections. It's
14 because they go broader than what federal law does.
15 You know, one of the things...

16 [crosstalk]

17 CHAIRPERSON MEALY: Do you think we went
18 far enough with the federal law?

19 MAYA WILEY: I always think there are
20 more reforms that we can make in policy. I mean it's
21 an iterative process and we learn through experience,
22 so I think there is more that can be done at the
23 federal level. What I will say about this law is I
24 think one of the things to look at in terms of some
25 of some...

[crosstalk]

CHAIRPERSON MEALY: Mm-hm.

[crosstalk]

MAYA WILEY: Helpful things other states and cities have done is they've provided notice requirements, so where... when an employer is permitted to ask a job applicant or a current employee information about their credit history, they're required to give notice that they're either checking into it or they're required to tell the employer or the job applicant whether or not they are using that information in making their job decision because of course, in some instances they might make a decision not based on the credit history or they might make a judgment based on the credit history, so that gives the employer or the applicant the opportunity to tell the employer...

[crosstalk]

CHAIRPERSON MEALY: They are...

[crosstalk]

MAYA WILEY: He or she is wrong or making a judgment based on some factual errors.

CHAIRPERSON MEALY: Okay, I know it's federal.

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2 COUNCIL MEMBER LANDER: And Madam Chair,
3 can I extend on that just a little bit?

4 CHAIRPERSON MEALY: [interposing] Mm-hm.

5 COUNCIL MEMBER LANDER: You know,
6 obviously, I think that the federal law doesn't go
7 nearly far enough in protecting people just for a
8 couple of reasons. First, some employers use credit
9 checks even before they meet with people, so you
10 never get in the door and you never get a chance to
11 explain anything because you're screened out before
12 you get in the door. Then some employers look at it,
13 and actually there was a study of this, in which they
14 asked whether they allowed candidates to explain
15 their credit history, and a third of employers said
16 in response to this survey they don't make an
17 opportunity for people to explain it; they just use
18 the decision, but even where they do, many of the
19 issues we're talking about here are really very
20 private matters. Many people have debt because of a
21 health care situation, because of a divorce. I heard
22 from some domestic... some women's groups who deal
23 with survivors of domestic violence. To, in the
24 context of a job interview, have to be talking about
25 your history of domestic violence or divorce or

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2 health care puts you at just an enormous disadvantage
3 and privacy exposing, so that's why we think the
4 right answer is to do away with this. We need other
5 context, as you point out, where people can work with
6 DCA and others to repair their credit, but if we
7 don't have evidence that there's any correlation to
8 job performance, let's just not have employers look
9 at it at all and then we don't have to violate
10 people's privacy and cause these other risks. Thank
11 you.

12 CHAIRPERSON MEALY: Thank you for saying
13 it properly. We've been joined by Council Member
14 Levine and Council Member Dromm, and our next
15 question will be from Mathieu Eugene.

16 COUNCIL MEMBER EUGENE: Thank you very
17 much, Madam Chair. Let me first commend and
18 congratulate also Miss Maya Wiley. I'm so proud that
19 you are here and I'm proud also to be your council
20 member. I just want you to know that I'm just your
21 humble servant.

22 MAYA WILEY: Okay.

23 COUNCIL MEMBER EUGENE: Thank you. Thank
24 you very much. In your testimony, you say that the
25 administration supports the Council's efforts to

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2 remove unnecessary barriers to employment for New
3 Yorkers who are eager to support their families and
4 contribute to the city's economy and you say also for
5 many, poor credit scores are triggered by a loss of
6 job, medical crisis, overwhelming student debt,
7 identity theft or scams. Could you tell us in
8 detail, as much as you can, what is available right
9 now to have those people who are facing so many
10 challenges do to mistakes; to errors and to every
11 cause that we know...

12 MAYA WILEY: [interposing] Mm-hm.

13 COUNCIL MEMBER EUGENE: Going through
14 this very difficult situation to obtain jobs because
15 of the low credit history? Is there anything in
16 place to help them right now?

17 MAYA WILEY: Yeah, there... and I think
18 that's a very important question, Council Member,
19 because there are so many people. If you've been out
20 of a job for a year you're likely to have poor credit
21 because you've simply been unable to keep up with
22 your bills and it's not necessarily your fault that
23 you were laid off from a job and in this economy had
24 a hard time finding another one. And one of the
25 things, obviously, in various agencies, there are

1 forms of job placement help and information
2 connecting folks to jobs, whether it's youth
3 employment; whether it's opportunities within the
4 Parks Department, so each agency has some way in
5 which they try to support folks based on the work of
6 that particular agency. I think as I said earlier,
7 the 11,000 counseling sessions with over 7,000
8 residents over the past year for the Department of
9 Consumer Affairs helping folks figure out how to
10 navigate any consumer issues they have, but that
11 includes credit issues and I think in the context of
12 folks who have been out of jobs for a long time or
13 have educational debt, other kinds of issues like
14 that, that's really an important service. I think
15 that there's always ways that this administration and
16 City Council can find ways to help folks get jobs,
17 which obviously, is an important part of this
18 equation, is creating more jobs in the city. It's
19 one of the things that the Mayor is committed to and
20 is currently looking at ways to leverage everything
21 from Hurricane Sandy rebuilding to building of
22 affordable housing as ways to help more people who
23 are unemployed get access to jobs that the city is
24 essentially creating by virtue of the fact that it's
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2 doing what it does, which is rebuild communities and
3 invest in communities. So I think all of those are
4 factors in this and all of those important ways to
5 help New Yorkers get back to work and support their
6 families.

7 COUNCIL MEMBER EUGENE: Thank you very
8 much, and in your testimony you say that also as an
9 administration that cares deeply about equity and
10 opportunity, we believe it is particularly important
11 that we do not place senseless roadblocks in the path
12 of residents who seek work to support themselves and
13 their families, and I do believe also in the
14 dedication of this administration to stand for New
15 Yorkers because I have seen myself the effort that
16 the administration is doing to help the hard working
17 people and to provide fairness and equity to the New
18 Yorkers, but we know also in the city of New York or
19 in government, even in the United States, some of the
20 time there are opportunities, there are laws and
21 legislation, but they are not again first, they are
22 not implement; they are not promote. People don't
23 know their rights.

24 MAYA WILEY: [interposing] Mm-hm.
25

1
2 COUNCIL MEMBER EUGENE: And also they
3 cannot get the full advantage of benefit of those
4 laws or opportunities. What the administration will
5 do to implement this law when it will pass? I know
6 that we know that it's going to pass anyway...

7 MAYA WILEY: [interposing] Mm-hm.

8 COUNCIL MEMBER EUGENE: You know and
9 because we have so many support. So what the
10 administration will do to make sure that the people
11 who are facing you know, difficulties; struggles can
12 benefit from this law?

13 MAYA WILEY: [interposing] Mm-hm.

14 COUNCIL MEMBER EUGENE: And can they be
15 protected really?

16 MAYA WILEY: Absolutely. As with any
17 legislation that is passed by the Council and signed
18 by the Mayor, this administration is going to go to
19 every agency that has some responsibility or
20 opportunity to either enforce the law or to advance
21 the principle of the law. In some instances, it
22 might not be the direct responsibility of a
23 particular agency to enforce it, but there still may
24 be an opportunity for an agency to get the word out
25 about those rights and those protections. We're

1 looking at that in other areas on other issues
2 including voter registration, for example. The Mayor
3 has, as you know, a directive about agencies who have
4 a contact with a New York resident that requires them
5 to sign up for something, to use that as an
6 opportunity to register them to vote. That's one
7 example where there's not a legal requirement
8 necessarily to do that or there's some obligation,
9 but we're trying to go beyond the obligation because
10 we're committed to the principle. I think any
11 legislation that meets... that obviously the Mayor
12 signs means the administration's endorsing the
13 legislation itself and is going to do everything in
14 its power to make sure it's implemented through the
15 agencies in every way possible, including in ways
16 that uphold the principle, so I think that's
17 important and it's why I made the comment I made
18 earlier about the Human Rights Commission may not
19 have responsibility for getting... can be seen as a
20 player, not just enforcing a law if there's a
21 complaint, but actually being able to play an active
22 community engagement and community education role in
23 addition to consumer affairs. So we would look at
24 all those levers that we could pull to make sure New
25

1
2 Yorkers know their rights, know where to go to get
3 help and can get that help from everyplace that...
4 where it is possible...

5 COUNCIL MEMBER EUGENE: [interposing] Mm-
6 hm.

7 MAYA WILEY: To deliver that help.

8 COUNCIL MEMBER EUGENE: Thank you very
9 much. I am going to ask my last question for now.
10 We know that New York City is a place that is home
11 for so many immigrants and you know, people came from
12 all over the world for the same reason; to have a
13 better life for themselves and their families and
14 those immigrant people you know, they face many
15 barriers like languages, like culture and they are
16 the most likely to be affected by credit score.
17 What's the administration has in you know, in place
18 or will have in place to help the immigrant people,
19 considering that you know, they are facing language
20 barrier and cultural barrier?

21 MAYA WILEY: Mm-hm.

22 COUNCIL MEMBER EUGENE: What the
23 administration will do to make sure they are
24 protected, to make sure they are aware and to make
25

1
2 sure they take the full benefit from this
3 legislation?

4 MAYA WILEY: Mm-hm. Very important
5 questions and I'm very proud that I get to work with
6 Nisha Argarwal from the Mayor's Office of Immigrant
7 Affairs, who's a long-time staunch advocate for
8 immigrant communities and an incredible partner in
9 multiple issues, and municipal ID obviously is one of
10 this administration's signature efforts to try to
11 make this city one in which every resident that
12 contributes to the city is able to get the full
13 benefits of the city, as well as to be able to
14 continue to contribute to it. So one of the things
15 that we do regularly within the administration when
16 we have important laws that are going to advance
17 opportunities in the city is we talk across the
18 Mayor's offices, and in this case, it would include
19 the Mayor's Office of Immigrant Affairs, with whom we
20 work regularly out of the Counsel's unit, to figure
21 out multiple ways in which to do that. One of the
22 responsibilities of the Mayor's Office of Immigrant
23 Affairs, of course, is to support agencies
24 identifying the ways in which they can continue to
25 improve conditions, access to services and

1
2 information for immigrant communities, whether or not
3 they are documented.

4 COUNCIL MEMBER EUGENE: Thank you very
5 much, Miss Wiley. Thank you very much, Madam Chair.

6 CHAIRPERSON MEALY: Yes and just to
7 reiterate Steven Levin. We have... our public
8 advocate will ask the next question.

9 PUBLIC ADVOCATE JAMES: Thank you. Thank
10 you, Madam Chair.

11 CHAIRPERSON MEALY: Thank you.

12 PUBLIC ADVOCATE JAMES: Good morning.

13 MAYA WILEY: Good morning.

14 PUBLIC ADVOCATE JAMES: So the way that I
15 would describe your position this morning is though
16 you do not oppose this legislation, you support its
17 intent, its overall goals and you look forward to
18 working with the Council to improve it. You do not
19 support it in its current form. Is that a fair
20 assessment of your position?

21 MAYA WILEY: We have not taken a position
22 on the legislation, so what we have said today is
23 that we support the principles, we look forward to
24 working with the Council and I personally think that
25 we are going to come up with a good bill.

1
2 PUBLIC ADVOCATE JAMES: In your
3 testimony, you indicated specifically although you
4 support the principles of it, it would suggest to me
5 that you could support it if, in fact, the Council
6 was willing to identify possible exemptions. Is that
7 correct?

8 MAYA WILEY: We are in the process, as
9 administration, of doing exactly the same thing that
10 Council Member Lander mentioned earlier, which is
11 hearing from folks; understanding how it would work,
12 as the Mayor will do on every issue. He's going to
13 make sure he hears from all quarters and make sure
14 that we're making decisions that are sound and taking
15 into account the issues of all the constituents of
16 the city, so we're really looking forward to that
17 process and are engaged in that with you.

18 PUBLIC ADVOCATE JAMES: And I support
19 that position and you... I'm sure that the
20 administration is aware that legislation restricting
21 employers' use of credit checks has been passed in
22 California, Connecticut, Hawaii, Illinois, Maryland,
23 Oregon, Vermont and Washington. I'm sure you're
24 aware of all those jurisdictions that support a
25 similar principle.

1
2 MAYA WILEY: Yes, as well as the city of
3 Chicago.

4 PUBLIC ADVOCATE JAMES: Excellent. So
5 since that is the case and since it's my
6 understanding that we have received testimony from
7 two industries that have asked for exemptions, would
8 you support an exemption primarily for I guess its
9 staffing associations, who are of the opinion that an
10 exemption should be applied to them since... to
11 agents covering staffing firms and employment
12 agencies acting on behalf of employers. Apparently,
13 a similar exemption has been extended to this
14 industry in the state of Nevada, as well as Illinois,
15 Colorado, Hawaii and Oregon and Vermont and also
16 Connecticut. Would you... are you... when you talk
17 about working with the Council with regards to
18 identifying exemptions, are you speaking of this
19 particular industry; that is, staffing associations?

20 MAYA WILEY: I am not speaking of any
21 specific industry 'cause the administration hasn't
22 taken a position on any specific exemptions.
23 Certainly, we'd be willing to look at that.

24 PUBLIC ADVOCATE JAMES: Okay, my
25 understanding, and I know that credit reports are a

1
2 big business, and it's my position that credit
3 reports in the hiring practice are unreliable
4 indicators of risk and that there is no objective
5 evidence regarding in relation to a correlation
6 between job performance and credit history. I have
7 yet to see any objective evidence of a correlation
8 and so saying that, there is also a statement here
9 from the Securities Industry and Financial Markets
10 Association. They, too, are accepting or requesting
11 an exemption, specifically with respect to licensure
12 requirements, which they allege jeopardize the assets
13 under management and the security of financial
14 services companies. I don't know if I see a
15 correlation between credit histories... a credit
16 history and licensure requirements, but has the
17 administration taken a position as to whether or not
18 the financial industry should be exempted?

19 MAYA WILEY: The administration has taken
20 no position on exemptions to date. As I said
21 earlier, we are certainly open to discussions with
22 the Council, as well as to members of the community
23 about what issues or interests they have and what
24 they want to raise, as Council Member Lander said
25 earlier today. Several of those states that the

1
2 Public Advocate mentioned that have passed
3 legislation do have a variety of exemptions, many of
4 them based on industry, as Council Member Lander had
5 said before, so that's obviously something that we
6 would looking at, not necessarily what other places
7 are doing, but the reasons behind exemptions; whether
8 they're legitimate business interests for those
9 exemptions would be something we'd be discussing with
10 counsel as well with advocates.

11 PUBLIC ADVOCATE JAMES: It is the
12 position of the Securities Industry and Financial
13 Markets Association that they comply with the NASD
14 rule, which provides that a member must ascertain by
15 investigation the good character, business
16 reputation, qualification and experience of a job
17 applicant before their firm applies to register the
18 applicant with the FINRA and the acronym stands for
19 the Financial Industry Regulatory Authority. I don't
20 know if... what correlation that has to do within
21 one's credit history, but that is their statement, as
22 the administration had take a position with this
23 statement, which, to me, raises... I question and I
24 have serious questions with respect to their
25 statement and their position.

1
2 MAYA WILEY: The administration's taken
3 no position related to any exemption to date.

4 PUBLIC ADVOCATE JAMES: I don't know
5 again, whether... what one's credit history has to do
6 with their business reputation, their character
7 and/or their experience as a job applicant. Again,
8 the industry... the Securities Industry and the
9 Financial Markets Association my understanding will
10 be testifying today. I await their testimony because
11 I have serious concerns with respect to their
12 position. Do you believe that this bill is preempted
13 by any state or federal law?

14 MAYA WILEY: I have not examined that
15 question personally. I will be happy to look into
16 it, but I would not answer that question in the
17 absence of having done the legal research myself.

18 PUBLIC ADVOCATE JAMES: Do you believe
19 that... has the Human Rights Commission under the
20 jurisdiction of this administration taken a position
21 with respect to this bill?

22 MAYA WILEY: Well, since the Human... I
23 know of no public position that the Human Rights
24 Commission has taken. I'm certainly... we're
25

1 obviously in conversation with the Commissioner about
2 this bill.

3
4 PUBLIC ADVOCATE JAMES: Are you aware of
5 any complaints that have been filed by individuals
6 alleging discrimination that have been filed in the
7 Human Rights division... Human Rights Commission
8 alleging discrimination in any particular industry or
9 at any particular job?

10 MAYA WILEY: Related to credit history?

11 PUBLIC ADVOCATE JAMES: Correct.

12 MAYA WILEY: I'm not aware of any. Given
13 that the current Human Rights Law doesn't necessarily
14 cover that as a protected class, it's not a
15 conversation that I've had with the Human Rights
16 Commissioner. Certainly we are aware that advocacy
17 groups have been raising concerns obviously about
18 credit histories and the way they're being used and
19 that's something... those are conversations that have
20 happened between administration advocacy groups.
21 It's something we're taking seriously.

22 PUBLIC ADVOCATE JAMES: I know that you
23 are aware, as well as this administration, that a
24 disproportionate number of low-income communities;
25 women of color; women in particular; victims of

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2 domestic violence; individuals who lost their jobs
3 after the great recession; individuals who have filed
4 medical bankruptcy as a result of illnesses;
5 individuals who are in financial trouble as a result
6 of products that have been sold to them by the
7 financial industry, their credit histories are
8 riddled with errors. Are you aware of all of that
9 and how this obviously has had an adverse impact on
10 their ability to obtain a job in certain industries?

11 MAYA WILEY: I am and as I testified
12 earlier, the Federal Trade Commission has found that
13 one out of five folks that they have surveyed have
14 had errors on their credit reports. I'm happy that
15 that same study showed that only five percent of
16 those actually impacted their ultimate credit scores.
17 At the same time, it's obviously disturbing that
18 there are errors at all and that the errors actually
19 affect scores and that's an important factor to take
20 into account.

21 PUBLIC ADVOCATE JAMES: Yeah, that'd
22 be... credit reports are riddled with errors and
23 again, most of these for profit corporations are
24 engaged in business... engaged in selling these
25 products to individuals who are now victims once

1
2 again as a result of their practice and given that
3 statement, it's my position that the administration
4 should work with the Council so that we can come up
5 with a bill that would gain the support of this
6 administration, which campaigned on the issue of
7 income inequality in addressing the needs of those
8 individuals who are suffering under the weight of
9 poverty and who has to face high rates of
10 unemployment. And lastly, let me say that my office
11 is working with the Council to pass a bill so that
12 credit reports will no longer... will be prohibited
13 from being used when individuals apply for affordable
14 housing in the city as a result of the crisis that we
15 are witnessing in this city as well. I thank you for
16 your testimony. I apologize. I will be back in a
17 few minutes to hear the testimony of the Securities
18 and Financial Industry. I would love to hear that
19 testimony.

20 MAYA WILEY: Thank you. Thank you for
21 your time and as I said earlier, we are really
22 excited to be working with Council on these and other
23 important issues. Thank you.

24 CHAIRPERSON MEALY: Thank you. We'll
25 have the next question by Steve Levine... Levin.

1
2 COUNCIL MEMBER LEVIN: Thank you, Madam
3 Chair. Thank you, Miss Wiley, for your testimony and
4 I apologize for being a little late here, so I didn't
5 hear some of your exchange with Council Member
6 Lander, but in looking at your testimony, you do
7 bring up other laws... other state laws and city laws
8 where there are exemptions and you mention a few
9 specifically, including retail positions with access
10 to credit card information, law enforcement and jobs
11 in the banking or insurance industries. That
12 doesn't... I'm assuming that that doesn't mean that
13 this administration is endorsing those exemptions.

14 MAYA WILEY: Absolutely not. We have not
15 taken a position on any exemptions. It was really
16 just to note the trends in the country and
17 recognizing, as the Public Advocate stated, that
18 there are 10 states that have passed legislation.
19 Because many of them have included exemptions; as far
20 as I know, all of them have included exemptions, as
21 an administration obviously we want to learn from the
22 experiences of other place...

23 COUNCIL MEMBER LEVIN: [interposing] Uh-
24 huh.

1
2 MAYA WILEY: Understand the impacts of
3 any legislation on our residents and our businesses,
4 so it's really more to note what's going on in the
5 country and why we think it's important that we
6 actually take a look at the issue of exemptions.

7 COUNCIL MEMBER LEVIN: Right. Is there a
8 principle that the administration is going to pursue
9 on how it's going to look at the issue of exemptions?
10 For example, you mentioned about the issue of bonding
11 and whether I guess employees need to be individually
12 bonded in some instances, so that's a practical
13 concern from an industry or from an employer, but you
14 know, law enforcement, retail positions with access
15 to credit card information, those don't seem to have
16 you know, practical concern to the business in terms
17 of its ability to conduct business, right? So is the
18 administration going to make that distinction? Is
19 that a distinction that the administration's going to
20 make and offer some other kind of guiding principles
21 the administration's pursuing as it's looking...

22 [crosstalk]

23 MAYA WILEY: Mm-hm.

24 [crosstalk]

25 COUNCIL MEMBER LEVIN: At this issue?

1
2 MAYA WILEY: Well, the guiding
3 principles, as I hope that my testimony makes clear,
4 is that we do not want to see needless barriers to
5 employment and we also want to make sure that we're
6 understanding the implications and the impacts of the
7 decisions we're making so that we're making good,
8 rational policy. To that end, that's why we're not
9 taking a position on exemptions today because we
10 haven't... we simply...

11 [crosstalk]

12 COUNCIL MEMBER LEVIN: Mm-hm.

13 [crosstalk]

14 MAYA WILEY: Want to look at it more
15 closely, understand the experiences of other places,
16 make sure we're hearing from all quarters of New
17 York's residents and businesses so that we understand
18 the impact so that we're making good, rational
19 choices. So we are open, we're looking forward to
20 working with the Council, as well as the community on
21 these issues and that's really how we're going to
22 move forward is in partnership with the Council and
23 understanding the impacts of anything we do.

24 COUNCIL MEMBER LEVIN: Okay, 'cause just
25 to be clear, I mean an issue like a retail position

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2 with access to credit card information, for example,
3 I mean that seems blatantly discriminatory or has a
4 discriminatory... comes from a discriminatory place
5 because it seems to be based on the assumption that
6 people with poor credit are more likely to steal
7 other people's credit card information, right? I
8 mean what other reason would there be where someone
9 would... somebody... where a credit score or credit
10 report information would have any bearing whatsoever
11 on a position like that? I mean I don't... you...

12 [crosstalk]

13 MAYA WILEY: I... I... I...

14 [crosstalk]

15 COUNCIL MEMBER LEVIN: I'm not asking you
16 to speak...

17 [crosstalk]

18 MAYA WILEY: We're...

19 [crosstalk]

20 COUNCIL MEMBER LEVIN: For...

21 [crosstalk]

22 MAYA WILEY: Yeah, we're not...

23 [crosstalk]

24 COUNCIL MEMBER LEVIN: It's just I'm
25 wondering...

[crosstalk]

MAYA WILEY: Taking a position on whether or not retail sales jobs should be covered... should receive an exemption, so that example is not something that we're putting forward...

COUNCIL MEMBER LEVIN: [interposing] Mm-hm.

MAYA WILEY: Necessarily as a position that the administration's taking 'cause we haven't taken a position on exemptions.

COUNCIL MEMBER LEVIN: Right. Okay, I mean I would strongly... I mean I think... I'm sponsor of the bill. I am strongly supportive of the bill with as very few exemptions as possible. I think that as a guiding principle, aside from saying... you know, in addition to saying that we want to make sure that we're you know, creating as few barriers as possible, I think in addition to that, the guiding principle with this legislation with regard to exemptions ought to be that it has to clear a fairly high hurdle in terms of the actual impact to... or the impact on an industry or a business to be able to conduct business; to be able to do what it does and you know, if employees... if

1
2 it's federal or state law or an ability to get a
3 certain bond rating, that's one thing, but any
4 instance where it's purely a determination of the
5 character or fitness of a potential employee I think
6 ought to be highly scrutinized and that distinction I
7 think ought to be made. You know, if it's designed
8 to determine the character and fitness of a
9 candidate, then I think it ought to be the position
10 of this administration and if it was my position and
11 should be a position in this legislation that that
12 ought to not be allowed.

13 MAYA WILEY: Well, we look forward to
14 working with you on it.

15 COUNCIL MEMBER LEVIN: Great. Thank you.

16 CHAIRPERSON MEALY: Thank you so much.
17 Is there any database in regards to if... no, I can't
18 ask you that question. I still want to... but since
19 there's no other questions I want to thank you for
20 this... do you have another question, Brad? Thank
21 you so much, Counsel to the Mayor. Miss Wiley,
22 looking forward to working with you and at time you
23 are excused. Thank you so...

24 [crosstalk]

25

1
2 MAYA WILEY: Thank you for your time
3 and...

4 [crosstalk]

5 CHAIRPERSON MEALY: For your testimony.

6 [crosstalk]

7 MAYA WILEY: For your leadership.

8 CHAIRPERSON MEALY: We will be calling up
9 the next panel. Deonegra Delroya... Delvia; Mitchell
10 Hirsch; Robert Martin; Gustavo Henesio. You may
11 start, ma'am, and we will be on a three minute clock,
12 so as soon as you are ready you may begin. Thank you
13 and could you say your name again? And I apologzie.

14 DEYANIRA DEL RIO: Okay. Hi, my name is
15 Deyanira Del Rio and I'm with New Economy Project, an
16 economic justice organization here in New York City
17 and we're one of the leaders of the New York City
18 Coalition to Stop Credit Checks in Employment, which
19 is here in full force today, and is a broadbased
20 coalition of community labor, civil rights, consumer
21 seniors, immigrant and student groups and I'm
22 probably leaving some out, but it's a broad coalition
23 that underscores the range of people and populations
24 in New York City that are affected right now by this
25

1
2 unfair and discriminatory practice of employment
3 credit checks.

4 At New Economy Project, we
5 enthusiastically support, as you all know, Intro 261
6 and we want to sincerely applaud and thank the New
7 York City Council for taking on this huge civil
8 rights issue. It's not an understatement to say that
9 credit checks; the use of credit checks by employers
10 to deny people jobs and promotions and in some cases,
11 to fire them from jobs is truly an insidious practice
12 and a discriminatory barrier to jobs that has no
13 place here in New York City.

14 We... I have a few points to highlight.
15 I'm not going to read the testimony, but the main
16 point we want to make is how crucial it is that the
17 City Council pass this bill and that New York City
18 enacts this law in its current strong form without
19 any additional exemptions or loopholes carved in.
20 Referring to Miss Wiley's testimony around exemptions
21 in other jurisdictions, I just want to underscore
22 it's really important that... to know that these
23 other exemptions, as Council Member Lander noted, are
24 not based on any valid reasons; any evidence that
25 those exemptions... that the credit history matters

1
2 to particular industries or positions. It's rather
3 they're a result of aggressive lobbying by credit
4 reporting industries and other kinds of big business
5 interests and we look forward... actually the
6 coalition will be very eager to meet with the
7 administration and looks forward to doing that.

8 So I want to just make a couple of
9 points. So, one is that ending employment credit
10 checks is a matter of economic and racial justice.
11 It can't be sort of overemphasized that credit
12 reports reflect and reinforce broad systemic
13 discrimination and inequities in our economy and in
14 our credit system. Many groups in this room have
15 long worked on issues of predatory lending;
16 foreclosure prevention; illegal and abusive debt
17 collection and the list goes on. All of these
18 practices, which are now growingly recognized to have
19 a disproportionate impact on people in communities of
20 color. They devastate people's credit reports. So
21 we can't say on the one hand that we recognize
22 there's been discrimination in the lending system and
23 that there's sort of inequities in our broader
24 economy and yet, it's valid for employers and others
25 to look at credit history because all of that gets

1 reflected. It's a mirror of our economy and of our
2 discriminatory credit system that we have right now.
3 Employment credit checks again, must be banned with
4 no exemptions added in order for the law to be
5 effective. [chime] Right now, the bill contains the
6 narrow exemption from employers who are required by
7 state or federal law to use credit history. New York
8 City again, must strenuously reject any additional
9 exemptions, which would not only harm New York City
10 workers, but it would actually create confusion among
11 employers wishing to comply with the law...
12

13 [crosstalk]

14 CHAIRPERSON MEALY: You have to start...

15 [crosstalk]

16 DEYANIRA DEL RIO: And render the law...

17 [crosstalk]

18 CHAIRPERSON MEALY: Wrapping it up.

19 DEYANIRA DEL RIO: Virtually

20 unenforceable. Okay, just to wrap up, I just want to
21 make one last point, which is that employment credit
22 checks are a gross overreach by employers and an
23 invasion of workers' privacy. You'll hear from some
24 individual New Yorkers already affected, but you
25 know, we would never tolerate employers sitting down

1
2 at an interview with a job applicant to say, "Oh, can
3 you tell me how much money you owe on your credit
4 card? Have you ever paid a mortgage..."

5 [crosstalk]

6 CHAIRPERSON MEALY: Thank you.

7 [crosstalk]

8 DEYANIRA DEL RIO: "Late?" And so on and
9 that's exactly what employers sort of get to see by
10 doing employment credit checks. So thank you and I
11 look forward to the questions after.

12 CHAIRPERSON MEALY: Thank you and do
13 anyone have a question for her? I think I do.
14 You're saying across the board. You're telling me if
15 someone was bonded and they were going to be a teller
16 at a bank, but their credit was totally shot and it
17 was because of just they didn't pay their credit
18 bill. They should... that should not be on... they
19 should... an employer should not know about that.

20 DEYANIRA DEL RIO: We actually... members
21 of the coalition include financial institutions who
22 have submitted written testimony and they have
23 experience with this issue and they themselves do not
24 use credit checks.

25 CHAIRPERSON MEALY: Okay.

1
2 DEYANIRA DEL RIO: We have noted that
3 they would have lost some of their longest, most
4 loyal employees had they...

5 [crosstalk]

6 CHAIRPERSON MEALY: Okay.

7 [crosstalk]

8 DEYANIRA DEL RIO: Done so.

9 CHAIRPERSON MEALY: Thank you.

10 DEYANIRA DEL RIO: Thank you.

11 MITCHELL HIRSCH: Chairperson Mealy,
12 members of the committee, council members, thank you
13 very much for the opportunity to testify today in
14 support of Intro 261, a measure to prohibit
15 employment discrimination based on one's personal
16 credit history. My name is Mitchell Hirsch and I'm a
17 policy advocate with the National Employment Law
18 Project's Access and Opportunity Program.

19 The National Employment Law Project,
20 NELP, is a non-partisan not-for-profit organization
21 that conducts research and advocates on issues
22 affecting low wage and unemployed workers. Through
23 our work and our communications with unemployed job
24 seekers we have become painfully aware of the
25 significant barriers to reemployment faced by far too

1
2 many qualified, experienced, but unemployed workers
3 and one of the most serious barriers they face is the
4 widespread, unfair and often erroneous use of
5 personal credit histories in employment.

6 I'm here today to urge passage of the
7 Stop Credit Discrimination in Employment Act. Credit
8 history reporting was developed as a tool for lenders
9 to evaluate a borrower's potential risk for timely
10 payments or defaults, but in recent years, credit
11 history reporting has increasingly been used as a
12 unfair screening device by employers to deny
13 employment opportunities to qualified job seekers.
14 While credit history reports can be a reasonable
15 basis for a lender to assess potential credit risk of
16 borrowers, such reports do not correlate to a job
17 applicant's abilities, nor do they offer a predictive
18 guide to an individual's workplace performance. As
19 such, employment credit checks are an illegitimate
20 barrier to employment, particularly for qualified
21 unemployed job seekers, who really want to and need
22 to be working and thus taking action to restrict
23 their unfair use is both appropriate and necessary.

24 Circumstances that are outside of an
25 individual's control are frequently the cause of poor

1 credit history. Chief among these are involuntary
2 job losses and high cost medical emergencies, often
3 involving persons lacking health insurance coverage
4 after losing a job. The increasingly widespread use
5 of credit history by employers to screen job
6 applicants thus sets up a perverse catch-22, where
7 New Yorkers who become unemployed through no fault of
8 their own are unable to secure new employment because
9 of damaged credit and then can't repair their credit
10 because they are, in effect, locked out of the job
11 market.
12

13 In our communications with unemployed job
14 seekers, we hear frequently of three major concerns
15 regarding their ability to be fairly considered on
16 their merits as applicants for jobs. One is their
17 age, the second is their status of simply being
18 unemployed and the third is the use of personal
19 credit history in employment screening. On March
20 13th of last year, the New York City Council wisely
21 chose to enact a law protecting unemployed job
22 seekers from discriminatory exclusion from
23 prospective employment opportunities based on their
24 being simply unemployed. That measure was enacted by
25 the Council over the previous administration's

1 [chime] objection. The National Employment Law
2 Project strongly supported that measure, applauded
3 the Council's action and was grateful, especially for
4 the leadership of this committee on civil rights and
5 its then chairperson, Council Member Rose, on that
6 legislation. So there are protections in place to
7 prohibit employment discrimination based on age and
8 now also on unemployed status.

10 CHAIRPERSON MEALY: If you could start
11 wrapping up.

12 MITCHELL HIRSCH: Now it's time for the
13 Council to address the discriminatory use of
14 employment credit checks. NELP urges this committee
15 to take positive action toward enactment of Intro 261
16 to keep the doors of employment opportunity open to
17 all qualified job seekers. Thank you very much.

18 CHAIRPERSON MEALY: Thank you. Yes, you
19 may, Mr. Martin.

20 ROBERT MARTIN: Yeah, Good morning.

21 CHAIRPERSON MEALY: Morning.

22 ROBERT MARTIN: I'm Bob Martin and I'm
23 testifying [chime] this morning on behalf of District
24 Council 37, where I am the Associate Director of the
25 DC 37 Municipal Employees Legal Services.

1
2 Intro 261 is a bill of historic import
3 whose time has come. The City Council stands on the
4 edge of enacting the strongest law in the nation to
5 stop an unfair baseless and discriminatory employment
6 practice. I want to echo a few things from what
7 you've heard and will hear from my colleagues.
8 Credit reports are notoriously inaccurate. Employer
9 credit checks are discriminatory, as the Federal
10 Trade Commission and the EEOC and other bodies have
11 shown. And last, but not least and perhaps the crux
12 of the matter is that there's no data or evidence
13 showing that a person's credit report predicts job
14 performance or makes them a thief and I haven't heard
15 any data or evidence this morning.

16 In my written testimony, [background
17 voice] I've put in some remarks about how a job is an
18 opportunity to a better life and the point is that we
19 all know that people want to feel if they apply for a
20 job that they're going to be treated fairly. I also
21 want to give a historical context to this matter.
22 There will be opposition to this bill. Well, we can
23 look at the long list of important civil rights
24 legislation over the decades and see that this was
25 always the case. For each and every important

1 legislative change there were doubters, skeptics and
2 outright opposition: "This will hurt our business."
3 "It's too costly." "We can't do it." Well, all the
4 laws at every level have stood the test of time. The
5 sky has not fallen in our country and it won't fall
6 when the Council adopts an across the board ban on
7 credit checks in employment. The prohibition has to
8 be across the board. I won't talk about all of the
9 exemptions or exceptions, but I submit to you that
10 well, for instance, the bona fide occupational
11 qualification or the substantial relationship
12 exemption, that's a hole big enough to drive a truck
13 through. [background voice] Who's going to enforce
14 it and what's going to prevent just about every
15 employer to tell an applicant, "You need to sign that
16 form so we can look at your credit report." In my
17 remarks, I also talk about the exemption for
18 managerial employees. Think about the implications
19 of that. If employers are prohibited from conducting
20 credit checks for lower level jobs, but can rely on
21 them for managerial positions, isn't the overall
22 effect to put a ceiling on the job aspirations of
23 persons of color who are also already
24 disproportionately represented in management already?
25

1
2 And I'll close by going back to the
3 history. Let's look at things this way: before
4 civil rights laws, employees could ask applicants all
5 kinds of questions. They could ask questions about
6 ethnicity, national origin, inquire about religion.
7 They could ask about marital status. They could ask
8 a woman if she was pregnant or planned to be. They
9 could inquire about medical history, age,
10 disabilities and sexual preference. [chime] Everyone
11 knows that employers today can't ask these questions
12 because they bear no relation to job performance and
13 they're discriminatory. The point is this: an
14 employer asking an applicant about credit history and
15 requiring a credit report is the same thing.
16 Personal credit records bear no correlation to job
17 performance and their use in employment decisions is
18 hugely discriminatory. There should be no exceptions
19 added to this bill. Thank you for the opportunity to
20 testify and we urge the Council, the Speaker and the
21 Mayor not to allow exemptions to be bargained into
22 this legislation. Thank you.

23 CHAIRPERSON MEALY: Wow. Thank you so
24 much. Any questions? Brad Lander.

1
2 COUNCIL MEMBER LANDER: Thank you, Madam
3 Chair and just briefly first, thanks to all of you
4 and your organizations for your work and support on
5 the bill and Mr. Martin, I know you know, you're here
6 today in your capacity at DC 37, but I know you also
7 have a long history at Consumer Affairs. Am I right
8 about this?

9 ROBERT MARTIN: Yes, I've sat at this
10 table a couple or a few times and when I was the
11 General Counsel at DCA going back a number of years.

12 COUNCIL MEMBER LANDER: So you've... you
13 know, in which you have responsibility for working
14 with the business community, thinking about the needs
15 of employers and balancing that with consumer
16 protections and you see this in that context.

17 ROBERT MARTIN: Yes, I love working with
18 the business community. I learned about you know,
19 many industries in New York City. I think that I and
20 the Commissioner that I had the honor of working
21 under were always seen as responsive to the business
22 community and as you've already heard, I think the
23 evidence or the polling says that a lot of... most
24 small businesses in New York City don't use credit
25 checks for employment purposes.

1
2 COUNCIL MEMBER LANDER: And then I just
3 want to draw something out that's implicit in what
4 you said about the bona fide reason exemption that we
5 haven't talked about yet, so I want to... you know,
6 many civil rights laws are hard to enforce because
7 proving discrimination is quite difficult. You often
8 can't get behind the decision. You know, race is a
9 good example, as you point out. You know, at one
10 point it was easy to discriminate based on race. Now
11 you're not allowed to, but obviously if you do a job
12 interview you know someone's race and therefore
13 proving that you were discriminated against can be
14 challenging. This is a form of discrimination that
15 we can present full stop if you don't get the credit
16 reports, but if we allow loopholes like bona fide
17 reason we'll be back in the same situation where
18 people will get them, they'll check the box on the
19 application and often you won't even know that's why
20 you were discriminated against. So I just... I think
21 your point there that not only making sure the
22 exemptions are rooted in evidence that we haven't
23 seen, but also paying attention to the consequences
24 for job applicants and putting this kind of broad
25 history of civil rights is very sound, so thank you.

1 ROBERT MARTIN: Thank you.

2 COUNCIL MEMBER LANDER: Thank you, Madam
3
4 Chair.

5 COUNCIL MEMBER DROMM: It's not Madam
6 anymore, but Madam Chair did need to leave for a
7 moment and I just want to thank the panel for coming
8 in. I don't think there are any further questions
9 and I'm going to call the next panel. Thank you
10 very, very much. I'd like to call Emmett Jerome
11 Pinkston, Shelly [phonetic] Martin, Amelia O'Keefe I
12 believe and Joseph M... I can't read the last name,
13 but from Community Voices Heard. [background voices]
14 Okay, who would like to begin?

15 EMMETT JEROME PINKSTON: Good morning.

16 COUNCIL MEMBER DROMM: Just put that
17 microphone on. The red light should be on.

18 EMMETT JEROME PINKSTON: Okay, thank you
19 so...

20 [crosstalk]

21 COUNCIL MEMBER DROMM: Okay and state
22 your name, please, for the record.

23 EMMETT JEROME PINKSTON: I am Emmett
24 Jerome Pinkston and I would like to thank the Civil
25 Rights Council for inviting me in this morning; the

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2 City Council members, as well for all their hard
3 work, and their coalition that is doing all this
4 marvelous work to help us in this city and indeed the
5 country as well.

6 To begin, I would like to give a bit of
7 background on myself. I am 57 years of age. I'm a
8 30 year military veteran. I've held government
9 security clearances to include top secrets SCI
10 clearances and also presidential security detail and
11 I currently hold White House credentials. Once I
12 retired from the United States military after 30
13 years, I applied for a job with the Transportation
14 Security Administration. With my background, I
15 expected to get easy employment with them and when I
16 didn't, I discovered that it was through an error in
17 the Credit Reporting Bureau system.

18 Now, one of the things that brought me in
19 today was... in support of Introduction 261,
20 prohibiting the discrimination and reporting one's
21 credit history: to my experience, I've seen that an
22 example such as being laid off from a job or not
23 getting a job to begin with, various debts and things
24 and application process and credit cards, home
25 mortgages, student loans. These things can be

1
2 greatly affected by credit reports and especially
3 when they are in error or obtained by factors not to
4 one's own... well, choice or making. In my case, it
5 was an \$8,000 error. I never owed the money, but yet
6 it was reported on my credit report due to one
7 company managing to put something on a credit report.
8 I lost the job with the Transportation Security
9 Administration, which I was practically overqualified
10 for, if I'm to be fair and honest about it, and after
11 that process after five years, I obtained employment
12 through a civil service jobs private company and I
13 received promotions and currently I'm employed by the
14 Port Authority of New York and New Jersey, where I am
15 on a waiting list for a promotion. That's just to
16 show my character background. The credit report took
17 no consideration into the type of person that I am or
18 the work that I've done [chime] in the past, so for
19 me to say the City Council is indeed doing a good job
20 by passing Introduction 261 and prohibiting a credit
21 report and one's history is going to do a great deal
22 because the city, the state and perhaps the country
23 in extension shows that they lost in me because I
24 can't contribute as well as those that are coming up
25 through schools and private home industries and they

1
2 can do a lot as well if we can just get past this
3 credit report that can hold back so many people that
4 are trying to do better for themselves. So I thank
5 the City Council members, the coalition and all that
6 are working so hard to help us. Thank you.

7 COUNCIL MEMBER DROMM: Thank you. Next,
8 please?

9 ONIEKA O'KEEFE: Thank you. Good
10 morning. I appreciate the opportunity to testify at
11 today's hearing for the Stop Credit Discrimination
12 and Employment Act. My name is Onieka O'Keefe and I
13 work at Crocs and American Eagle. I'm also a member
14 of the Retail Action Project, which is an initiative
15 of the Retail Wholesale and Department Store Union.

16 RAP is a member-based organization with
17 the mission of building worker power, elevating
18 retail industry standards and promoting family
19 sustaining jobs. We achieve this through engaging in
20 collective action, highlighting worker voices,
21 growing workers' professional capacity and nurturing
22 member leadership.

23 Retail workers are a group that is hit
24 hard by credit checks in employment. I can tell you
25 this from a personal experience. I'm one of the

1
2 millions of New Yorkers who has quote unquote "bad
3 credit." Several years ago, I applied to go to
4 college with the hope that it would open up the door
5 to future career opportunities. Little did I know
6 that the debt I incurred from my student loans would
7 shut the doors of employment instead. My loans grew
8 so massive that I eventually could not afford to stay
9 in school. When I went back home... when I came back
10 home, I went back to work in retail to support my
11 family. I had already worked in retail for several
12 years and quickly became a part-time supervisor. I
13 was responsible for large amounts of money, counting
14 out multiple tills and making daily cash deposits, as
15 well as overseeing sales associates.

16 In 2012, needing a full-time stable job,
17 I applied for a full-time managerial position at a
18 large department store, for which I was more than
19 qualified. In the interview, the store supervisor
20 informed me that there would be a credit check. It
21 felt insulting that he was implying that I might be a
22 thief if my credit was bad. When I didn't hear back
23 from the store, I called to ask about the position.
24 They said that they went with another applicant, but
25 suggested I apply for a part-time non-managerial

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2 position, which paid much less than the one I had
3 applied for. This was a slap in the face because I
4 could tell that I was turned down for the managerial
5 job due to my credit report. With my work history
6 and demonstrated responsibility on the job, I was
7 more than qualified for the original position.
8 Managers have always trusted me and I have never been
9 fired from a job. My credit report does not
10 represent who I am and what I'm capable of as a
11 worker.

12 As you will hear from others today,
13 credit history does not predict job performance.
14 Even though I have a stellar employment record, I was
15 discriminated against for this job due to my student
16 loan debt. Actions like this leave workers in a
17 credit catch-22 when we can't advance professionally
18 and we can't pay our debt since employers won't hire
19 us in the first place.

20 I know that millions of other workers are
21 in a similar situation. On behalf of the Retail
22 Action Project and the Retail Wholesale and
23 Department Store Union, I call on New York City
24 Council to pass this bill to help New Yorkers get
25

1
2 access to jobs that can help them break the cycle of
3 debt. Thank you.

4 SHELLY MARTIN: Good morning. My name is
5 Shelly Martin. I, too, would like to thank the
6 Council and all who brought me here today to testify
7 on behalf of the unfair processes of discrimination
8 through credit reporting. The opportunity to testify
9 today here, I personally have been affected by the
10 employment credit checks.

11 I'm a resident of Harlem. My background
12 is I graduated from the University of Maryland with a
13 degree in apparel design and fashion marketing and I
14 have worked in various fashion companies while my
15 time here in New York City; however, I also
16 freelanced for quite some time. During the recession
17 freelance jobs dried up very, very quickly and it was
18 very difficult to find employment during the
19 recession as a freelancer. I also do independent
20 design for a private clientele as well.

21 I began to look for jobs you know and
22 decided to use temp agencies in the interim as I
23 could find employment. Some of these companies began
24 to check my credit and I wasn't really aware of it.
25 I did get a letter in the mail and I started sending

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2 out you know more and more resumes, but I didn't make
3 the correlation between my credit and the fact that I
4 wasn't getting responses for jobs. I started
5 receiving notices in the mail that my credit had been
6 checked. I knew this was preventing me from landing
7 a job. I told my family what I was experiencing and
8 had learned that my cousin had lost his job because
9 of a credit check and my mother also informed me
10 about one of her co-workers who had lost her job
11 because... a promotion because of a credit check.
12 That's when I knew that this wasn't an isolated
13 incident and that this was beyond me and it was
14 bigger than me. I'm deeply aware of the intimidating
15 nature of the use of credit in the employment
16 context. It's been an embarrassing experience to
17 have to explain my credit situation and the reasons
18 behind it. I have had much anxiety. I have dealt
19 with clinical depression.

20 COUNCIL MEMBER DROMM: Thank you so much
21 for being here. We really appreciate the courage it
22 takes to share your story.

23 SHELLY MARTIN: And there were times I
24 didn't know what to do. I've lost a home. And it
25 has taken a long time for me to get back on my feet

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2 because I could not find employment. I believe that
3 using credit checks for employment purposes is unfair
4 discrimination. It is not fair to judge a person's
5 ability to perform well on a job based on their
6 credit report. [chime] A credit report doesn't tell
7 you anything about the real person or the content of
8 their character.

9 I urge the City Council to pass Intro 261
10 to protect New Yorkers like myself and the others
11 here and beyond New York City as well for this unfair
12 employment discrimination. The repercussions of
13 employment credit checks have affected me for years.
14 It is not easy for me to talk about this experience
15 and the challenges that it has presented in my life
16 personally, but I hope that by doing so I can
17 contribute to the passage of this important bill.
18 Thank you very much.

19 CHAIRPERSON MEALY: Thank you.

20 JOSEPH MPA: Yes, good morning. My name
21 is Joseph Mpa from Community voices Heard, which is
22 an advocate agency for the right of low income and
23 poor communities, which fights for their rights. We
24 also want to thank the Council for passing the
25

1
2 resolution to prohibit WEP. Thank you, Council
3 Member Mealy.

4 The fact that someone is in debt or has
5 failed to establish so-called "good credit" cannot be
6 used as an accurate barometer of their work ethic,
7 their experience or capability to perform at a high
8 level. Individuals are more than just their credit
9 scores. There exists a multitude of factors, which
10 relate to the establishment of a credit score that
11 have... that may have been affected by fraud,
12 identity theft, company error, poor judgment, a
13 miscalculation or the act of nature; Sandy and other
14 disasters that people have no control over. The
15 utilization of credit checks for employment
16 verification is adding another layer of
17 discriminatory practices, which continue to enforce
18 not only "The Tale of Two Cities," but the reality of
19 "The Tale of Two Worlds." The use of such methods
20 only reinforces the walls of poverty, of hate,
21 dependence, despair, suffering and hopelessness,
22 which creates the downward spiral of "you're not
23 getting up and don't even think about it." Either we
24 want to help people or we don't, and if we don't want
25 to help then let's not pretend that we do. Make it

1
2 clear to people that as long as those who control the
3 current state of affairs are in power they will never
4 avail themselves with equal opportunities, economic
5 freedom, respect or the right to provide for their
6 families.

7 The system continues to disenfranchise
8 people through the failure of the educational system,
9 the inadequate provision of health services, the
10 injustices of the judicial system, the rank bias of
11 the police and the destruction of values and moral
12 decency by a Madison Avenue conspiracy to exploit,
13 rob and compel people to purchase what they don't
14 want and what they don't need. Society cannot and
15 should not continue to create barriers to employment,
16 which cannot be overcome by a sincere effort of one
17 to right the ship of their life with the wind
18 continuing to blow in their face and torpedoes being
19 fired at the boat while you're trying to get ahead.

20 Let's open doors, not close them and
21 provide people with opportunities, not additional
22 hurdles with the bar being raised so high that even
23 the tallest ladder won't help. A job is a necessity
24 and a milestone in the development of a contributing
25 member of society. People should have a right to

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2 work and a right to provide for themselves and their
3 families. Good credit should not be the only
4 determining factor of the survival and advancement
5 for one in this society.

6 Credit checks negatively affect
7 individuals, families, neighborhoods and communities
8 of colors disproportionately. This is significant
9 legislation in attempting to bring this city out of
10 the cabin of despair hovering over whole communities.
11 This must be passed and enacted immediately for the
12 sake of the overall well-being of each person of New
13 York.

14 CHAIRPERSON MEALY: Thank you so much.

15 [chime] Any questions? Danny Dromm.

16 COUNCIL MEMBER DROMM: Oh, just a
17 statement really more than any question, if you don't
18 mind, Madam Chair. It's just that in listening to
19 all the testimony that I've heard this morning, it
20 just strikes me as being quite ironic and funny...
21 well, not funny in the real sense, but ironic that...
22 and I heard Public Advocate James' response to the
23 Securities Industry as well in terms of the
24 exemptions that they would like to have on this
25 legislation, but you know, we're talking about like

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2 places like Citibank and Chase Manhattan and then I'm
3 thinking that you know, aren't they the ones who got
4 us involved in this financial mess in the first place
5 and then they have the nerve to want to turn around
6 and check their applicants to jobs for their
7 companies to determine whether or not you know, the
8 lower level workers are going to be... somehow it's
9 going to be predictable about whether their credit
10 history is going to affect their performance on the
11 job. But let's say okay, on the other side of the
12 issue, I would assume that many of those CEOs of
13 those very same banks and securities industries
14 passed the credit check, but it wasn't a predictor of
15 their bad behavior. So as I'm listening to the
16 testimony, I'm just like I can't believe it and then
17 I think that many of those security industries and
18 banks, et cetera also were the ones who caused this
19 crisis and they gave out bad mortgages you know,
20 foreclosures that got the people who have the bad
21 credit in the trouble that they got into in the first
22 place and now they want to use what they did to these
23 folks against them to stop them from getting a job in
24 the future. So I can't really believe the absurdity
25 of some of the arguments that I'm hearing here this

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2 morning because it's just not all making sense to me.
3 I just don't get it and so I say that to this panel
4 here because I feel your pain and I understand what
5 you're going through and I just want to say, Madam
6 Chair, that I'm going to support this without
7 exemptions. I hope that we don't have any exemptions
8 on this legislation, but it just hits me so hard that
9 the irony of this situation that we're even having to
10 discuss this at this point. Thank you.

11 CHAIRPERSON MEALY: Thank you. Yes?

12 COUNCIL MEMBER LANDER: Well, first of
13 all, I want to thank my colleague, Council Member
14 Dromm, for putting it so eloquently because I do
15 think it is important to point out that you know,
16 worse than irony; it is ironic, but it is... you
17 know, had it not done so much damage to so many
18 people you know, it'd be easier to laugh at and I
19 think your point is very well taken and I just want
20 to say thank you to all of you. I know it's not easy
21 to share these personal stories and I think it goes
22 to this issue that I was speaking about with the
23 Chair earlier about protecting people's privacy as
24 well and that forcing people to talk about these
25 issues and I think we will hear people say, "Well, we

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2 give people a chance to explain," but exposing people
3 to this situation where they would have to talk about
4 some of the most painful issues in a job interview
5 you know, is not right for us, but mostly I just want
6 to say thank you for your courage in coming forward
7 and it is stories like this that are I think what
8 compelled the Council to move forward on this
9 legislation. Thank you, Madam Chair.

10 CHAIRPERSON MEALY: Yes and I just hope
11 that we start a database on these employers who...
12 you know if they... once this is passed they do not
13 apply. We really have to make sure the same way with
14 WMBEs. We have a database now in place to know which
15 employers are not doing what they're supposed to do,
16 so I'm looking forward for it to start expanding and
17 thank you for your testimony.

18 COUNCIL MEMBER LANDER: And I'll just say
19 the questions of enforcement are ones that we should
20 also continue to work on after this hearing and make
21 sure we have the right enforcement provisions in
22 place for this legislation.

23 CHAIRPERSON MEALY: Thank you so much for
24 this panel. Thank you. We have Eric Ulliman...
25 Ellman, Alex Caprieri... Catchiperio... Catcheperia

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2 ... pia. Steven Evell. Give me someone. And
3 Alexander Gleason. Thank you, sir. You can... as
4 soon as you get here, you can start. Thank you.
5 Anyone can start.

6 ERIC ELLMAN: Alright, I'll go first
7 since I was called first. Good morning, Madam Chair,
8 members of the committee. My name is Eric Ellman. I
9 represent the Consumer Data Industry Association,
10 CDIA. We are the Trade Association that represents
11 credit bureaus, consumer reporting agencies that work
12 with their business customers, employers to help them
13 better manage risk.

14 You have a very difficult job for you
15 because you have talked about, of course, the
16 importance of evidence; you have talked about, of
17 course, the issue of fairness and not only is there
18 an issue of fairness to consumers and employees, but
19 there's also an element of fairness for businesses as
20 well that are working to try as best as they can to
21 manage their risk and that tension is reflected on
22 the ceiling of this room where you have Jefferson,
23 who says, "Equal and exact justice to all men
24 whatever state or persuasion," but you also have
25

1 Washington, who said, "The commercial policy should
2 hold an equal and impartial hand."
3

4 But there's a couple of points that I
5 want you to consider as you go through this balancing
6 between developing fairness for employers and
7 fairness for employees. Four points: credit reports
8 are reliable predictors of risk. They're ample
9 consumer protections in the federal and state
10 consumer protection or credit reporting statute and
11 employers... the dispute resolution process for
12 consumers is successful and efficient and
13 importantly, employers find value in credit reports
14 for risk mitigation.

15 Now, we've talked a little bit about the
16 accuracy of credit reports and that's an important
17 point to make because the Federal Trade Commission,
18 the CFPB, the independent research firm PERC all
19 looked at the accuracy of credit reports, the FTC
20 found 98.7 percent of credit reports are accurate.
21 PERC found credit reports are accurate 99.07 percent
22 and the CFPB said that credit reports are accurate
23 somewhere between 96.1 and 98.7 percent accurate. In
24 fact, the Federal Trade Commission indicated in a
25 study before Congress that there is a market

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2 incentive to maintain and improve the accuracy and
3 completeness of credit reports.

4 In terms of FCRA protections, as we've
5 heard, not entirely correctly, but generally there
6 are significant protections for consumers. They have
7 to be told and officially sign off on a written piece
8 of paper that they will undergo a credit report check
9 for employment. They are required by law to get an
10 adverse action report, meaning that I'm thinking
11 about taking this adverse action. We know that
12 employers most of the time have an opportunity, as
13 we've discussed, to have discussion with an employee
14 or a prospective employee.

15 And then also, since I don't have much
16 time, I want to talk about the importance of credit
17 reports [chime] and the value for employers. In
18 fact, the EEOC itself, which says, "Overdue just
19 debts increase temptation to commit illegal and
20 unethical acts as a means of gaining funds to meet
21 financial obligations," and that's not CDIA. That's
22 the United States Equal Employment Opportunity
23 Commission. Thank you very much. I'd be happy to
24 answer any questions that you may have.

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2 CHAIRPERSON MEALY: You could keep going
3 and the next one and we'll ask you questions
4 afterwards. Next panel.

5 ALEX CACIOPPO: Council members, thank
6 you for the opportunity to appear before you today.
7 My name is Alex Cacioppo. I work for Management
8 Resources, a New York State S corporation founded in
9 2002. Our founder and president, Rob Lederer,
10 regrets that he cannot appear here before you again
11 to testify, as he is in Phoenix for the next two
12 weeks on business. I am here to speak on his behalf
13 in support of Intro Number 261.

14 Our mission at Management Resources is to
15 help small to mid-sized businesses run better and
16 grow. We help business owners get the right things
17 on and off their plates to free them to build a
18 business and we help them get the right team around
19 them to do the rest of the work of the business. We
20 are not a recruiting or personnel agency. We are a
21 management and organizational consulting firm. Ours
22 is a small business. One way to look at our company
23 is that we are in the employee business. Team
24 building is essential to our services. We help
25 businesses develop employees, promote or reassign

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2 employees and hire employees. Not only do we do that
3 for clients, we have to bring on our own staff and
4 talent.

5 That brings me to the subject at hand:
6 using a job candidate's credit history as a tool for
7 evaluating the candidate's fitness as an employee. I
8 ask the people of the City Council, how would you use
9 a credit report to help you evaluate a candidate's
10 fitness? Don't know? For most jobs, we don't
11 either. If you do know how you'd use it, how do you
12 know it's a valid predictor? What does it say about
13 an employee? Don't know? We don't either. A
14 screening needs to be relevant to the specific job.
15 What makes credit history relevant? Don't know? We
16 don't either. We don't know how to use a credit
17 report in employee hiring promotion for most jobs and
18 neither does anyone on our team. Furthermore, our
19 team, having worked with hundreds of employees... of
20 businesses, can tell you tell you that most people
21 making hiring decisions in business don't know
22 either. It's too easy for people who make hiring and
23 promotion decisions to use this information wrongly
24 and with harmful effect, as with any other form of
25 red lining. If you want to screen for scruples,

1
2 there are ways to do so. This is not one of them.
3 If Rob relied on credit history with the oldest and
4 most trusted member of our staff, he might be tempted
5 to terminate the relationship, given the personal
6 financial management mess that that person's family
7 is in. However, Rob relies on this person with his
8 credit cards and most personal account information.
9 This person's honesty and trustworthiness has nothing
10 to do with their personal financial history.

11 Let's go in the other direction. If we
12 include credit history because of some notion that it
13 somehow tells Rob about someone's employability,
14 [chime] why stop there? Why can't we consider every
15 job candidate's parking ticket history? Everyone
16 here knows someone who's gotten a parking ticket.
17 [laughter] There are lots of reasons people get
18 parking tickets. We can certainly make the argument
19 that that means something bad about that person's
20 character. That doesn't make it a valid argument,
21 but the argument could be made, and if our business
22 fortunes depended on selling more data on parking
23 ticket history, we might certainly be tempted to
24 scare and motivate businesses to use the data for
25

1
2 employment screening. What a bonanza of new
3 business.

4 CHAIRPERSON MEALY: Start wrapping up.

5 ALEXANDER CACIOPPO: Yes. [laughter]

6 Okay, we do want to say one...

7 [crosstalk]

8 CHAIRPERSON MEALY: You're on a roll.

9 ALEXANDER CACIOPPO: We businesses are
10 hiring people, not buying them. There are limits to
11 how much access to someone's life and information we
12 should have, especially when so many people in
13 business don't know how to evaluate the relevance of
14 such information.

15 CHAIRPERSON MEALY: 'Kay.

16 ALEXANDER CACIOPPO: Two, credit agencies
17 and their catch-22s already have too much power over
18 people who have too little ability, time and
19 resources to set the record straight when it is wrong
20 and it is too often wrong, and three, to paraphrase
21 the famous dictum, "The only thing required for evil
22 to triumph is for good businesses to do nothing."
23 We, as businesses, need to stand up and say publicly
24 that not only will we not participate in doing evil,
25 we will not stand by when evil is done.

CHAIRPERSON MEALY: Thank you.

[applause] Okay, no clapping, please. Thank you.

STEPHAN EDEL: Thank you. My name is Stephan Edel. I'm a policy and campaign analyst with the Center for Working Families. Thank you to the council members...

CHAIRPERSON MEALY: [interposing] and could you move the mic a little closer...

[crosstalk]

STEPHAN EDEL: Yes.

[crosstalk]

CHAIRPERSON MEALY: To you? Okay.

STEPHAN EDEL: Thank you to the council members, the Public Advocate and everybody in attendance at this hearing. I'm really honored to be able to come and talk with you and I'm not...

[crosstalk]

CHAIRPERSON MEALY: And your name again?

STEPHAN EDEL: My name is Stephan Edel. I'm a policy analyst with the Center for Working Families. I'm not going to read my remarks. I'm just going to make a few quick remarks.

We have an unemployment crisis in this city and this administration is proudly fighting to

1
2 reduce inequality, improve civil rights and try and
3 create jobs. This bill is an opportunity for the
4 administration, the Council and all our leadership to
5 lead the way by having the strongest bill in the
6 country. Employers are not doing this to be unfair
7 or to be biased or to be discriminatory. They're
8 faced with an employment situation where they get
9 many applicants for a job and they're looking for
10 unbiased, reasonable and undiscriminatory ways to
11 evaluate those candidates. Unfortunately, if we look
12 at the evidence in this case, not only are credit
13 checks sometimes unreliable and I'm not going to
14 debate my co-panelists on that point. Not only are
15 they unproven, as my co-panelists have said, to show
16 what we're trying to find, I'm going to say what we
17 do know about them, right, credit checks correlate
18 very, very well for certain things. They correlate
19 very well for race; they correlate very well for how
20 low-income your parents were; they correlate very
21 well for how much you've had financial problems in
22 the past, which have nothing to do with what's going
23 on. A large proportion of poor financial records
24 have to do with health issues, which has to do with
25 broader policy issues in our society that are nothing

1
2 to do with the character of a candidate. In
3 reviewing the discussion in each of the states where
4 this has been passed, I can find no solid evidence
5 that this does reflect character, but I'll ask you
6 more to the point and the City Council... when the
7 Mayor's Counsel spoke earlier, she cited a study from
8 the Woodstock Institute that said 38.6 percent of
9 people in mostly African American communities have
10 less than prime credit. If we accept the idea that
11 any council member accepts this idea; that community
12 members who have bad credit are poor credit risks are
13 likely to have crime then we are accepting the
14 statement that twice as many African Americans are
15 criminals; that almost twice as many Latinos are
16 criminals and that's an idea that this Council needs
17 to be very clear, not just for New York, but
18 nationally we don't accept. Thank you for your time.

19 CHAIRPERSON MEALY: Thank you.

20 ALEX GLEASON: My name is Alex Gleason.
21 I'm the policy associate at the New York City Central
22 Labor Council of the AFL-CIO. I apologize for my
23 raspy voice. That's the election you hear and I will
24 be reading a statement on behalf of our president,
25

1 Vincent Alvarez and I'm happy to answer any questions
2 on behalf of our organization.

3
4 As president of the New York City Central
5 Labor Council, AFL-CIO, it is of utmost importance to
6 me that our city works to help ensure that all
7 working people have access to gainful, family
8 sustaining employment. New York City's continued
9 economic growth and the ability to put an end to the
10 income disparities that are crippling communities
11 depend on workers' access to securing good jobs,
12 providing livable wages, benefits and worker
13 protections. The use of tools like pre-interview
14 credit checks serve as barriers to employment for
15 workers and they provide a method for employers to
16 openly discriminate against applicants. These
17 discriminatory credit checks are marketed by private
18 firms as an inexpensive way for employers to weed out
19 applicants. The firms claim that the credit checks
20 signal prospective employees' likelihood of stealing,
21 yet research shows no legitimate correlation.

22 To put it in perspective, if these firms
23 are correct, student loans and credit card balances
24 are significant indicators of a propensity for theft;
25 something we all know is an unfair conclusion. If

1
2 our economy is to truly rebound from the economic
3 recession, all workers must have access to good jobs.
4 Qualified applicants deserve the opportunity to
5 interview for open positions. Credit history must
6 not be a reason that qualified applicants are
7 overlooked.

8 The labor movement is committed to
9 ensuring that all workers are employed and that their
10 employment leads to the wages, benefits and
11 protections that often come with union membership.
12 Now we are asking the City Council to stand with us
13 to commit to strengthening our workforce by removing
14 this unnecessary and discriminatory barrier to
15 employment. Thank you for your time.

16 CHAIRPERSON MEALY: Thank you. Wow, this
17 is very interesting. Just put on your list also a
18 title search. If you get a title search... it just
19 happened to me and they said a parking ticket and I
20 was really shocked. I said... and that was a old
21 parking ticket, so that is so true. Where do we go
22 from there? They go everywhere, so it should be
23 across the board and my colleague, Brad Lander, have
24 another question. Thank you for all your testimony.

1
2 COUNCIL MEMBER LANDER: Thank you very
3 much, Madam Chair and thanks to all of you. I think
4 it's especially useful to hear how employers who are
5 trying hard to protect their shareholders, protect
6 their business interests, protect their customers,
7 but do it in the right way are thinking about this
8 and I thank you all for your testimony.

9 Mr. Ellman, first, I want to thank you
10 for being here. I recognize you have a job to do and
11 I appreciate your coming here to do it, and I respect
12 you for that and we do want everyone to feel
13 comfortable testifying, but I do want to ask you a
14 few questions. First, I just want to clarify. So
15 the Consumer Data Industry Association, that's the
16 Trade Association for the credit reporting bureaus,
17 right?

18 ERIC ELLMAN: That's correct, yes, sir.

19 COUNCIL MEMBER LANDER: And those are the
20 agencies who sell the credit reports that employers
21 are buying for this purpose, right?

22 ERIC ELLMAN: Yes and employers are
23 obviously buying it because they find it valuable and
24 if they didn't they wouldn't.

1
2 COUNCIL MEMBER LANDER: So but you're
3 here... but your members are selling it because they
4 make money selling it, right?

5 ERIC ELLMAN: Sure, but we can't sell if
6 people won't buy.

7 COUNCIL MEMBER LANDER: Okay, but
8 obviously restrictions on selling it would prevent
9 your members from making money selling credit
10 reports, correct?

11 ERIC ELLMAN: Oh, that's exactly right,
12 but...

13 COUNCIL MEMBER LANDER: [interposing]
14 Okay.

15 ERIC ELLMAN: Thankfully...

16 [crosstalk]

17 COUNCIL MEMBER LANDER: So...

18 [crosstalk]

19 ERIC ELLMAN: Our members put together a
20 product that works and people buy it.

21 COUNCIL MEMBER LANDER: Well, we're
22 debating whether it works or not. I'm just
23 clarifying. I think it makes sense to me that the
24 Consumer Data Industry Association's here to testify
25 because this bill will prevent what we believe is

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2 discriminatory use of credit reports and you'll
3 sell... your members will sell fewer of them as a
4 result.

5 ERIC ELLMAN: Yes, of course.

6 COUNCIL MEMBER LANDER: Okay, alright,
7 just so we're clear. TransUnion is a member of the
8 Consumer Data Industry Association?

9 ERIC ELLMAN: Yes, sir.

10 COUNCIL MEMBER LANDER: So you're
11 familiar with Mr. Rosenberg's quote saying we don't
12 have any research to show any statistical correlation
13 between what's in somebody's credit report and their
14 job performance or their likelihood to commit fraud?

15 ERIC ELLMAN: Yes, I'm familiar with that
16 and I think when he said that he probably wasn't
17 familiar with the correlative studies done by the
18 American Certified Financial Examiners nor the
19 correlative studies done in the International Journal
20 of Selection and Assessment nor the Virginia
21 Polytechnic Institute and State University studies or
22 a variety of other studies, which I've referenced in
23 my testimony, all indicating a relationship between
24 credit and risk management.

1
2 COUNCIL MEMBER LANDER: So I'm glad to
3 talk about those actually.

4 ERIC ELLMAN: As am I.

5 COUNCIL MEMBER LANDER: You know, I'm
6 trying to just make sure I'm citing the correct one,
7 but I think it's the Association of Certified Fraud
8 Examiner study that for example, found that men were
9 twice as likely to commit fraud as women. Are you
10 familiar with that finding of the study?

11 ERIC ELLMAN: That particular part I am
12 not, but...

13 [crosstalk]

14 COUNCIL MEMBER LANDER: So that is
15 actually... yeah, I'm right now. that is from the
16 American Certified Fraud Examiner study, the same
17 study...

18 [crosstalk]

19 ERIC ELLMAN: Very well.

20 [crosstalk]

21 COUNCIL MEMBER LANDER: You were citing,
22 so do you believe that we should hire women rather
23 than men because apparently according to that study,
24 they're half as likely to commit fraud or theft?

1
2 ERIC ELLMAN: Well, I can tell you that I
3 come from a house full of women and they would all
4 agree that women are more financially responsible
5 than men.

6 COUNCIL MEMBER LANDER: Perhaps the world
7 in which the women have all the jobs would be better
8 than this one. I will give you that as well, but I
9 would submit a world in which we're making those
10 kinds of decisions based on this kind of so-called
11 correlation...

12 ERIC ELLMAN: [interposing] Well, we
13 have...

14 COUNCIL MEMBER LANDER: [interposing] It
15 wouldn't work... wouldn't...

16 [crosstalk]

17 ERIC ELLMAN: Well...

18 [crosstalk]

19 COUNCIL MEMBER LANDER: Work that well.

20 ERIC ELLMAN: Clearly, we have a long
21 history in this country of avoiding and in fact,
22 making illegal pervasive discrimination based upon
23 things that you can do nothing about, like the color
24 of your skin; your national or ethnic origin; your
25

1
2 race; your gender; your sexual orientation and things
3 like that.

4 COUNCIL MEMBER LANDER: The position of
5 the credit industries is that we're doing well in
6 preventing discrimination and guaranteeing people's
7 civil rights in this...

8 [crosstalk]

9 ERIC ELLMAN: I think that nobody in this
10 room or in any industry would be satisfied unless all
11 discrimination of all kind was eliminated and I
12 applaud you all for taking a deeper look into that,
13 but it's important to note that there are studies
14 that show and there are employers that find value in
15 managing their business risk, which means protecting
16 not only their shareholder assets, but also their
17 business assets and also the information of their
18 customers and also their fellow employees.

19 COUNCIL MEMBER LANDER: And then just one
20 final question. You know I... first, I will say I
21 really did enjoy the quoting of Washington and
22 Jefferson. They're you know in the room with us, so
23 I believe that they're on the side of advancing
24 people's opportunities, but I just want to... you
25 know, when you say your credit reports for employment

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2 purposes are reliably proven predictors of risk, I
3 think what was said later is right. Credit reports
4 were developed... what... for what purpose?

5 ERIC ELLMAN: Well, they were initially,
6 of course, developed to determine credit risk, but as
7 it turns out, there are other purposes that make for
8 valuable use of credit reports, including predicting
9 business risk like in employment situations.

10 COUNCIL MEMBER LANDER: So I'll just say
11 and I'll just end here. I mean I think the data's
12 clear that they are, in fact, predict... useful and
13 reliably proven predictors of credit risk. I have
14 not seen still, and I'm glad to look at additional
15 studies that they are, in fact, reliable predictors
16 of fraud risk, theft risk or employment risk and in
17 the absence of that evidence and the presence of the
18 discriminatory evidence, if you're clients were
19 genuinely committed to doing everything we can to
20 address discrimination in light of the evidence, I
21 hope they'd agree to support the bill and stop
22 selling these reports to employers who are using it
23 in ways that do great harm to people like those that
24 were on the panel...

25 [crosstalk]

1 ERIC ELLMAN: Well, I think...

2 [crosstalk]

3 COUNCIL MEMBER LANDER: Before us.

4 [crosstalk]

5 ERIC ELLMAN: It's important... I think
6 it's important to consider, Councilman and members of
7 the committee, as you consider this, even though we
8 had checked the box to oppose because there's no
9 check the box for support additional amendments, when
10 I opened my comments about fairness, I think that's
11 an important point and I don't think we're
12 necessarily saying no to the bill, but I think that
13 there has to be additional fairness for employers and
14 as it was pointed out multiple times, there are quite
15 a few states that have passed laws in this area that
16 allow for additional allowances where employers have
17 found value and that's what we're hoping that you'll
18 consider. You've asked for evidence; we've presented
19 you a pile of it.

20 COUNCIL MEMBER LANDER: Yes and we will
21 obviously review your more detailed testimony and
22 were welcomed to look even more thoroughly at the
23 reports. I agree with you that a responsibility of
24 ours is to be fair in our consideration, but I would
25

1 say the following: the fact that the customers have
2 found value is not, in fact, evidence that there is a
3 reliable predictor or that there isn't discrimination
4 taking place, so evidence needs to come in the form
5 that there is you know, for particular job
6 categories, for particular kinds of employers
7 specific and demonstrable need and/or that there is
8 not specific and demonstrable harm. So we will be
9 glad to review that. We do believe in fairness. We
10 are glad you're here today, but I think, as I said
11 earlier, the fact that people say that they want it
12 may just be evidence of a prejudice and not evidence
13 of a practice that has value or is nondiscriminatory
14 based on the evidence. So thank you very much for
15 your time today.

17 ERIC ELLMAN: Thank you.

18 CHAIRPERSON MEALY: Thank you. We have
19 one more question from our Public Advocate, Tish
20 James.

21 PUBLIC ADVOCATE JAMES: Thank you. Just
22 following up on that line of questioning, is there a
23 difference between business risk and employment risk?

24 ERIC ELLMAN: There is a difference. As
25 I understand your question, an employment risk is,

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2 for example, a risk where somebody doesn't show up to
3 do the job or doesn't do the job efficiently or to
4 his or her capabilities or the standard set by the
5 business, but a business risk, which is different I
6 think...

7 PUBLIC ADVOCATE: [interposing] Right.

8 ERIC ELLMAN: Is is this person going to
9 pose a risk to the assets of the business or my
10 customers or my fellow employees?

11 PUBLIC ADVOCATE JAMES: So based upon the
12 debate or the back and forth with you and Council
13 Member Lander, the sponsor of the bill, you would
14 support this bill with certain exemptions for certain
15 industries? Is that what I'm hearing?

16 ERIC ELLMAN: I think that I wouldn't
17 necessarily say we would support it. That could be a
18 little too strong.

19 PUBLIC ADVOCATE JAMES: Okay.

20 ERIC ELLMAN: But we certainly wouldn't
21 oppose it as long as it is protective of the needs of
22 the employer community.

23 PUBLIC ADVOCATE JAMES: And would the
24 employer include the Securities Industry and
25 Financial Markets Association?

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2 ERIC ELLMAN: I'm not going to speak to
3 specific exemptions, but I can point you to the other
4 states; Connecticut obviously closest here
5 geographically and maybe arguably politically. They
6 have a significant number of allowances for business
7 needs, some of which were discussed earlier, but I
8 can't speak to specific industries.

9 PUBLIC ADVOCATE JAMES: Okay and I
10 received a couple of texts and emails a few minutes
11 ago, which indicated that I mischaracterized the
12 position of the Securities Industry and Financial
13 Markets Association, particularly as it relates to
14 good character. But I'm reading from their testimony
15 and the sentence in particular where I take issue
16 with is, "Federal and state securities regulators
17 have determined that knowing the personal financial
18 circumstance of Securities Industry representatives
19 is important to invest their protection efforts. For
20 instance, the Financial Industries is required to
21 comply with NASD rule, which provides that a member
22 firm must ascertain by investigation the good
23 character," blah, blah, blah, blah. That is what I
24 was referring to, and so do you believe that good
25

1
2 character has anything to do with one's credit
3 history?

4 ERIC ELLMAN: That's a hard question to
5 say. I don't necessarily think that a credit history
6 is specifically a measure for character, but I think
7 it is an important consideration for a business to
8 consider in determining how much risk a person poses
9 to the employer. In fact, several of the studies
10 that I referenced, including the ASCFE, which we
11 discussed, indicated that a negative credit
12 history... a significant credit history, and we're
13 talking primarily from SHRM, we know that employers
14 primarily look at liens and judgments and
15 bankruptcies as opposed to just late payments on a
16 credit card, but all of these studies that we have
17 shown and cited indicate that there is a relationship
18 between credit risk and business risk.

19 PUBLIC ADVOCATE JAMES: And so will you
20 be sharing those studies with Council Member Lander
21 and/or the chair?

22 ERIC ELLMAN: They're in the written
23 testimony.

24 PUBLIC ADVOCATE JAMES: They're attached?
25 Are they...

[crosstalk]

ERIC ELLMAN: Yeah, they are.

[crosstalk]

PUBLIC ADVOCATE JAMES: Attached?

ERIC ELLMAN: They're in here, yes,
ma'am.

PUBLIC ADVOCATE JAMES: Thank you. I
appreciate that.

ERIC ELLMAN: Sure.

CHAIRPERSON MEALY: Thank you so much for
your testimony.

ERIC ELLMAN: Thank you. Thank you.

CHAIRPERSON MEALY: Sarah Abea... Alba;
Tilima [phonetic]; Brian [phonetic] Graham; G.L.
Tyler, District Council 1707; Tashi Lhewa.
[background noise] You may start.

SARAH ALBA: Thank you. Good morning.
My name is Sarah Alba. I'm a staff attorney at
Manhattan Legal Services, which is a part of Legal
Services NYC. I want to thank the council members
and the Public Advocate for being here today and
hearing this testimony.

You've heard a lot today about the
problems of using credit checks in employment and

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2 I've discussed it in depth in my written testimony,
3 but what I really want to focus on today is what
4 we've seen as advocates and what our clients are
5 experiencing and what we're seeing is that clients
6 are being denied jobs because of medical debt,
7 because of identity theft, because of all sorts of
8 things that have really nothing to do with
9 employment.

10 We've heard a lot about domestic
11 violence, so I just wanted to tell you a story about
12 one of my clients, who is a single mother in her
13 thirties. She has a young daughter and she's
14 recently escaped from an abusive relationship. She
15 applied for a job at Manhattan Legal Services after
16 she'd been... I'm sorry, at Madison Square Garden
17 after she'd been out of work for more than a year and
18 she was trying to get herself you know, back on her
19 feet after having lived with an abusive partner for
20 over seven years. She applied for a low-level ticket
21 taker position, but she had such a strong employment
22 history that they hired her for a supervisor position
23 and she started working and about three hours into
24 her first day of work, she was approached by a
25 security guard and told in front of all of her

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2 colleagues that red flags had come up in her
3 background check and she would have to leave the
4 building. She was escorted to a bathroom where a
5 Madison Square Garden employee stood outside the
6 stall door while she changed out of her uniform and
7 then she was escorted from the building and she kept
8 asking what red flags; what red flags and no one
9 would tell her anything. She received a call five
10 months later, after having worried about this the
11 entire time, from an employee at Madison Square
12 Garden telling her that she couldn't work as a
13 supervisor because supervisors handle money and she
14 had one debt in collection on her credit report. I
15 helped her pull her credit report, we reviewed it and
16 the debt in question was a medical debt that she
17 incurred while in her abusive relationship. Her
18 partner controlled all access to money, all access to
19 mail. She had never heard of this debt. In the time
20 period since she had incurred the debt, she'd held
21 several managerial positions handling money. She had
22 never had a problem and yet, this one debt kept her
23 from a job that could have helped her get back on her
24 feet and support her daughter.

1
2 In a similar story, we have a client who
3 started a job at Macy's and same thing, security went
4 up to her, told her that she couldn't work there
5 anymore because she had forged... there was something
6 showed up on her credit report that showed that she
7 had a criminal record in New Jersey for [chime]
8 forged checks. She was escorted from the building in
9 front of all of her colleagues and she had never had
10 a criminal record. She had no idea what this was
11 about. It took her weeks to correct this record and
12 she was finally rehired by Macy's, but she lost you
13 know, about five weeks of work, which, for a low-
14 income person is devastating and makes it extremely
15 hard to carry on from day to day. Do you mind if I
16 tell a couple more stories? I know my three minutes
17 are past.

18 CHAIRPERSON MEALY: Thank you so much.

19 G.L. Tyler.

20 SARAH ALBA: No? Okay.

21 G.L. TYLER: Thank you. Good afternoon.

22 I thank the Council's Committee on Civil Rights and

23 this chair to present this testimony. My name is

24 G.L. Tyler. I am speaking on behalf of the Executive

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1
2 Board of District Council 1707 AFSCME and its
3 Executive Director, Victoria Mitchell.

4 District Council 1707 stands firmly
5 behind any and all laws that offer enhanced
6 protections for working men and women seeking
7 employment that discourages discrimination based on
8 factors already proven not to offer a critical
9 assessment of one's ability to perform aptly on most
10 jobs. Intro 261 will set a clear example to the rest
11 of the nation that credit discrimination is
12 regressive and credit checks were not designed to
13 assess long or short-term job performance.

14 Since 2012, more than 1,200 members of
15 our Head Start Local 95 and Daycare Local 205 were
16 terminated due to former Mayor's Early Learn fiasco.
17 These workers immediately sought employment and
18 anecdotally, I learned that many had difficulty
19 finding new employment. It is embarrassing for
20 anyone to speak about their personal finances that
21 could have hindered their employment opportunities,
22 but if an application require a prospective
23 employee's permission to seek their credit history,
24 how many of us will refuse, knowing that the
25 prospective employer would immediately reject the

1
2 application? I know child care professionals seeking
3 employment want to work. Before they were terminated
4 in 2012, many were on their jobs 10, 20 and 30 years.
5 How does a credit check substantiate a notable work
6 history? It does not.

7 Let's pass this bill and eliminate
8 another hurdle for New Yorkers to become employed,
9 raise their families and continue to their
10 communities and the various local and citywide
11 economies. Thank you.

12 CHAIRPERSON MEALY: Thank you.

13 BRIAN GRAHAM: Good afternoon, everyone.
14 My name is Brian Graham and I am a concerned citizen.
15 I would like to take this time to discuss the
16 economic effect, in which a strong stand to this bill
17 if it in its current form does not happen could have
18 catastrophic effects on this economy.

19 Let me start by saying according... right
20 now, one-third of Americans have bad credit, in which
21 620 or lower is considered bad credit. This is
22 roughly 106 million Americans right now. With that
23 being said, two-thirds of college grads have debt
24 totaling up to \$1 trillion. That is roughly six
25 percent of our national debt. Now, default in this

1
2 scenario will only fall on the U.S. taxpayers in the
3 form of higher taxes. New York is the financial
4 capital of the world, in which everyone deserves the
5 opportunity to participate in it, not just the
6 privileged. During the great recession, 13,000 jobs
7 from New York based companies were outsourced because
8 of credit checks. If this procedure is allowed to
9 continue, it will allow another potential threat to
10 our economy and can potentially force another great
11 recession. Thank you. That is my testimony.

12 TASHI LHEWA: Good afternoon, Chairperson
13 Mealy and members of the Committee of Civil Rights.
14 Thank you for the opportunity to testify today in
15 regards to Intro 261. My name is Tashi Lhewa. I am
16 a consumer attorney with the Legal Aid Society. The
17 Legal Aid Society is the largest and the oldest legal
18 service provider for low-income families and
19 individuals, who provide services in regards to
20 criminal, civil and juvenile rights matters.

21 The Legal Aid Society commends the
22 committee for holding this hearing today on Intro
23 261, which we strongly support in its present form
24 and we believe that credit reports are not an
25 indicator of a job seeker's character or their

1
2 ability to perform their jobs. It remains a crude
3 and very ineffective hiring instrument in today's
4 economy where so many people are struggling to pay
5 their bills. The practice of using credit checks in
6 the hiring process prevents people from getting jobs
7 after their credit is adversely impacted by factors
8 beyond their control in many instances, such as their
9 marital history; whether it's a medical emergency.
10 Some of these factors were discussed by earlier
11 speakers.

12 The Society advocates on behalf of
13 numerous consumers whose credit reports have left
14 them unable to obtain housing, basic necessities and
15 yes, obtain employment. The clients of the Legal Aid
16 Society are often the victims of stereotypes and
17 assumptions that are not based on evidence and but
18 rather are based on assumptions that lead them...
19 that result in many instances to discrimination.
20 Credit reports are notoriously unreliable and ripe
21 with errors. I know we had the representative from
22 the CDIA, I believe, state earlier that approximately
23 97 to 98 percent of credit reports are accurate
24 according to the FTC study. Well, we... I mean I'm
25 not sure which study he's referring to, but included

1 in my testimony is a study; a FICO study, a 2013
2 study by the FTC, which finds that one in five credit
3 reports have material errors. Other studies have
4 shown that 25 percent of credit reports contain
5 errors that are serious enough to deny credit. There
6 are several reasons for these inaccuracies, one of
7 them being simply the difficulty in matching a name
8 to a particular account where credit reporting
9 bureaus use partial name searches and seven out of
10 nine digits in the person's social security number,
11 so that often causes many errors. The process of
12 correcting an erroneous credit report is time
13 consuming, confusing and overly complicated for the
14 average consumer and when we're talking about our
15 clients, individuals who may be low-income,
16 immigrants or members of other vulnerable
17 communities, this task is far more difficult.
18 Similarly, when we talk about incidents of identity
19 theft, which have a direct bearing on credit reports,
20 approximately over 16 million Americans are victims
21 of identity theft each year. Identity theft is one
22 of the fastest growing crimes in the United States,
23 so canceling a credit line once identity theft occurs
24 may be a relatively simple process, but trying to
25

1
2 rectify that error, and we have numerous people who
3 come to the Legal Aid Society who are victims of
4 identity theft. [chime] It's immensely difficult...
5 I'll just close by stating that trying to correct
6 them requires obtaining a lot of documentation,
7 filing police reports, gathering affidavits, which is
8 very difficult, so that identity thefts make credit
9 reports an unreliable tool when... for it to be used
10 when... as a job screening tool. The Legal Aid
11 Society would... strongly supports this bill and on
12 behalf of our consumers and our clients that we
13 represent, thank you for the opportunity to testify.

14 CHAIRPERSON MEALY: Thank you. do you
15 have a percentage of how many people have come to the
16 Legal Services and was in this predicament and how
17 long would it take for them to get their credit
18 together?

19 TASHI LHEWA: As far as people coming to
20 us with erroneous credit reports are victims of
21 identity theft?

22 CHAIRPERSON MEALY: Identity theft.

23 TASHI LHEWA: With identity theft cases,
24 I think far more than we can assist. I know that we
25 don't have an exact number, but we are unable to

1
2 assist all the people who do come to us, so when I
3 hear other individuals state that you know, that
4 somehow these credit reports are 97 or 98 percent
5 accurate you know, it contradicts the experience that
6 we've had with these instances of identity theft and
7 I can't... I just want to put in one note as to how
8 difficult it is to rectify identity... incidents of
9 identity theft simply because people find out about
10 identity theft after it's already occurred.

11 CHAIRPERSON MEALY: Already there.

12 TASHI LHEWA: And it's a very arduous and
13 difficult process.

14 CHAIRPERSON MEALY: Okay, thank you for
15 the panel. Thank you. Ricardo Alavella [phonetic],
16 Ann Valdez, Courtney Davis, Emmanuel Cresido
17 [phonetic], Zane Estes... Salaam... De Salaam
18 [phonetic]. You may start.

19 ANN VALDEZ: Thank you. My name is Ann
20 Valdez. I am a member and leader at Community Voices
21 Heard. I have been with them for approximately 12
22 years. First, let me start off by publicly saying
23 thank you very much for creating the resolution and
24 thank the rest of the City Council for signing up
25 that resolution to end unpaid labor. It also falls

1
2 into the same type of category because of the fact
3 that people are unemployed and need an income,
4 especially when they have a family to take care of;
5 their family, they are forced to go to the Department
6 of Social Services, the Human Resource
7 Administration. It is degrading, debilitating... to
8 have to go through that. I have two years of
9 college. I have three children, two of which are
10 adults and one is still a minor on his way to
11 adulthood. I was raised from immigrant grandparents
12 and a mother that was a single mother, the same as
13 me. Unfortunately, I could not be raised with my
14 father because of his circumstances and his
15 personality. My mother did the best that she could.
16 I have a very good education. I speak well. I'm a
17 very loving person, but all that doesn't matter when
18 you have to go and reach out for help and when you
19 reach out for help all they do is throw into your
20 face and make you seem as though you're uneducated,
21 you have a drug history or you have a mental illness
22 or all these humiliating things that are not true for
23 everyone. As I said, I'm a single mother and I did
24 also escape from domestic violence many years ago. I
25 raised my children very well. None of my children

1
2 have any criminal history. They would never do such
3 a thing. As a matter of fact, they're more afraid of
4 me than they are of the law, which it should be. I
5 tried really hard, struggling with my children and I
6 went to college and I did the best that I can and no
7 one was giving me a chance. Those types of things
8 fall very short when you try to apply for a job
9 because I don't have a good credit history. I also
10 have a family member who is dealing with an issue
11 like that also because he's back and forth with
12 issues of child support, trying to pay and them going
13 after him. They make him [chime] look as though he's
14 delinquent and make it look as though he's a deadbeat
15 dad and he's not, alright? We try very hard in my
16 family to live up to what our parents and
17 grandparents have taught us. I would never do
18 anything to try and hurt anyone. I tried really hard
19 for a job. I am on again off again employed for many
20 different reasons and a lot of it discriminative
21 reasons. Now, for these reasons alone, I beg of you,
22 as well as the rest of the City Council and everyone
23 in this room [chime] to really take heed and
24 understand an individual and their job performance
25

1 cannot be judged by how they pay their bills because
2 sometimes you just can't pay your bills. Thank you.

3
4 CHAIRPERSON MEALY: Yes, thank you and
5 thank you for all that you do.

6 ANN VALDEZ: Thank you.

7 CHAIRPERSON MEALY: You came a long...

8 ZANE ABDI-SALAAM: Good afternoon,
9 Chairwoman Mealy, members of the committee. My name
10 is Zane Abdi-Salaam [phonetic] and I am the Director
11 of Public Policy at the Retail Wholesale Department
12 Store Union. On behalf of President Stuart
13 Appelbaum, I'm pleased to testify today on this
14 legislation calling to prohibit discrimination based
15 on one's credit history. Our union, as many of us
16 know here, is deeply involved in progressive activism
17 and movement for economic and social justice and
18 RWDSU is committed to raising job standards across
19 industries and occupations.

20 As employment lags from the worst
21 economic downturn in decades, thousands of New
22 Yorkers are still out of work and struggling to keep
23 up with bills for even the most basic expenses. What
24 they need more than anything is job, but for too many
25 people access to employment is blocked by the growing

1
2 practice of employment credit checks. Employers now
3 routinely check the credit histories of prospective
4 employees, many of whom are more than qualified for
5 the job, and may use the information to deny them the
6 job. The practice amounts to little more than class
7 discrimination and it must end now. That is why
8 RWDSU stands firmly in support of the Stop Credit
9 Discrimination in Employment Act.

10 Credit checks exclude qualified
11 applicants, including people whose credit was damaged
12 as a result of medical debt, divorce, student loans,
13 layoffs, predatory lending, identity theft or other
14 events beyond their control from the employment they
15 desperately need. Credit checks also discriminate
16 against women, low-income and people of color who
17 have been disproportionately impacted by the economic
18 downturn. The New York City Council must act quickly
19 to end this discriminatory practice. Thank you.

20 CHAIRPERSON MEALY: Thank you.

21 Hello. Thank you, Chairwoman Mealy and
22 members of the Board. My name is Courtney Davis.
23 I'm the financial advocacy specialist at the
24 Community Service Society of New York for the
25 Financial Coaching Corps Program. The Financial

1
2 Coaching Corps recruits and trains senior volunteers
3 to provide one-on-one financial coaching to low-
4 income New Yorkers throughout New York City. We have
5 30 financial coaches in 25 sites and last year, they
6 served 750 clients.

7 The primary concern for our clients is
8 correcting damaged credit and managing their debt.
9 Financial coaches begin this process by showing
10 clients how to access their free credit report, most
11 of whom have never done so before. What do our
12 clients find when they view their credit reports for
13 the first time? They find errors, everything from
14 identity theft to just misspelled names. If they've
15 gone through a hardship, they often find a long list
16 of predatory debt buyers and then in a unique quirk
17 of the New York Civil Court system, they've often
18 been plagued by sewer service and they find that
19 there are default court judgments and other public
20 records for which they were never notified about.
21 These errors, big and small, can determine whether or
22 not someone gets a job. Employers should not be
23 allowed to use credit history information, which may
24 be flawed, to make judgments about an applicant's
25 ability to perform job duties. We work with our

1 clients to help them pay down their debts and repair
2 their credit, but as anyone working in this field
3 will tell you, this process is very long and tedious.
4 It takes seven years for one late payment to fall off
5 a credit report. A client's credit can be damaged
6 for years for just a few months of financial
7 difficulty. These problems are made exponentially
8 worse by the large and powerful debt collection
9 industry in New York, which pursues clients
10 relentlessly. Debt buying companies purchase debts
11 for pennies on the dollar and sell and resell these
12 debts over and over. Every time a debt is sold, a
13 new negative mark is added to the report. Often
14 these debt collectors will file lawsuits against
15 clients in civil court and get default judgments
16 without ever having to produce a single piece of
17 evidence that the debt is valid or properly notifying
18 the client that they are being sued at all. All of
19 these issues are compounded severely by the fact that
20 70 percent of my clients are unemployed.
21 Unemployment, like other major causes of poor credit,
22 such as divorce or medical debt, disproportionately
23 impact low-income communities of color. Unemployed
24 clients are caught in a vicious cycle in regards to
25

1
2 their credit history. Additionally, according to
3 "The Unheard Third," the annual survey of low-income
4 New Yorkers conducted by the Community Service
5 Society, in households where someone has lost a job
6 in the past year, 39 percent have no savings and 65
7 percent have less than \$500 in savings. Under these
8 conditions, it can be impossible to get back on track
9 and pay your bills on time. The damage is done.
10 Damaged credit becomes a mark against individuals as
11 they begin the work [chime] of securing that new job
12 or finding more affordable housing, the only real
13 things that will help them attain economic self-
14 sufficiency.

15 This bill addresses these inequities. We
16 wholeheartedly support the passing of this law.
17 Thank you.

18 CHAIRPERSON MEALY: Thank you and we...
19 thank you for your testimony. Thank you. We have
20 our next panel. Sherrod Stanton [phonetic], Angelina
21 Garneva [phonetic] and Anna Platt. Give it to the
22 Sergeant-at-Arms. [background voice] We have one
23 more panel.

24 SHERROD STANTON: Good afternoon,
25 everyone. My name is Sherrod Stanton and I'm on the

1 Board of Directors for BMCC NYPIRG. I'm here on
2 behalf of Aileen Sheil, our chairperson.
3 Unfortunately, she couldn't make it here today
4 because of health reasons, but I'm going to testify
5 on her behalf.
6

7 CHAIRPERSON MEALY: Thank you.

8 SHERROD STANTON: Good morning and thank
9 you for the opportunity to testify at today's
10 hearing. My name is Aileen Sheil and I am the
11 chairperson of the Board of the New York Public
12 Interest Research Group, better known as NYPIRG.

13 NYPIRG is New York's largest student-
14 directed, non-partisan research and advocacy
15 organization. Our Board of Directors consists of
16 college and university students elected from campuses
17 with NYPIRG chapters from across the state. NYPIRG
18 students become well-trained, powerful advocates by
19 working on public policy issues like environmental
20 protection, consumer rights, voter registration and
21 higher education access and affordability.

22 We are concerned that the rising cost of
23 higher education, the growing dependence on student
24 loans, on certain job opportunities for recent
25 graduates and the use of credit history as a

1
2 criterion in hiring decisions are conspiring to
3 create a bleak future for students. Rising costs:
4 In the past three decades, the cost of attaining a
5 college degree across the country has increased more
6 than 1,000 percent. Between 2012 and 2016, CUNY
7 tuition will increase by 58 percent. Student debt
8 crisis: According to the Consumer Financial
9 Protection Bureau, student debt has topped \$1
10 trillion and according to the Institute for College
11 Access to Success, New York graduates with student
12 loan debt have an average burden of \$25,537. Job
13 scarcity: College graduates are facing an
14 unemployment, underemployment and malemployment
15 [sic]. They are without a job; are employed only
16 part-time or for low-wage work or are in a job that
17 does not require a college degree. According to the
18 Federal Reserve Bank of New York, from 2001 to 2012,
19 underemployment rates jumped from 34 percent to 44
20 percent. Furthermore, while college graduates fare
21 better than those without degrees, recent graduates
22 are unemployed in higher numbers than past graduates.
23 Credit discrimination: Almost half of employers are
24 checking people's credit when making hiring and
25 promotion decisions, even though there is no credible

1
2 evidence linking credit history with the ability to
3 perform while at work. This holds true across
4 business sectors and job types, no matter what the
5 job is; whether it entails handling money, having
6 access to [chime] personal information or the
7 managerial responsibilities. There is no evidence to
8 suggest that a person's credit history affects their
9 job performance.

10 We implore the City Council to pass Intro
11 261 without any exemptions. A strong bill without
12 exemptions is the way to protect all job seekers from
13 the discriminatory practices. Take Samantha Perez as
14 a BMCC student. Samantha spoke to *El Diario* for a
15 cover story about falling into financial problems
16 after incurring \$30,000 in student loan debt. As a
17 result of her marred credit history, she was denied
18 employment at the Swatch store in Midtown Manhattan.

19 Samantha's story is hardly unique. We
20 frequently hear from students who have been denied
21 employment and are struggling to pay off their
22 tuition and worrying about falling into massive
23 amounts of debt and what's worse is that many more
24 students are living in fear of what will happen when
25 they graduate. We call on the New York City Council

1
2 to pass Intro 261 as it stands to ensure that all New
3 Yorkers have fair access to employment.

4 CHAIRPERSON MEALY: Thank you.

5 SHERROD STANTON: Thank you. Next
6 panelist?

7 ANNA PLATT: Thanks. Good afternoon and
8 thank you for the opportunity to testify at today's
9 hearing. My name is Anna Platt and I'm a paralegal
10 in the Consumer Protection Project at the New York
11 Legal Assistance Group. NYLAG serves low-income
12 consumers; immigrants; seniors; the homebound;
13 families facing foreclosure; renters facing eviction;
14 those in need of government assistance; children in
15 need of special education; domestic violence victims;
16 persons with disabilities; patients with chronic
17 illness or disease; low-wage workers; low-income
18 members of the LGBTQ community, as well as others in
19 need of free legal services.

20 I am offering my testimony today in
21 strong support of the Stop Credit Discrimination in
22 Employment Act because the discriminatory use of
23 credit in making employment decisions harms New
24 Yorkers and prevents people who are willing to work
25 hard from getting the jobs they need to get back on

1
2 their feet and avoid further debt. Through our
3 organization's work, we are seeing a growing number
4 of New Yorkers who are blocked from getting jobs,
5 housing and other desperately needed services because
6 of bad credit. This bad credit is often the result
7 of identity theft, predatory loans, illness or job
8 loss. Using credit as a proxy for employability is
9 discriminatory and unfair and does nothing to advance
10 the interests of employers who rely on them. The use
11 of credit checks is particularly insidious because
12 credit reports are frequently inaccurate.
13 Additionally, use of credit histories in employments
14 decisions disproportionately affects people of color
15 and low-income communities. Because these
16 populations are targeted for predatory and high cost
17 loans, individuals who fall prey to these schemes and
18 take out these loans end up with damaged credit,
19 which then acts as a bar to employment. Many debts
20 that result in poor credit are the result of identity
21 theft and our clients only learn that accounts were
22 opened in their names when they apply for a job or
23 housing and are told their bad credit bars them from
24 an opportunity. Even though these debts were the
25 result of criminal activity, they still appear on

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2 credit reports and employers can use this information
3 against individuals when they apply for jobs.

4 Applicants are heavily stigmatized and labeled as
5 untrustworthy, even though the debt that appears on
6 the applicant's credit report is not their debt.

7 Even if identity theft has not occurred,
8 individual often incur additional debt or fall behind
9 on payments because of legitimate temporary hardships
10 such as illness or job loss. Employers can still use
11 that fact to bar applicants from employment. Failing
12 to hire an otherwise qualified applicant for
13 employment simply because her child was diagnosed
14 with an expensive disability and she fell behind on
15 credit card payments to pay her child's medical
16 expenses or not hiring someone because his mother
17 died and he was saddled with her debts and funeral
18 costs makes no sense and doesn't help either the
19 individual or the economy.

20 Without employment, individuals cannot
21 move forward from their hardship to pay off debts and
22 become financially stable. Using credit checks in
23 employment only compounds the hardships people face
24 because it denies them the opportunity [chime] to
25

1
2 become financially independent and earn a stable
3 income to pay off their debts.

4 Thank you for the opportunity to testify.
5 NYLAG calls on New York City Council to do the right
6 thing and to pass Intro 261 to ensure that all New
7 Yorkers have fair access to employment and have even
8 a chance to become financially stable. Thank you.

9 CHAIRPERSON MEALY: Thank you.

10 ANGELINE GARALIVA: Hello, my name is
11 Angeline Garaliva. I'm here from the New York State
12 Employment and Training Coalition. NYCETC is an
13 association of 200 community-based organizations,
14 educational institutions and union training funds
15 that annually provide job training and employment
16 services to approximately 750,000 New Yorkers,
17 including unemployed workers; public assistance
18 recipients; low-wage workers, at-risk youth; formerly
19 incarcerated individuals; immigrants and the mentally
20 and physically disabled. Our mission is to ensure
21 that every New Yorker has access to the skills,
22 training and education needed to thrive in a local
23 economy and that the private sector is able to retain
24 highly skilled workforce. As providers of the
25 training and employment services that work to connect

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2 New Yorkers to quality employment, our members are on
3 the frontlines of the unemployment crisis that
4 continues to stifle our communities and economy.

5 In this capacity, we have witnessed
6 dozens of cases in which job seekers have reported
7 rejections from potential employers that we
8 understand who based on information found in their
9 credit reports. Now, previously in the first
10 testimony, it was reported that while job seekers
11 might have issues connecting to employment, they can
12 go to these types of services, but even our providers
13 are having trouble despite their connections to
14 employers helping those individuals find services and
15 jobs. So if individuals that don't even know about
16 these services are having trouble and don't know how
17 to go about doing it, what chance do they stand?

18 Credit checks only provide surface level
19 information and do not include contextual data on the
20 wide range of factors that generated the credit
21 score. Low credit scores are often the result of
22 uncontrollable events that are no fault of an
23 individual, such as medical expenses, college debt,
24 et cetera. However, employers are unable to see such
25 problems and view the existence of a low credit score

1
2 as lack of responsibility, financial malfeasance and
3 other individual characteristics. So I would like to
4 offer a story from one of our member providers to
5 exemplify this.

6 This is the story of Mr. K., a client
7 seeking assistance through the Veterans Initiative at
8 Jericho Project, a supportive housing organization
9 and one of our members. Mr. K. is a veteran with
10 extensive experience in IT and Help Desk Support
11 living in Jericho Projects supportive housing
12 residences and seeking employment through the
13 Veterans Employment Program. Based on his extensive
14 work experience, strong personal characteristics and
15 an impressive interview, Mr. K. was soon hired in a
16 lucrative position as an IT consultant by a company
17 specializing in IT Training and Services Fortune 500
18 companies. However, the person that initially hired
19 Mr. K. forgot to undergo a credit check, which the
20 company then undertook while processing Mr. K.'s
21 hiring documents. Due to past difficulties with
22 paying off his higher education tuition, Mr. K. had a
23 low credit score that he was hoping to improve
24 through gainful employment. Upon undergoing a credit
25 check, the company then rejected Mr. K. after hiring

1
2 him with the only explanation given that he now did
3 not meet their credit standards.

4 While this is only one instance, this
5 experience underscores the negative influence that
6 credit scores can have in counteracting and
7 undermining positive characteristics exhibited by an
8 individual seeking employment. The use of credit
9 checks unfairly penalizes job seekers whose poor
10 credit reflects the impact of immense external
11 challenges, exacerbates those problems and denies
12 those individuals the ability to use characteristics
13 that are, in fact, most pertinent to success in the
14 workforce: soft and hard skills, work and
15 educational experience, personality, work ethic and
16 drive. All of those have been proven to actually
17 lead to success in the workforce, whereas credit
18 scores have been shown not to.

19 So this has also led our providers to
20 stray away from certain industries and certain job
21 occupations, such as bank tellers, which is the
22 entry-level position towards a highly grossing
23 [chime] career. They have... instead of sending
24 people to janitorial positions, when in fact, they
25 have skills and experience to be in a position that

1
2 could grow and give them gainful employment. So I
3 would like to thank you for your time and this
4 testimony.

5 CHAIRPERSON MEALY: I just have one
6 question. If someone... do you have a solution for
7 if someone was discriminated against in regards
8 incarceration with no credit...

9 ANGELINE GARALIVA: Mm-hm.

10 CHAIRPERSON MEALY: This legislation
11 would help that individual, so do you feel that this
12 is a good legislation?

13 ANGELINE GARALIVA: Right. So we have
14 actually... we work with a lot of organizations that
15 do that kind of work and they've said specifically
16 that while credit checks might not... they haven't
17 found instances of credit checks, it falls within the
18 background check overall and the problem with credit
19 checks is that you can never know... no employer will
20 go forward and tell you, "It is due to the credit
21 check that we performed," whereas a background check
22 is easier to understand and view that that is where
23 the problem falls. So they are correlated and it
24 would certainly help in this instance.

25 CHAIRPERSON MEALY: Thank you so much.

1 ANGELINE GARALIVA: Mm-hm. Thank you.

2 CHAIRPERSON MEALY: Thank you for your
3 testimony. We have the last panel. Anamaria Segur
4 [sic]; 'kay, Tenzine Testasong... Chasong. Do we
5 have a Elijah Bah [sic]? Ah, thank you, sorry.

6 ANAMARIA SEGURA: Good afternoon. Thank
7 you for the opportunity to testify. My name is
8 Anamaria Segura and I'm a staff attorney at MFY Legal
9 Services in the Workplace Justice Project. I want to
10 thank Brad Lander, who happens to be my council
11 member in absentia and Chairwoman Mealy. Miss Mealy,
12 I have to say that your office has referred many
13 constituents to our Consumer Rights Project hotline
14 and we've been happy to serve them.

15 I submitted lengthy testimony, so I'm
16 certainly not going to read directly from it. I just
17 had a few things I wanted to reiterate that others
18 have brought up and also to respond to. You know,
19 the first thing I just have to... I can't forget to
20 say is to respond to Mr. Ellman from CDIA, who said
21 that the process for disputes for inaccurate credit
22 reports is quote, "successful and efficient." That
23 is not my experience at all and I think you all have
24 heard from other advocates who have echoed that. The
25

1 state of Mississippi this past June filed a lawsuit
2 against Experian, which is one of the big three
3 credit reporting agencies, finding that actually
4 Experian had not taken disputes seriously at all;
5 that the company allowed erroneous information to be
6 included on the credit reports that consumers were
7 complaining about; that it had refused to correct the
8 errors when they complained, even in the face of
9 documentary proof that the information was incorrect,
10 such as proofs of payment. And I have to say that
11 I... that was my experience in the five years that I
12 was a Consumer Rights Project attorney at MFY that
13 was disappointingly true. So you know I'm not sure
14 where Mr. Ellman is getting his data and I don't
15 believe he's here anymore to respond to me, but I
16 would've laughed out loud when he said that if it
17 weren't so breathtakingly incorrect, his statement.
18 I just think it shows that a trade group like that is
19 not going to necessarily be on the ground seeing
20 experiences of every day New Yorkers.

22 I want to also echo what Mitchell Hirsch
23 said from the National Employment Law Project about
24 involuntary job losses. In my two years in the
25 Workplace Justice Project, I have volunteered at an

1
2 advice table for New Yorkers who've lost their job
3 and who are in the process of trying to apply for
4 unemployment insurance benefits who have been denied
5 for one reason or another or whose employer has tried
6 to interfere with the process of eligibility for
7 benefits and I can tell you that one of the first
8 things I hear from so many of these people at 250
9 Schermerhorn in Brooklyn at the Department of Labor
10 is you know, these benefits aren't even going to make
11 the difference, but without this income I am forced
12 to put basic necessities on my credit card and so
13 they're just a couple of paychecks away or a few
14 weeks of benefits away from falling into that spiral
15 of debt; falling into that catch-22 that you heard so
16 many advocates talk about. I could tell so many
17 stories and I identify with Sarah Alba from Manhattan
18 Legal Services, who probably has like dozens of
19 stories of New Yorkers she's tried to assist who are
20 victims of identity theft whose reports were merged
21 with other people with similar names; who were
22 targets for fee harvester cards; you know predatory
23 loan products; who are in mortgage distress and those
24 stories are so personal, [chime] but what they
25 reflect is a dire need for the Council to act and the

1
2 last thing I want to say is just I want to implore
3 that the Council pass this bill with no exemptions.
4 Don't lose sight of the fact that the trade groups
5 that have been successful in other states and
6 localities in carving out categories of workers have
7 done so because of the bottom line for them, which is
8 money, and not because of the best interests of the
9 people who are being harmed by these checks. Thank
10 you very much.

11 CHAIRPERSON MEALY: Thank you and next
12 panel?

13 TENZING CHADOTSANG: Good afternoon. My
14 name is Tenzing Chadotsang and I am the Deputy
15 Director at Chhaya CDC. I want to thank you for the
16 opportunity to testify here and I wanted to give a
17 shout out to Council Member Dromm. We work with
18 issues of credit and foreclosures every day on a
19 daily basis and when Council Member said that we
20 were... that's exactly the reason why we're here to
21 support this bill.

22 Chhaya is based in Queens in Jackson
23 Heights. Our meeting shelter or shade is dedicated
24 to creating more stable and sustainable communities
25 by increasing civic participation and addressing the

1 housing and community development needs of New York's
2 South Asian community, our new immigrants and their
3 neighbors. We deal directly with economic and
4 workforce development and in homeownership
5 foreclosure prevention, housing rights, civic
6 engagement and advocating for affordable housing
7 opportunities, as well as research and advocacy. So
8 it's one of the biggest identified fastest ethnic
9 populations that have increased in size in the last
10 10 years, over 67 percent in New York City; directly
11 work with immigrants from India, Nepal, Pakistan,
12 Bangladesh and the displaced communities from the
13 Indo-Caribbean and Tibetan origins, so it's like a
14 very diverse group that we work with and most of our
15 clientele are low and moderate-income folks that are
16 finding it very difficult to enter into the
17 workforce. So we have an economic development
18 program that we work with them.

19
20 We find that immigrants lack a basic
21 understanding of the financial services, as well as
22 the credit building tools that are here. New
23 immigrant families are hard-working, oftentimes doing
24 two or three jobs with minimum wages to supplement
25 their income, and one of the places where they fall

1 short is building up credit history and that's
2 sometimes a big challenge for us as we push them to
3 do other things, which is including homeownership,
4 which we generally push them to do. Chhaya is
5 working with some of these folks to do financial
6 coaching, as well as literacy along current credit
7 building and repair and we have launched the first
8 pilot program for a landing circle in New York City,
9 which will be... we did get some funding from the
10 Mission Asset Fund.
11

12 We find that these credit checks are an
13 artificial employment barrier to an otherwise driven
14 job seeker and not only disempowers the job seeker,
15 but delays their potential to contribute to social
16 and economic productivity; hence, we urge you to end
17 consumer credit checks for employment purposes. This
18 practice does not correlate to employee productivity,
19 prevents the long-term unemployed from reentering the
20 labor market and reduces immigrant labor from fully
21 [chime] participating and engaging in our economy.
22 Thank you.

23 L. HODGE BAH: Okay, alright. I would
24 like to thank Madam Chair and the Committee on Civil
25 Rights as a whole for putting this together and

1 allowing us to testify today. My name is L. Hodge
2 Bah [phonetic]. I'm no one special, just a concerned
3 young man and I strongly feel that if employers wish
4 to hire people less likely to commit crime then they
5 should make decisions based on one's criminal record
6 and if employers wish to hire people based on
7 responsibility then they should make decisions based
8 on one's references. A credit score is not a
9 criminal record and not a gauge of one's job
10 responsibility. It's personal, not professional. If
11 defaulting is a basis for labeling someone as likely
12 to commit crime, then what about the banks that
13 defaulted some years ago and caused the recession in
14 the first place? Are they criminals in disguise?
15 Are they irresponsible, as people with bad credit
16 allegedly are?

17
18 The DOW Jones Industrial Average fell to
19 7,000 around 2008. It is now at 17,000. Sadly, job
20 creation has not accelerated at the same pace as the
21 DOW. People lost jobs due to the recession and
22 credit scores shot down all across the board as a
23 result and allowing employers to have yet another
24 loophole to curb job creation, especially amongst
25 demographics where unemployment rates are the

1 highest, would be irresponsible and negligent.

2 People are already having a hard time finding
3 apartments based on credit scores. At least give us
4 the ability to earn honest livings. With that being
5 said, I urge our lawmakers to pass this bill as is.

6 I thank Council Members Brad Lander and Deborah Rose
7 for sponsoring such an important bill. Thank you for
8 your time.

9
10 CHAIRPERSON MEALY: Wow. Thank you.

11 That was a great ending. It said enough. And I just
12 want to submit NYPAG Legal Defense Education Fund for
13 their NAA... oh, okay, Alfred. Well, thank you for
14 the... your last panel. Thank you so much. We're
15 just going to submit some testimonies for the record.
16 Gustavo Panessa [phonetic]; Finiar, NYSR [phonetic];
17 Alfred Carpenter; NYSR Deny Jobs; NAACP; Legal
18 Defense; Lower Eastside People's Federation Credit
19 Union; the Center for New York City Neighborhoods;
20 Restaurant Opportunity Center of New York; East
21 Williamsburg Village Industrial Development
22 Corporation and Demos. And now this meeting is
23 adjourned. Thank you, everyone.

24 [gavel]

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date 09/17/2014