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**Int. 261 - 2014
New York City Council
Committee on Civil Rights
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Good morning. I am testifying today on behalf of District Council 37 in support of legislation to bring fairness to and prevent discrimination against job seekers who may lose out on employment for which they are qualified because of a blip on their credit report. I am Associate Director of DC 37 Municipal Employees Legal Services.

The Stop Credit Discrimination In Employment Act is a bill of historic import whose time has come. The City Council stands on the edge of enacting the strongest law in the nation to stop an unfair, baseless and discriminatory employment practice.

I want to echo what you have heard from my colleagues:

- There is no data showing that a person's credit report predicts job performance.
- Credit reports are notoriously inaccurate.
- Using credit reports for employment decisions goes beyond any use for which they were conceived.
- Employer credit checks are discriminatory because, as the Federal Trade Commission, the Equal Employment Opportunity Commission and other bodies have shown, credit reports have a disproportionate impact on people of color.

I also want to give a historical context to this matter. The right to employment is a bedrock principle in our nation and this city. To say that opportunity starts with a job is not just a cliché. The expectation of seeking work and being fairly judged on your abilities and qualifications is about as fundamental a right as there is. People expect nothing more – but nothing less. If employers can force applicants to undergo a credit check that bears no relation to their fitness for the job, and on top of that has a discriminatory impact, that's not fair and it cannot be allowed.

As with other changes in the law to bring fairness and prevent discrimination, there will be opposition to this bill. We can look at the long list of important civil rights legislation over the decades, including changes to the City's Human Rights Law, and see



this was always the case. For each and every legislative change, there were doubters, skeptics and outright opposition. All these laws, at every level, have stood the test of time. The sky has not fallen, and it won't fall when the Council adopts an across the board ban on credit checks in employment.

The prohibition must be across the board. Any exemption or exception (unless a credit check is required by law) would swallow the law. One potential exemption would allow credit checks for persons who handle money. The knee-jerk rationale presumably is that a person with bad credit will be more likely to steal. There is no empirical basis for this proposition. Should an employer be allowed to deny a counter job at a fast-food restaurant or pharmacy because an applicant has blips on their credit report?

Another exemption might allow employers to run credit checks for managerial positions. The discriminatory implications here are obvious. If employers are prohibited from conducting credit checks for lower level jobs, but can rely on credit reports for upper level positions, isn't the overall effect to put a ceiling on the job aspirations of persons of color, who are disproportionately affected by credit reports, and are under-represented in management already?

Let's look at it another way. Before civil rights laws, employers could ask applicants all kinds of questions. They could ask questions about ethnicity and national origin. They could inquire about religion. They could ask about marital status. They could ask a woman if she was pregnant, or planned to be. Employers could inquire about medical history and disabilities. They could ask about sexual preference. Everyone knows that employers today can't ask these questions – because they bear no relation to job performance and they are discriminatory.

The point is this: an employer asking an applicant about credit history and requiring a credit report is the same thing. Personal credit records bear no correlation to job performance, and their use in employment decisions is hugely discriminatory against people of color, not to mention young persons and students, domestic violence victims, and other persons whose credit has been damaged through no fault of their own.

There should be no exceptions added to this bill. We urge the Council, the Speaker and the Mayor not to allow exemptions to be bargained into Intro 261 and to pass it as drafted. Thank you for the opportunity to testify today.