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**Testimony for the House Economic Matters Committee  
February 8, 2011**

**HB 87 – Labor and Employment – Credit Reports and Credit Histories of  
Applicants and Employees – Limitations on Use by Employers**

**SUPPORT**

The ACLU of Maryland supports HB 87. Today, almost half (42%) of all employers admit to reviewing a person's credit score when considering whether or not to hire that person.<sup>1</sup> A person with a bad credit score will not be hired even though credit scores are not indicators of an individual's honesty, integrity, professional competence or work ethic.<sup>2</sup> Credit scores are also notoriously inaccurate, obscure and difficult to correct. Because credit history includes information about divorce, medical bills, bankruptcy, home foreclosures, credit reports can contain irrelevant yet highly personal information about their subjects, which can include sensitive medical history, and family information. Credit scores are discriminatory against women and racial and ethnic minorities.<sup>3</sup> At a time of high employment and higher unemployment among racial and ethnic minorities, we should be removing barriers to employment. Quite simply, credit histories should not be used in employment decisions. For these reasons, ACLU of Maryland urges a favorable report on HB 87.

HB 87 bans the use of an applicant's or employee's credit history in hiring and discharge decisions and in determining compensation or terms of employment unless the credit history has a bona-fide work-related purpose. The bill contains well-tailored exceptions for financial institutions insured by federal agencies, and where federal or state law requires employers to conduct credit checks in connection with hiring and employment decisions.

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<sup>1</sup> Society For Human Resource Management Benefits Survey Report-2004: A Study By The Society For Human Resource Management, *available at* <http://www.shrm.org/Pages/Default.aspx> (last visited February 9, 2010).

<sup>2</sup> See Thomas Frank, *5 States Challenge Employer Credit Checks*, USA TODAY, *available at* [http://www.usatoday.com/money/perfi/credit/2009-02-12-creditchecks\\_N.htm](http://www.usatoday.com/money/perfi/credit/2009-02-12-creditchecks_N.htm) (last visited February 9, 2010).

<sup>3</sup> *Id.* ("A 2007 Freddie Mac study found that 48% of blacks had "bad" credit records compared with 34% of Hispanics and 27% of whites").

The ACLU of Maryland opposes the illegitimate use of credit scores in employment decisions because their use has a discriminatory impact on women and racial and ethnic minorities and because their widespread use causes significant invasions of personal privacy.

### **Credit Scores Have Discriminatory Impact**

Credit scores tend to be a “black box”. Largely determined by three national credit-rating agencies, it is unknown what factors go into determining an individual’s credit score or how much weight is given to various factors. A person often doesn’t know what information is contained in a credit history or have the opportunity to correct misinformation. What few studies have been done on this issue have revealed that African Americans and other racial and ethnic minorities tend to have lower credit scores than whites.<sup>4</sup> The reasons for this are varied, but include higher unemployment rates that are almost double the national average and higher foreclosure rates that are disproportionately higher as a result of decades of predatory lending targeting these communities.<sup>5</sup> The U.S. Equal Employment Opportunity Commission has identified use of credit history as discriminatory on the basis race, national origin and sex in a complaint filed in Baltimore in October 2009 against a nationwide marketing company.<sup>6</sup>

### **Widespread Dissemination of Credit History Violates Privacy**

We know that a leading cause of personal bankruptcy is unpaid medical bills, caused by crippling increase in health care costs and increasing numbers of uninsured. Financial consequences of divorce will also appear in credit histories. With the current economic crisis, foreclosure rates are also very high. Thus, a credit history will include details about medical treatment, health status, and family life in addition to revealing the difficulty an increasing number of people are having in paying the bills—details that no stranger or potential employer or human resources manager has any legitimate business knowing; details whose further dissemination cannot be controlled or protected by the subject of the history; details no person should be required to reveal about themselves to strangers, potential employers or current employers.

HB 87 should receive a favorable report.

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<sup>4</sup> See generally Brent Kabler, “Insurance Based Credit Scores: Impact on Minority and Low Income Populations in Missouri” State of Missouri, Department of Insurance, 43 (Jan. 2004).

<sup>5</sup> *Id.* at 16 (“Minority communities in core urban areas also are more typically vulnerable to economic dislocations, such as significantly elevated un- and under-employment rates. . .”).

<sup>6</sup> Press Release, EEOC Files Nationwide Hiring Discrimination Lawsuit Against Freeman, *available at* <http://www.eeoc.gov/eeoc/newsroom/release/10-1-09b.cfm> (last visited February 9, 2010) (alleging that the practice of using credit reports in the hiring process “has an unlawful discriminatory impact because of race, national origin, and sex, and is neither job-related nor justified by business necessity”).