Economy Sheds Light On Credit Reports in Hiring

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Contributing Columnist

A commission Congress created to investigate the causes of the nation's economic meltdown heard a litany of despair when it convened last week in Bakersfield: People's lives are being battered by skyrocketing unemployment rates, upside-down mortgages, foreclosures and bankruptcies.

Their credit ratings are being destroyed. And these destroyed credit ratings could keep people from finding jobs.

A survey by the Society for Human Resource Management revealed that about 60 percent of the nation's employers said they now conduct credit checks on job applicants. This is an increase from 43 percent in 2006 and 25 percent in 1998.

The increasing use of credit reports to screen job applicants, combined with the nation's increasing economic problems has resulted in complaints about alleged abuses and privacy rights violations.

This presents a dilemma for employers and jobseekers alike: How should credit reports be used in a company's hiring process?

The answer: Fairly and responsibly.

While this may seem to be a simple answer, unfortunately…like a lot of things… it's easier said than done.

Blemished credit histories can be the result of irresponsible lifestyles. They can also be the result of circumstances beyond a person's control.

Consider the woman who addressed the Fiscal Crisis Inquiry Commission as it concluded its Bakersfield hearing last week. The woman's husband, a school counselor, suffers from a debilitating illness. To relieve symptoms, the family moved to Tehachapi. The home they are trying to sell in Bakersfield has depreciated in value. A neighbor is offering to buy it at a price less than the mortgage balance owed. The lender would not consider a "short sale" unless the couple skipped making at least two mortgage payments.

The woman emotionally told commissioners she and her husband once had stellar credit ratings. They never missed payments. They paid off credit card balances every month. But to be considered for mortgage relief, they were required to destroy their credit ratings. And this woman isn't alone – the real estate industry representatives told commissioners of similar stories.

Use of credit reports to screen applicants can be a vital tool that provides critical information and insight into the character and behavior of jobseekers. It also can be fraught with employer liability and may prevent hiring good potential employees.

The likelihood that adverse credit reports will become anvils around the necks of the increasing number of unemployed Americans has prompted laws in several states restricting use by employers. A bill awaiting Gov. Arnold Schwarzenegger's signature that would restrict use in California will likely be vetoed, as he has vetoed two earlier, similar bills.

The federal Equal Employment Opportunity Commission warns that a blanket use of credit reports to screen applicants may run afoul of discrimination laws if "protected groups" are disproportionately eliminated in hiring decisions.

The laws regarding use of credit reports in hiring can be complicated. The federal Fair Credit Reporting Act sets limits, as do state laws. Posted on the Federal Trade Commission's Webpage (www.ftc.gov) are fact sheets that provide guidelines. Employers also should seek the advice of well-trained human resources consultants or experienced labor counsel.

Labor law and human resources experts caution employers: Ensure whenever you use credit checks to bar the hiring of applicants, you can show job-related criteria and/or a business necessity for the practice.

There is a wide range of circumstances that warrant conducting credit checks on job applicants and barring those with bad credit histories from being hired. If an employee will handle cash, or have access to a company's finances, a pattern of high debt and payment failure is relevant. Not only does this pattern raise questions about the jobseeker's sense of responsibility and decision making, it may trigger concerns about potential theft of company assets.

But a credit report may not yield relevant information for a person seeking an entry-level job that has no financial responsibilities.

Employers should use common sense when considering adverse credit reports even for applicants seeking "sensitive" jobs. In these dire times, the most respectable, responsible people can fall victim to circumstances beyond their control.

For example, the loss of a job could trigger a bankruptcy for a person with an impeccable credit history. This adverse information should be weighed differently than a report that a person has had two bankruptcy filings in five years, which suggests a negative pattern.

In light of today's economic times, employers need to be reasonable in their use of credit reports. And job seekers should be proactive, honestly disclosing and explaining problems to prospective employers.

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