COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE ON LAW AND GOVERNMENT

Room 400, City Hall
Philadelphia, Pennsylvania
Monday, May 16, 2016
10:20 a.m.

PRESENT:
COUNCILMAN WILLIAM K. GREENLEE, CHAIR
COUNCIL PRESIDENT DARRELL L. CLARKE
COUNCILMAN DEREK S. GREEN
COUNCILWOMAN HELEN GYM
COUNCILMAN DAVID OH

BILL 160072 - An ordinance amending Chapter 9-1100 of The Philadelphia Code, entitled "Fair Practices Ordinance: Protections Against Unlawful Discrimination," by adding a section prohibiting employers from obtaining or using credit-related information regarding employees and job applicants in certain circumstances...

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COUNCILMAN GREENLEE: Good morning, everyone. This is the Committee on Law and Government. We have obtained a quorum with Councilman Green, Vice Chair of the Committee; Council President Clarke; and Councilwoman Gym; and myself, Bill Greenlee.

Ms. Marconi, will you please read the title of the bill before us today.

THE CLERK: Bill No. 160072, an ordinance amending Chapter 9-1100 of The Philadelphia Code, entitled "Fair Practices Ordinance: Protections Against Unlawful Discrimination," by adding a section prohibiting employers from obtaining or using credit-related information regarding employees and job applicants in certain circumstances, under certain terms and conditions.

COUNCILMAN GREENLEE: Thank you.

Council President Clarke, this is your bill. Would you like to make a statement?

COUNCIL PRESIDENT CLARKE: Thank you, Mr. Chairman. Thank you very much.

Mr. Chairman, this is a bill that we have looked at for some time. As you know, there are significant challenges for individuals to get employment, and what we need not to do is allow companies, for no reason, to place another burden as it relates to an individual's opportunity for employment.

So working with our consumer specialist, Lance Haver, and a number of advocates for this particular area, Ms. Rue Landau, I want to thank you all for helping us craft this legislation that will remove an additional impediment as it relates to our ability to move forward.

So I thank you so much for your anticipated support, Mr. Chairman.

COUNCILMAN GREENLEE: Thank you, Mr. President.

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Anybody else have a statement?

(No response.)

COUNCILMAN GREENLEE: Seeing none, our first witness?

THE CLERK: Rue Landau.

COUNCILMAN GREENLEE: Thank you.

(Witness approached witness table.)

COUNCILMAN GREENLEE: Good morning.

MS. LANDAU: Good morning, Chairman Greenlee and members of the Committee on Law and Government. I'm Rue Landau, Executive Director of the Philadelphia Commission on Human Relations. As you know, the Commission is a City agency that administers and enforces the Fair Practices Ordinance, the City law protecting people from unlawful discrimination in employment, public accommodations, and housing and real property. Bill No. 160072 will amend the Fair Practices Ordinance to ban

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the discriminatory use of credit reports in hiring and employment decisions.

I would like to recognize Council President Clarke for introducing this bill and for the opportunity to testify in favor of it.

Studies show that almost half of employers use credit reports to make hiring decisions for some or all of their jobs, even when the positions have nothing to do with the finances of the company.

Across the country, people are telling their stories of being qualified for jobs but being denied simply due to poor credit. Whether it was a bankruptcy due to an unexpected medical condition, school debt from a predatory for-profit school or being laid off during the Great Recession, the stories of people struggling to meet life's needs and being barred from employment by this inappropriate job screen are heart-wrenching.

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There is no correlation between credit and a person's ability to perform at work or to succeed in the workplace. In fact, in 2010, a representative of TransUnion, one of the big three credit bureaus, admitted under oath, quote, "We don't have any research to show any statistical correlation between what's in somebody's credit report and their job performance or their likelihood to commit fraud."

And even when a person has good credit, mistakes on credit reports are pervasive. In 2013, a Federal Trade Commission study estimated that as many as one in four Americans have, quote, "at least one potentially material error on at least one of their three credit reports," end quote. And since there are many different credit bureaus, fixing an error is a difficult process that may not be successful.

Moreover, using credit reports for employment purposes may also be

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discriminatory. Research shows that African American and Latino households tend to have more problematic credit histories than white households. Thus, using credit reports for employment purposes likely will have a disparate impact on those communities. Sadly, in Philadelphia, we know too well how many Philadelphians' credit histories have suffered as a result of predatory and discriminatory practices in lending and housing.

Given the lack of correlation between credit history and job performance, the inaccuracies of credit reports, and the potential discriminatory impact, states and municipalities across the country are passing laws to protect people from the abuse of using credit reports in employment decisions. As of December 2015, 11 states and New York City have passed such laws, and legislation is pending in Congress to ban the practice nationwide.

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In Philadelphia, Bill No. 160072 would make it unlawful discrimination under the City's Fair Practices Ordinance for most employers, subject to certain exceptions.

In addition, the bill parallels the requirements of the Fair Credit Reporting Act by requiring employers exempted from the bill who obtain and use credit reports to provide a written notice to the applicant or employee, with a copy of the report, explaining the potential adverse action and gives the affected person an opportunity to respond.

Philadelphia jobseekers and employees already struggle to get or maintain decent, stable employment in this tough job market. We must remove as many hurdles as possible from the employment process so that we can get people back to work and providing for their families.

Thank you for this opportunity

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to testify today. I'm happy to answer any questions that members may have.

COUNCILMAN GREENLEE: Thank you, Ms. Landau.

First, please let the record reflect Councilman Oh, a member of the Committee, is present.

Are there any questions for Ms. Landau?

(No response.)

COUNCILMAN GREENLEE: Seeing none, thank you. See how persuasive you are, Rue.

MS. LANDAU: Thank you very much for the opportunity. Thank you.

COUNCILMAN GREENLEE: Thank you very much.

Ms. Marconi, who else do we have?

THE CLERK: Robert Coco, Tim Styer, and John Calhoun.

COUNCILMAN GREENLEE: Why don't you all come up together, whoever might be here.

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(Witness approached witness table.)

COUNCILMAN GREENLEE: Mr. Styer, you're here first. Why don't you identify yourself.

First, are either Mr. Coco or Mr. Calhoun here?

MR. STYER: Not yet. Mr. Calhoun said --

COUNCILMAN GREENLEE: Well, they're not going to run a long time, but anyway, you go, identify yourself and proceed, please.

MR. STYER: My name is Tim Styer and I'm a job developer for the Philadelphia Unemployment Project. So thank you for asking me to testify on this very -- I consider it a very urgent issue.

For over 40 years -- to give you a little background on the Philadelphia Unemployment Project. For over 40 years, the Philadelphia Unemployment Project has offered a

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supportive environment for unemployed Philadelphians trying to find jobs. Our Computer Lab offers 12 Internet-accessed computer stations, a fax machine, printers, and telephone. Staff and volunteers assist jobseekers with basic computer and Internet skills, as well as job search techniques.

Our Jobs Club is a weekly meeting where those looking for work can exchange ideas, get tips, and job leads and gives them something to do to help counter some of the depression of being out of work.

As a job developer, I work with at least 200 clients a year, helping them create a work search plan and improve their resumes in one-on-one job counseling sessions. Our Computer Lab has over 7,000 instances of use each year, and nearly 900 people attend our Jobs Club.

A third of our jobseekers have criminal backgrounds, trying to reenter the workforce, a very challenging task, as you can see. We have an excellent track record in helping them find jobs. We are also one of a handful of KEYSPOTS in Center City, a coalition of community-based groups committed to bringing Internet access, training, and technology to all Philadelphia communities, where 41 percent of residents are not connected. And, by the way, our job placement rate with some of the hardest-to-employ people is about 27 percent, which is about 10 percent more than what most other job placement agencies attain.

Since the Great Recession, we are seeing mostly those with multiple barriers to employment, particularly those who lost their jobs and began to fall behind paying their bills. Most have long ago exhausted their unemployment benefits. Some are homeless or on the brink of losing their homes or apartments.

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To add insult to injury, many of our jobseekers have reported that they have been turned down for employment because of their bad credit score. Imagine, the very thing they need to get back on their feet and begin to repair their credit they are being turned down for. We've seen people who have criminal backgrounds apply to so-called "second chance" employers and then get turned down because of a consumer credit background check.

This egregious practice makes no sense, especially for jobs where workers are not handling or working around cash or securities. I know a couple of our clients who got turned down by a local employer -- and I won't mention their name -- for jobs making hoagies. Imagine getting turned down for a job making hoagies that doesn't even pay that much in the first place because you have bad credit.

I urge City Council to support

the legislation to require area employers to end this insane practice, and let's work together to get people back to work. First things first, jobs in our city.

Thank you.

COUNCILMAN GREENLEE: Thank you, Mr. Styer. I appreciate it.

Any questions?

(No response.)

COUNCILMAN GREENLEE: Seeing none, thank you.

I understand there's one other person that would like to testify. Ma'am, please.

THE CLERK: Rhonda Parker.

COUNCILMAN GREENLEE: Okay. And while she's coming up, for the record, we have a letter from Amy Traub, Senior Policy Analyst of Demos, Demos -- I don't know if I'm pronouncing that right -- who are generally in favor of the bill and have some issues with some of the exceptions. That will be made part of the record.

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(Witness approached witness table.)

COUNCILMAN GREENLEE: Ma'am, please identify yourself and proceed.

MS. PARKER: Yes. Good morning. My name is Rhonda Parker. I am from the Mount Airy section of Philadelphia. That's District 8. And I'm here today to speak about the concerns of doing searches of your credit scores in trying to find employment.

COUNCILMAN GREENLEE: Speak a little bit more into the microphone, please.

MS. PARKER: Certainly.

I just recently lost my job due to downsizing. On top of all that, I have a health condition, sarcoidosis of the lungs, and as you can understand right now, I just came from the ER, trying to get oxygen. So please bear with me.

COUNCILMAN GREENLEE: Take your time.

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MS. PARKER: I have it also in my skin and my spleen. And trying to find work when I have major medical bills, I've had this disease for two years, and then having to pay your living expenses, sometimes you must have to juggle, prioritize what's more important. Not saying that paying my medical bills are not important, but when you have medications that cost over $100, $150, trying to maintain that and your mortgage, your rent, your utilities, finding work and your resume is excellent, you get the job -- well, you get the interview and then they go through doing a credit background check. I understand doing the background check is definitely necessary, but if it's a job that does not entail, I feel, dealing with finances or companies' money, if it's just maybe a customer service position or executive secretary or something of that sort, just trying to get an income to work to pay bills and

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live, I don't feel that doing the search of my credit score is important. And each time they do this, it brings the score down as well. So if I go on three interviews and I'm a perfect fit for the job and then they proceed to do a credit search, each of those three times it brings it down more and more and more. So, of course, it's not going to look -- now, my credit is fair, but it could be better if I had a job to pay the rest of my medical bills and everything else. So paying medical bills at the first time it's due is hard when you have maybe close to $10,000 in medical bills.

So I just needed to give a heartfelt speech about how important it is for someone like myself and I'm sure like a hundred other people out here in the City that want to work, that can work with few stipulations, but I'm always straightforward with the employer. My last job, like I said, they knew about my condition and they were working with me,

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but the company decided to downsize and phase out my position.

I have been on several interviews since then, and I know my credit score has been pulled down because of the searches.

COUNCILMAN GREENLEE: Let me ask you this: Did they actually tell you that that's why you were rejected or you're suspecting that to be the case?

MS. PARKER: No. I suspect it. The first interview I had, everything was great. The interview was great, and they said they were going to take me to the next phase and it was going to be with the hiring director. I spoke with the hiring director, and he said he will contact me. They were going to do the background checks and everything. Then they came back and said they found somebody that was a much better fit. Now, that is possible, but if you get that two, three, four times --

COUNCILMAN GREENLEE: You start

to wonder.

MS. PARKER: You start to wonder, yes.

COUNCILMAN GREENLEE: I got you. I appreciate that.

MS. PARKER: Thank you so much.

COUNCILMAN GREENLEE: Thank you. Stay here a second.

Councilman Green.

COUNCILMAN GREEN: I just want to say, I want to thank you for coming here to testify and sharing your story. I think your story is echoed by a number of people all around the City of Philadelphia as well as the Commonwealth in this nation, people who are actually being penalized because they have either health challenges in their life or with their loved ones.

When I was a banker, that was before FICO scores, before some of the credit scoring, and when I went through loan school, one of the things we were taught is that when you're doing a loan, you look at the three C's. You look at credit, collateral, but the last C is character. And I think in an interview, just like in any loan application or process, you have to get a perspective on that individual or that business on whether they have the ability to pay that loan, not just based on the financial information but also based on that interview, and the same thing with the job.

And so the fact that I was not a fan of credit scoring from a lending perspective and I've seen how this use of FICO scores have now gone to other type of financial instruments like insurance policies, people are not able to get insurance unless they have a good credit score, and now even going to employment, how a person is dealing with bills, especially if they have a medical issue, has no determination on whether they have a strong character and a strong work ethic, and I think the blending of those

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two is based on analysis that someone made at some point, feeling that one is somehow indicative of how the other is. And I feel it's unfortunate that you and so many people in both the City of Philadelphia, having such a large poverty rate, and also the Commonwealth and this nation have to be doubly penalized by having the credit scores, which is actually getting worse each time you go on an interview because that inquiry comes on your credit report and that continues to reduce your credit score when you're trying to do the best that you can, juggling your bills and making prioritizing decisions based on the resources you have and all the challenges that you have.

So I applaud you for coming here, and I think your testimony speaks volumes on why this legislation needs to be introduced and passed.

MS. PARKER: Yes. Thank you.

COUNCILMAN GREENLEE: Thank

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you, Councilman. Well said. Thank you.

No other questions. Thank you, ma'am. Thank you for coming down.

MS. PARKER: Thank you so much.

COUNCILMAN GREENLEE: And good luck to you.

MS. PARKER: Thank you.

COUNCILMAN GREENLEE: Thank you.

Anyone else here to testify on this bill?

(No response.)

COUNCILMAN GREENLEE: Seeing none, that will conclude the hearing of the Committee on Law and Government and momentarily we will go into the public meeting.

(Brief pause.)

COUNCILMAN GREENLEE: Thank you. This is now the meeting of the Committee on Law and Government, and the Chair recognizes Councilman Green.

COUNCILMAN GREEN: Thank you, Mr. Chair. I move that Bill No. 160072

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be voted out of this Committee with a favorable recommendation and that the rules of Council be suspended so this bill can be heard at our first reading of Council.

(Duly seconded.)

COUNCILMAN GREENLEE: It's been moved and seconded.

All in favor of the motion please say aye.

(Aye.)

COUNCILMAN GREENLEE: Opposed?

(No response.)

COUNCILMAN GREENLEE: Hearing none, Bill No. 160072 is reported out of this Committee favorably with a rules suspension for first reading at our next session of Council.

That concludes the business of the Law and Government Committee today.

Thank you all for your participation.

(Committee on Law and Government concluded at 10:40 a.m.)

CERTIFICATE

I HEREBY CERTIFY that the proceedings, evidence and objections are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter, and that this is a true and correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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