

# EQUAL CREDIT OPPORTUNITY



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## INTRODUCTION

Credit is used by millions of consumers for a variety of purposes. Every loan is a form of credit. Every use of a credit card is a credit transaction.

The Equal Credit Opportunity Act<sup>1</sup> prohibits creditors from discriminating against applicants based on sex, marital status, race, national origin, religion, age, or because they get public assistance income. This doesn't mean all consumers who apply for credit will get it. Creditors can still use factors like income, debts, and credit history to judge applicants.

The law applies to any creditor who regularly extends credit, including: banks, small loan and finance companies, department stores, credit card companies, and credit unions. The law covers anyone participating in the decision to grant credit, such as real estate brokers who arrange financing.

Consumers have equal rights in every phase of the credit application process.

### WHEN YOU APPLY FOR CREDIT A CREDITOR MAY NOT:

- Discourage your application based on sex, marital status, age, national origin, or because you receive public assistance income.

- Consider your sex, race, national origin, or religion, although you may be asked to disclose this information voluntarily.
- Ask if you are divorced or widowed.
- Ask about your marital status if you are applying for a separate, unsecured account, unless you live in a “community property” state. (These states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Alaska is an opt-in community property state.)
- Ask for information about your spouse. A creditor may ask about your spouse (or former spouse) if: your spouse is applying with you; your spouse will use the account; you rely on a spouse's income or on alimony or child support from a former spouse, or if you reside in a community property state.
- Ask about your plans for having or raising children.
- Ask if you receive alimony or child support. A creditor may ask for this information if you are first told that you don't have to reveal it if you won't rely on it to get credit. A creditor may ask if you have to pay alimony or child support.

### WHEN DECIDING TO GIVE YOU CREDIT, A CREDITOR MAY NOT:

- Consider your sex, marital status, race, national origin, religion, or whether you receive public assistance.
- Consider whether you have a telephone account in your name. A creditor may

<sup>1</sup> 15 USC § 1691 et seq. (2010)

consider whether there is a phone in your home.

- Consider the racial composition of the neighborhood where you want to buy or improve a house on credit.
- Consider your age, with certain exceptions (minority, retirement, etc.).

### **WHEN EVALUATING YOUR INCOME, A CREDITOR MAY NOT:**

- Refuse to consider reliable public assistance income the same way as other income.
- Discount income because of your sex or marital status. A creditor may not assume a woman of childbearing age will stop work to raise children.
- Discount income from part-time employment, pension, annuity, or retirement benefits programs.
- Discount reliable alimony or child support payments. A creditor may ask for proof the income is reliable.

### **YOU ALSO HAVE THE RIGHT:**

- To have credit in your birth name, your married name, or your first name and a combined last name.
- To get credit without a co-signor, if you meet the creditor's standards.
- To have a co-signor other than your spouse, if one is necessary.
- To keep your own accounts after you change your name, marital status, reach a certain age, or retire, unless the creditor has evidence you are unable or unwilling to pay.
- To know whether your application was accepted or rejected within 30 days of filing it.
- To know why your application was rejected. The creditor must either

immediately give you the specific reasons for your rejection or tell you of your right to learn the reason if you ask within 60 days.

- To learn the specific reasons you were offered less favorable terms than you applied for, unless you accept the less favorable terms.

### **IF YOU SUSPECT DISCRIMINATION:**

- Complain to the creditor. Tell them you are aware of the law. The creditor may reverse the decision.
- Call the state Attorney General's office. The creditor may have violated state laws and the state may sue the creditor.
- Sue the creditor in Federal district court. If you win, you can recover your damages and be awarded a penalty. You can also recover reasonable attorney fees.
- Join with others in a class action suit. The class may recover punitive damages up to \$500,000 or 1% of the creditor's net worth, whichever is less.
- Report violations to the appropriate government agency. If you are denied credit, the creditor must give you the name and address of the agency.

**\*This handout is general in nature. It is not a substitute for legal advice from an attorney regarding individual situations. (August 2021)**

**For additional information on this and other legal topics, see the Air Force Legal Assistance Website:**

<https://aflegalassistance.law.af.mil>