

Name

When applying for credit, an applicant is permitted to use a birth-given first name and last name, a spouse's last name or any combination of the applicant's and the spouse's last names.

Existing Accounts

A creditor may not require reapplication, change the credit terms or terminate an open-end account on the basis that the applicant has reached a certain age, retired or had a change in last name or marital status. An exception exists when there is a marital status change and the existing credit was based on the income of the applicant's spouse. If the applicant's single income would not support the credit, then a reapplication may be required.

Civil Liability

If any creditor fails to comply with any requirement under the law and regulations, an applicant who has been discriminated against can bring a lawsuit for actual and punitive damages. In addition to damages, a victim of credit discrimination can also recover reasonable attorneys' fees and court costs. If an applicant suspects discrimination from a creditor, the applicant should contact an attorney for advice on how to proceed.

**EQUAL CREDIT
OPPORTUNITY**

*Equal Credit
Opportunity Act*



For further information, call or write to:

Louisiana State Bar Association

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This brochure, prepared by the Public Information Committee of the Louisiana State Bar Association, is issued to inform and provide general information, not to advise. If you have a specific legal problem, you should not try to apply or interpret the law without the aid of an attorney who knows the facts because the facts may change the application of the law.

Equal Credit Opportunity

Under the Equal Credit Opportunity Act, a person is ensured the availability of credit on a fair, impartial and nondiscriminatory basis without regard to race, color, religion, national origin, gender, marital status or age, without regard that all or part of an applicant's income is derived from a public assistance program, and without regard that an applicant has exercised any right under any consumer protection act.

The eradication of credit discrimination will enhance economic stability and competition among the various firms extending credit and will assist in the informed use of credit by making credit equally available to all creditworthy applicants whether for personal or business purposes.

The Equal Credit Opportunity Act was passed to abolish credit discrimination waged against women, particularly married women, whom creditors traditionally refused to consider for individual credit. Under this law, a creditor may no longer require that a husband's signature be on his wife's application for credit if she qualifies individually.

Adverse action is a denial or revocation of credit, a change in the terms of the existing credit line or arrangement, or a refusal to grant credit in the amount of or on the terms requested.

An *applicant* is any person who applies to a creditor directly for an extension, renewal or continuation of credit.

The *credit transaction* is every aspect of an applicant's dealing with the creditor for a grant/extension of credit, including but not limited to:

- ▶ information requirements;
- ▶ investigation procedures;
- ▶ standard of creditworthiness;
- ▶ terms of credit;
- ▶ furnishing credit information;
- ▶ revocation, alteration or termination of credit; and
- ▶ collection procedures.

Notice of Credit Denial

Within 30 days after the creditor receives a completed credit application, a creditor must notify the applicant as to what action will be taken on the application. If the creditor takes any adverse action on the application, the

creditor must give a notice of this adverse action to the applicant. In this written notice of adverse action, the creditor must state the applicant's right to a statement of reasons after the creditor receives a written request for reasons. Also, the creditor must inform the applicant of the identity of the person or office that will give the statement of reasons. This statement of reasons can initially be given orally, if followed up with a written statement which also gives the name and address of the federal enforcement agency.

Discrimination

A creditor may not discourage an applicant from applying or deny an application for credit based on race, color, religion, national origin, gender, marital status or age, or because an applicant receives public assistance.

Spouse

A creditor may not request any information about a spouse or former spouse except in those cases where:

- ▶ a spouse will be permitted to use the account;
- ▶ a spouse is applying with the applicant;
- ▶ the applicant will be relying on the spouse's income as a basis for repaying; or
- ▶ the applicant relies on alimony, child support or special maintenance payments from a spouse/former spouse for repayment.
- ▶ the applicant lives in a community property state (*i.e.*, Louisiana).

Information a Creditor May Not Request

Although a creditor, for an individual unsecured account, is typically not allowed to request an applicant's marital status, this rule does not apply to Louisiana applicants because Louisiana is a "community property" state. For all other applications, creditors may only use the terms: married, unmarried and separated.

A creditor shall not inquire whether an applicant

receives alimony, child support or separate maintenance payments, unless the applicant is first told that this information does not have to be provided if the applicant is not relying on these payments to get credit. A creditor can ask whether an applicant pays alimony, child support or separate maintenance.

A creditor shall not request an applicant's gender but may request a title such as Ms., Miss, Mr. or Mrs. if the application form states that such a disclosure is optional.

A creditor shall not request information about an applicant's plans for having or raising children. However, a creditor may inquire about the current expenses related to an applicant's children or dependents, provided that such information is requested without regard to gender, marital status or other prohibitive bases.

A creditor shall not request facts on race, color, religion or national origin, but may inquire about an applicant's permanent address or immigration status.

Community Property

If an applicant lives in a community property state, such as Louisiana, or the property is in Louisiana, the creditor can request the applicant's marital status. Even if the applicant's creditworthiness is satisfactory for the credit requested, the creditor can still require an applicant's spouse to sign a credit application, but cannot require that the spouse sign the note or other evidence of indebtedness.

Evaluation

A creditor cannot discount or refuse to consider any portion of an applicant's income based on race, color, religion, national origin, gender, marital status or age. For example, a creditor cannot refuse to consider income from Social Security, part-time employment or public assistance.