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# Women and the Law: Equal Credit Opportunity Act

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solve the problems of the abused woman. Since separation or divorce is almost always the only feasible solution to abuse, fear and economic dependence are the two largest obstacles to be overcome. Emotional support groups and job counseling are necessary to help convince those who feel powerless and those who have never worked outside the home that they have separate identities and can survive as individuals.

The panel agreed that any workable solution to wife abuse must involve the following:

- 1) emotional support groups using the feminist model
- 2) shelters
- 3) job counseling
- 4) self-defense training
- 5) sensitivity training of police
- 6) legal counseling
- 7) legislation.

Anyone seeking further information on the subject was referred to *Women in Transition: A Feminist Handbook on Separation and Divorce*, published by Scriber's, and *Wife Beating*, published by the New England Free Press.

## Equal Credit Opportunity Act

by Shelly E. Mintz

The Credit Workshops of the Seventh National Women and the Law Conference dealt with the key barriers women face in establishing credit and the legislation designed to alleviate many of the problems. Panelists Linda Cohen, National Credit Task Force Co-ordinator for NOW, and Rosalind Lazarus, Attorney with the Office of Consumer Affairs at the Federal Reserve Board and a member of the Equal Credit Opportunity Task Force, analyzed the provisions of the Equal Credit Opportunity Act and its effect on credit discrimination. In a workshop on Credit Counseling Ms.

Cohen detailed the steps to be followed in establishing good credit, and investigating a refusal of credit.

The first fact a woman must face in seeking credit is that not every refusal constitutes discrimination. Credit is a privilege, not a right. Creditors have a right to determine who demonstrates an ability and willingness to repay, i.e., to ascertain who is "creditworthy." Creditors are in business; they make a profit by charging interest on the money they lend. By extending credit to a person they assume a risk which they minimize by lending only to creditworthy individuals. A creditor may fix standards so long as they are not discriminatory.

The Equal Credit Opportunity Act was designed to replace the piecemeal formulas developed by local jurisdictions to deal with discrimination. The bulk of the Act's provisions went into effect on January 31, 1976. It has now been amended and the amendments take effect on June 30, 1976. The Act outlaws discrimination grounded upon sex or marital status in any aspect of a credit transaction including advertising, the setting of standards for granting credit, and collection procedures. Credit is defined as the right granted by a creditor to an applicant to defer payment of a debt. Debts may result from the loan of money or from the purchase of services, goods, or property. The Act is not limited simply to the policies of banks, small and large retailers, finance companies and credit card issuers, but also encompasses insurance companies, government agencies and public utilities. In addition, persons who arrange for someone else to provide credit, such as auto dealers who work with banks or finance companies, are covered if they participate in the decision to grant or deny credit.

Under the Equal Credit Opportunity Act creditors are prohibited from requesting information on an applicant's birth control practices or child bearing intentions. They may not assume or use statistics to prove that a young or newly married woman is likely to have children and leave the work force to care for them. A creditor may ask, however, the actual cost of current child care expenses.

Creditors may not require re-application, or a change in the terms of the account solely because of a change in name or marital status. The exception to this rule is that if the credit was based on income earned solely by a former husband, a woman can be asked to re-apply when her marital status changes from married to divorced or widowed.

There was a time when creditors staunchly refused to include alimony, or child support and maintenance payments as income. Creditors are no longer permitted to automatically discount this or money earned from part-time employment. The creditor may only consider the continuity of an applicant's ability to repay if done in a non-discriminatory fashion, thus part-time employment may not be discounted in the case of females and not in the case of males.

Creditors must warn an applicant, as of June 30, 1976, that she need not disclose income from alimony or child support unless she wants to include such income in order to qualify for credit. Where an applicant elects to rely on such income to obtain credit, creditors may inquire as to the existence of any court orders, how long and how steadily she has received funds, and details concerning the ex-husband's credit rating.

Beginning June 30, 1976, creditors will only be allowed to require information on the husband's credit rating if he will also be contractually liable for the account, if he will use the account, or if the applicant is depending upon his income to demonstrate her ability to repay. In demonstrating her personal creditworthiness, a woman can use the credit history of accounts carried in the name of her husband or ex-husband if she can prove that she played a responsible role in maintaining those with a favorable history. Conversely, if a joint credit history is adverse she is entitled to show that it does not reflect her personal unwillingness to repay.

As of June 30, 1976, application forms must employ sex-neutral terms. Creditors may not make any statements which would discourage a woman from applying or following through on her application. The forms must clearly and

conspicuously state that filling in a title, such as Mrs., Miss or Ms., is optional. When applying for credit a woman may use her birth-given surname on her birth-given surname hyphenated with her husband's name. Although not expressly permitted by the Act, a woman probably can still get credit using her husband's surname. If she chooses to use her husband's surname, however, she should be warned that the ensuing credit record will apply to him and she will not be establishing a credit history of her own. Application forms must also mention the existence of the Equal Credit Opportunity Act and provide the name and address of the agency in charge of enforcing the Act for each type of credit.

After June 30, 1976 a woman may not be asked her marital status when applying for a separate unsecured account. Where an asset is pledged on a secured loan, however, the creditor may require the signature of any person who jointly holds title to that asset on the instrument giving the creditor rights to the collateral. A creditor may not, however, require a woman to supply a co-signer unless a man would also be required to have a co-signer; nor may a creditor require a co-signer of an unmarried person where one would not be required for a married person.

While the Equal Credit Opportunity Act serves as a protective device, it is only effective if women learn how to apply it properly. Women still need to be educated as to the importance of obtaining credit in their own names and the means by which they can obtain credit and build a good credit history.

The time to get credit is when it is least needed. A good credit rating acts as a safeguard in times of emergency, such as sudden illness or death of a family member. This is also the worst time to try to get credit.

Having credit in a spouse's name offers virtually no protection, even if the card bears the wife's name, she is the only one to use it, and she pays the bills. If the husband dies or the couple is divorced the account will be closed by the store. The wife will not be considered creditworthy. The same situation exists

where credit is extended on the basis of the husband's credit record toward the purchase of a car or home despite the fact that the wife might be making all the monthly or mortgage payments. She may use the fact that she has been paying the bills to start new accounts but the old accounts will still be terminated.

To begin building a healthy credit record a woman should start at a local department store. It is essential to apply for credit one place at a time. Multiple applications tend to lead creditors to believe a woman is about to embark on a shopping spree. She should complete the application forms carefully excluding any information on her husband or ex-husband, other than a joint checking account number. When credit is extended it is best to begin by making small purchases and paying fully and promptly. In counselling women on their credit rights it may be necessary to remind someone new to the area that the card must be used to establish a credit history. After four to six months the person should apply to one other local department store and again follow a careful routine of purchase and payment. After another four to six months a woman with an income of \$8,000 or more should apply to one of the major national credit cards.

If credit is refused the Equal Credit Opportunity Act provides that a person is entitled, upon request, to a written statement of the reasons for rejection. If the applicant suspects discrimination was involved in her rejection she will need a written statement of reasons as evidence in a suit. In addition, the sooner a written statement is obtained, the sooner the creditor will be pinned down to a specific set of reasons for rejection and will then be unable to add further reasons later.

If rejection was caused by something unfavorable in a woman's credit record, she is entitled, under the Fair Credit Reporting Act, to be told what information is in her file free if she asks within thirty days of rejection. There is no right to a written report or to physically handle the file. In Maryland the largest consumer credit bureau is Credit Bureau Inc., which can be reached at 891-3100. If any information in the file is proven in-

correct it must be removed and creditors notified of its erroneous nature. If the applicant and credit bureau disagree over a piece of information the applicant has a right to have her side of the story placed in the file. This explanation must then be sent out with all future reports.

If, after learning the reasons for rejection, an applicant feels the refusal was unjustified she should discuss the matter with the credit manager of the store or bank officer. If the credit manager or officer will not change his or her mind, Consumer HELP at 785-1001 will provide a counselor to help work out the problem.

Persons interested in further information on credit can contact the National Organization for Women at 387-6895.

## Lesbian Mother Custody Fights

by Kathleen M. Howard

While attending the Seventh National Conference on Women and the Law I had occasion to hear Nan Hunter and Nancy Polikoff, both attorneys practicing domestic law in Washington, D.C., speak on the problems and issues involved in lesbian mother custody litigation.

The seminar which the speakers conducted outlined a battle plan for every attorney who is ever confronted with a lesbian mother custody case. The panelists felt that the single factor which is most important in determining the success or failure of this type of litigation is the attorney; that is, an attorney who has some prejudice, no matter how latent, towards lesbian mothers, should not handle a custody case of this type.

Before detailing the fine points of litigation strategy, the panelists pointed out