EVALUATION OF THE PROPOSAL TO AMEND THE BANKRUPTCY CODE TO PROHIBIT PRIVATE EMPLOYERS FROM REFUSING TO HIRE APPLICANTS ON THE BASIS OF BANKRUPTCY FILING

by

David D. Schein*

INTRODUCTION

A unique statutory situation exists with regard to Section 525 of the US Bankruptcy Code. Subsection (a) applies to governmental units. It prohibits discrimination in licensing and employment, including hiring, if that applicant for licensure or employment, or licensed or employed person, has filed for bankruptcy. Subsection (b) applies to the private employment sector. It does not extend such protection to applicants, but it does protect currently employed persons. Under both subsections, factors other than bankruptcy may be considered in the employment context. Over 20 years of case law have sustained the interpretation that subsection (b) does not protect applicants for employment in the private sector. A recent article in the *Boston College Law Review*[1] proposed that subsection 525(b) of the Bankruptcy Code be amended to extend protection to applicants for employment in the private sector who have filed for bankruptcy. This paper examines the judicial history of subsection (b) and then examines the practical and ethical considerations for such a change to subsection (b).

SUMMARY OF CASES INTERPRETING §525(b)

In *Perez v. Campbell*, the U. S. Supreme Court held in 1971 that a state may not refuse to renew the driver's license of an individual whose tort claim against them resulting from a car accident was discharged in bankruptcy.[2] *Perez* was the basis of the anti-discrimination protections in §525 of the Bankruptcy Code enacted in 1978, which protected against bankruptcy discrimination by government entities. The purpose of the codification of *Perez* and the creation of §525 of the Bankruptcy code was to preserve the congressional policy of "a fresh start for debtors".[3] Subsequent court decisions refused to apply §525 to the private sector. In 1984, §525 was amended to add protection for private sector employees who had filed for bankruptcy.[4]

In *Rea v. Federated Investors,* the plaintiff, a prospective employee, claimed that Federal Investors, a private employer, violated §525 of Bankruptcy Code when they refused to hire him because he had filed for bankruptcy.[5] The plaintiff argued that the phrase "discriminate with respect to employment," which is in both subsection (a) and (b), should be read to include denial of employment.[6] The 3rd Circuit Court of Appeals held §525(b) of the Bankruptcy Code "does not create a cause of action against private employers who engage in discriminatory hiring."[7] The Court reasoned that when the language of a statute is plain, the Court should construe its language according to its terms.[8] Since Congress used §525(a) as the basis for §525(b), any exclusion by Congress in drafting subsection (b) was intentional. [9] The Court in *Rea v. Federated Investors* followed the U. S. Supreme Court's decision in *Russello v. United States,*[10] stating: "[where] Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion."[11] Because Congress did not include the language "deny employment to" in section (b) as it did in (a) with respect to governmental units, the Court interpreted this to mean that Congress did not intend to extend this protection to prospective employees of a private employer.[12] Further the Court will not "presume to ascribe this difference to a simple mistake in draftsmanship."[13] In addition, the courts in *Pastore*[14]*, and Fiorani*[15] applied the same statutory interpretation as the court in *Rea,* reasoning that Congress intentionally excluded protection for prospective private sector employees when they amended §525 to create subsection (b).

The 5th Circuit addressed the issue of whether §525(b) provides protection to applicants against discrimination on the sole basis that the applicant had filed for bankruptcy in *Burnett v. Stewart Title, Inc*. In this case, the plaintiff interviewed with a private employer, Stewart Title, who made her an employment offer contingent on the results of a background check. The background check showed that Plaintiff had previously filed for bankruptcy, and Stewart Title rescinded its conditional offer.[16] The 5th Circuit follows the rationale in *Russello*, stating: "[w]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposefully in the disparate inclusion or exclusion."[17] This Court reasoned that interpreting the phrase "discriminate in respect to employment" in §525(b) to apply to applicants in the private sector would make the phrase "deny employment to" in §525(a) unnecessary.[18] The Court also reasoned that Congress had knowledge of the then existing legislation, and if they intended for §525(b) to include denial of employment, the legislators would have included it. [19]

The 11th Circuit joined the 5th and the 3rd Circuits in *Myers v. TooJay's Mgmt. Corp*. In *Myers* the plaintiff, a debtor under bankruptcy, applied for a management position with defendant, a private employer, and after a background check was conducted, plaintiff was denied employment. The Court held that the statement, "discriminate with respect to employment

*Assistant Professor, Virginia State University, Virginia State University, VA

against" found in §525(b), "does not apply to refusals to hire," following the 3rd and 5th Circuits.[20] The 11th Circuit took a plain meaning approach in interpreting the statute stating: "[j]udges and courts tempted to bend statutory text to better serve Congressional purposes would do well to remember that Congress enacts compromises as much as purposes."[21] Two different Bankruptcy courts, *Stinson*[22] and *Martin*[23], followed the same rationale outlined by the courts in *Burnett* and *Myer*, reasoning that the statement "[no private employer may] discriminate with respect to employment against" does not apply to hiring.

Conversely, the only court to rule that §525(b) of the Bankruptcy Code extends protection to prospective employees of a private employer is the Southern District of New York in 2000, *Leary v. Warnaco, Inc*. In *Leary*, a private employer refused to hire plaintiff because his credit report showed he had filed for bankruptcy.[24] Plaintiff argued that refusal to hire him on the basis of his bankruptcy status violated §525(b) of the Bankruptcy Code.[25] The Court held that denial of employment by a private employer solely because the debtor has filed for bankruptcy was a violation of §525(b) of the Bankruptcy Code.[26] This holding is contrary to all of the final rulings in cases from other jurisdictions. In *Leary,* the Court recognized that §525(b) does not contain express language providing protection to applicants, as found in §525(a), but held that a strict interpretation of the statute does not comport with the legislative purpose of §525, which is to provide debtors with a fresh start.[27] The Court reasoned: "[t]he evil being legislated against is no different when an employer fires a debtor simply for seeking refuge in bankruptcy, as contrasted with refusing to hire a person who does so."[28] The *Leary* court held: "[a] Court should not go out of its way to place such an absurd gloss on a remedial statute, simply because the scrivener was more verbose in writing § 525(a)."[29] Ironically, this same Court refused to allow the plaintiff to plead for punitive damages, stating: "There is no authority for an award of punitive damages or attorneys' fees under §525(b)."[30] So, this Court inexplicably held that one part of the statute could be liberally interpreted, but another part must be strictly interpreted. It is no wonder that this case has not been followed by any other court.

THE CASE FOR CHANGE

As noted above, virtually all courts that have considered §525(b) have ruled that it does not provide protection to prospective employees of private employers, based on a logical interpretation of the statute by comparing subsection (a) with subsection (b). Various authors have recently proposed that this creates an essential unfairness that should be rectified by amending (b) to match (a) with regard to prospective employees.

One of the more dramatic cases for amending subsection (b) of the statute is made by Lea Shepard of Loyola University Chicago School of Law in her 2012 article in the *Boston College Law Review*[31]. Her rationale for amendment of subsection (b) to protect applicants is summarized next. Due to the prolonged financial crisis, many persons have damaged credit histories. Credit histories are used by lenders, insurance companies, landlords and employers for various evaluative purposes. In fact, employers have increasingly relied on credit histories to evaluate applicants. Employers use credit histories for two main reasons: 1) to appraise the prospective employee's likelihood to steal; and 2) to gauge their level of responsibility. Shepard sets off the debate by noting that employers want to continue to use credit reports for these two purposes in contrast to opposition by bankruptcy practitioners, who argue that 525(b) should be amended to at least prohibit consideration of bankruptcy when evaluating applicants.[32]

Regarding the value of credit reports, Shepard begins by citing a Society for Human Resource Management ("SHRM") report from 2010. She claims that from 1996 when they were used by only 13% of employers, credit checks have grown to be used by 60% of employers in 2010. This statistic has a great deal less impact when evaluated against the author's own admission just a few paragraphs later that most employers limit the type of positions for which credit reports are requested. Further, the types of credit problems are analyzed by employers and not simply treated the same whether they relate to bankruptcy or other financial problems.[33] Shepard does correctly state that credit scores are not used by employers because the credit agencies do not provide credit scores for employment purposes.[34] The significance of this is that employers are required to actually review the applicants' credit histories when requested for some applicants, and cannot simply rely on a number provided by a third-party agency. If a good credit history is relevant to the position for which the applicant is being considered, the employer aware of a bankruptcy due to the review of their credit report can ask the applicant to explain the circumstances that lead to the filing.

Shepard moves on to advance her attack on the two rationales that she presents for the use of credit reports by employers. First, in examining the propensity to steal, she makes broad assertions, but lacks any direct evidence. Her primary source is a study that used credit scores, not credit history. Credit scores, as noted above, are not made available to employers.[35] She proceeds to note that a number of states have enacted laws restricting the use of credit reports by employers.[36] She concludes that the use of credit reports is unsupported by validation and may lead to racial discrimination.

Her analysis of the second employer rationale, credit history as a proxy for responsibility, has similar challenges in that the same study she cites for support of her position under propensity to steal, she references, but then dismisses, since it relies on credit scores and not credit histories. She again relies on the statistic that 60% of employers use credit reports, conveniently ignoring the data that show that employers only use them for specific positions. She does rely on reports of key witnesses presented at hearings held by the Equal Employment Opportunity Commission ("EEOC") in October 2010, on this topic.[37] It is noteworthy that while some witnesses were critical of the use of credit reports and indicated that they may lead

to discrimination, there were balancing witnesses defending the use of credit reports in the same hearings. This is discussed below. Shepard does admit that employers also use credit reports to confirm other information provided by the applicant and to avoid negligent hiring claims.[38]

Perhaps the most novel argument made by Shepard with regard to the use of credit reports is that persons with poor credit histories actually have no control over their financial situation, and this should be regarded as "analogous to traditional immutable characteristics."[39] So, the argument goes that poor management of credit might be an immutable characteristic like gender, race, nationality and age, and therefore ought not to be considered when evaluating applicants for employment. Shepard then argues that, based on her analysis, §525(b) should be amended to add protection for applicants.

Somewhat parallel to Shepard's arguments is an article in the Winter 2012 issue of the *Northwestern Journal of Law and Policy* that also advances the proposition that §525(b) should protect applicants, either by interpretation or amendment. The law student author of that article takes a somewhat different approach by explaining that, due to the increase in older Americans filing for bankruptcy, the lack of a bar to consideration of bankruptcy by private sector employers amounts to *de facto* age discrimination.[40] Both authors rely on an increase in bankruptcy filings and high unemployment rates to establish urgency for their proposals.

In the current session of Congress, the Bankruptcy Nondiscrimination Enhancement Act of 2013 has been proposed by a Democratic Congressman. This bill would simply amend §525(b) to add the language from subsection (a) protecting applicants.[41] There are no co-sponsors and the bill, also known as H.R. 646, is presently before the Judiciary Committee, where it is expected to die quietly in the GOP-controlled Congress.

THE CASE AGAINST CHANGING §525(b)

This section of the paper will examine the arguments for keeping §525(b) as it is without the language regarding protection of applicants to private sector employers found in §525(a).

Knowledge of an Applicant's Financial History is Not Abused by Employers:

The testimony by a representative of SHRM before the October 2010 EEOC hearings regarding credit checks in employment was based on surveys of human resource professionals in 2010 and compared the results with a parallel study in 2004. Some of its findings presented to the EEOC include: the use of credit background checks has not changed over the six year period, most organizations do not conduct credit background checks on all applicants, credit background checks are conducted on the positions where they are most relevant, credit background checks are not as critical as other job related factors in evaluating applicants, and these checks are not used to screen out large numbers of applicants.[42] It is useful to note that while bankruptcy will certainly be a negative entry on a credit report, only a small percentage of Americans file for bankruptcy each year.

Testimony by a representative of the U. S. Chamber of Commerce at the same hearings before the EEOC contained a few surprises. With regard to credit histories, a number of large employers do not presently use them to screen applicants, although they reserve the right to do so. Of the employers that do use credit histories, none use them for all applicants and most use them for only a small percentage of positions unless required to do so due to legal requirements. Primary use of credit history information was to screen for positions with access to employer or client funds or access to sensitive information. This testimony confirmed that credit scores were not used at all by employers. A specific instance of theft by an employee was cited as a reason to conduct credit checks of employees who would have access to cash. The testimony also indicated that credit histories serve as a reason to do further investigation, not to block applicants simply based on an adverse credit history. This affords the applicant an opportunity to explain the circumstances involved.[43]

In an ironic twist, the U.S. Chamber representative speaking to the EEOC mentioned that the U.S. Government requires credit history reports for many of its positions. Specifically mentioned was the Department of Homeland Security, noting: "DHS does include financial irresponsibility as a conduct issue that could render an individual unsuitable."[44]

Urgency is Fading:

While the U.S. Economy is certainly not steaming along, it is not as bad as portrayed by some of the advocates for changing §525(b). With regard to bankruptcy filings, following the 2005 peak just prior to the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), the post BAPCPA peak was 2011. Filings dropped in 2012, and as of March 2013, fillings were 14% below the year earlier period. [45] As to the claim by Shepard and others that consideration of bankruptcy might unfairly prejudice racial minorities, the data showed the opposite. Comparing the racial percentages filing bankruptcy in 2010[46] against the racial makeup of the American population in the 2010 US Census[47] the results show the following population percentages against bankruptcy filings: White – 63.4% of population vs. 71.63% of filings; Black – 13.1% of the population vs. 11.30% of the filings; Hispanic – 16.7% of the population vs. 8.68% of the filings; and Asian – 5.0% of the population vs. 4.50% of the filings.

While unemployment rates in excess of 9% were referenced by various advocates, the official unemployment rate was 7.5% as of April 2013.[48] So, there has been a significant drop in the unemployment rate. If a 9% unemployment rate was a reason to amend §525(b), that is not the case today.

Other Protective Statutes:

Authors advocating changes to §525(b) often overlook the protection already available at both the Federal and state levels. One allegation that has been made against the use of credit reports, and by implication the reference to bankruptcy that might be found in such reports, is that there are errors in consumer credit reports. [49] The Fair Credit Reporting Act ("FCRA")[50] and the Act's amendments included in the Fair and Accurate Credit Transactions Act of 2003 ("FACT")[51] provide significant protection for applicants who find they are subject to adverse employment action due to errors in their credit report. This affords them the opportunity to fix any errors.[52]

The Civil Rights Act of 1964, as amended,[53] the Age Discrimination in Employment Act, as amended,[54] The Civil Rights Act of 1866, as amended,[55] the Americans with Disabilities Act,[56] among many other Federal and state statutes prohibiting discrimination, provide substantial protection for applicants who feel that they have been exposed to either disparate treatment or disparate impact due to employers' use of bankruptcy filings contained in credit reports used in evaluating applicants. In fact, the EEOC has announced increased review of employer use of credit reports due to their perceived disparate impact on minorities. In 2010, the EEOC sued Kaplan Higher Education for use of credit checks in evaluating applicants.[57] The case was resolved in a heavily reported outcome when the District Court for the Northern District of Ohio granted summary judgment to the employer on January 28, 2013. The Court found that the EEOC failed to show that the use of credit reports resulted in statistically significant disparate impact for Black applicants.[58]

Turning to various state laws, as of this writing, nine states have passed laws restricting the use of credit reports in evaluating applicants. In order of enactment date, the first seven states are Washington, Hawaii, Illinois, Oregon, California, Connecticut, and Maryland.[59] Now Vermont, 2012,[60] and Colorado, 2013,[61] have joined this list. It is beyond the scope of this article to discuss the specific features of each state law, but each restricts the use of credit reports by employers to a greater or lesser extent. Obviously, reports of filing for bankruptcy are included in credit reports.

Various states and localities may have regulations and ordinances that provide employment discrimination protection which may take a restrictive view of employer use of the information contained in credit reports. Note also that employers of certain types of workers are required to conduct thorough background checks, including in some cases credit checks, for teachers, home healthcare workers, daycare workers and for certification and licensing. Consideration of prior bankruptcy filings may be relevant to those positions.

Paying Bills and Good Employees:

There are many arguments for sympathy for persons who have filed for bankruptcy and this is certainly not to be ignored as we enter the waning days of the "Great Recession." At the same time, there is a big difference between someone who does not pay their bills chronically, and those who due to job loss or a major illness are forced into bankruptcy. In analyzing the positive attributes of paying one's bills, a 2012 article by law professor Richard Flint analyzes the BAPCPA, discussed briefly above, with reference to means testing and the ability to pay. He suggests that even in bankruptcy, it is the moral thing to pay what can be paid by the party seeking the assistance of the bankruptcy courts.[62] Likewise, employers expect that potential employees will generally pay their bills, absent some compelling reason, as this may be an indication of ethical behavior that will be practiced at work.

CONCLUSION

The push reflected by the academic journal articles cited above to amend §525(b) to protect applicants in the private sector who have filed for bankruptcy has been driven by the economic downturn. Before joining the "bandwagon" to abandon this useful tool, it is worthwhile to examine the way it is used by employers. Evidence from sources such as SHRM, cited above, indicates that as employers do not receive credit scores, but actually receive credit reports, therefore the problems like bankruptcy on the report are subject to review. Most employers do not use the reports as an absolute decision point, and further give the applicant an opportunity to explain problems.

News reports have noted that there are many incorrect credit reports. However, Federal laws provide significant protection for applicants who are refused employment due to incorrect information in their credit reports. Certainly, if an applicant's credit report contains reference to a bankruptcy that was not filed by the applicant, it would be expected that this could be fixed expeditiously. It is also rarely discussed that a strong ethical orientation includes prompt payment of just debts and avoiding actions like bankruptcy.

Further, the nascent economic recovery needs employment opportunities to sustain their growth. Actions that tend to restrict employers, while intended to extend employment opportunities for many, including the poor and disadvantaged, may

instead lead to decreased domestic employment activity and increased off-shoring of positions. Therefore, there is no compelling reason to amend §525(b), but good reason to keep it as it is now.

Footnotes

[1] Lea Shepard, *Toward a Stronger Financial History Antidiscrimination Norm*, 53 B.C.L. 1695, (2012).
[2] *Perez v. Campbell*, 402 U.S. 637 (1971).
[3] Cornell University Law School, *§ 525. Protection against discriminatory treatment: senate report no. 95-989,* 2012. Available at http://www.law.cornell.edu/uscode/pdf/uscode11/lii_usc_TI_11_CH_5_SC_II_SE_525.pdf [Last visited 19 May 2013]. See also *Wilson v. Harris Trust* 777 F.2d 1246 (1985).
[4] *Id*.
[5] *Rea v. Federated Investors*, 627 F.3d 937, 938 (3d Cir. 2010).
[6] *Id.* at 939.
[7] *Id.*
[8] *Id.* at 940.
[9] *Id.*
[10] *Id.*
[11] *Russello v. United States*, 464 U.S. 16, 23 (1983).
[12] *Rea* 627, *supra* note 5 at 941.
[13] *Id.*
[14] *Pastore v. Medford Sav. Bank*, 186 B.R. 553 (D. Mass. 1995)
[15] *Fiorani v. CACI*, 192 B.R. 401 (E.D. Va. 1996)
[16] *Burnett v. Stewart Title, Inc. (In re Burnett),* 635 F.3d 169, 171 (5th Cir. 2011).
[17] *Id.* at 172 (citing *Russello v. United States*, 464 U.S. 16, 23 (1983).)
[18] *Id.* at 173.
[19] *Id.*
[20] *Myers v. TooJay's Mgmt. Corp*., 640 F.3d 1278, 1287 (11th Cir. 2011).
[21] *Id.* at 1286.
[22] *In re Stinson*, 285 B.R. 239 (Bankr. W.D. Va. 2002)
[23] *In re Martin*, 06-41010, 2007 WL 2893431 (Bankr. D. Kan. Sept. 28, 2007)
[24] *Leary v. Warnaco*, Inc., 251 B.R. 656, 657 (S.D.N.Y. 2000).
[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id*. at 659.
[31] Shepard, *supra* note 1.
[32] *Id*. at 1696-1698.
[33] *Id*. at 1706-1708.
[34] *Id*.
[35] *Id*. at 1713, FN 112.
[36] *Id*. at 1714, FN 115.
[37] *Id.* at 1714-1717.
[38] *Id.* at 1718-1721.
[39] *Id.* at 1718, FN 136.
[40] Jina Kim Yun, *The New Danger of Being Fired: Section 525 (b)'s Disproportionate Effect on Older Workers and a Call to Amend*, 7 Nw.J.L.& Soc.Pol'y. 196 (2012).
41 Civic Impulse, LLC, *H.R. 646: Bankruptcy Nondiscrimination Enhancement Act of 2013*. Available at: http://www.govtrack.us/congress/bills/113/hr646/text [Last visited 10 May 2013].
[42] United States Equal Employment Opportunity Commission, *Meeting of October 20, 2010 – Employer Use of Credit History as a Screening Tool*, *SHRM Research Spotlight: Credit Background Checks*. Available at: http://www.eeoc.gov/eeoc/meetings/10-20-10/credit_background.cfm [Last visited 7 Feb. 2013].
[43] United States Equal Employment Opportunity Commission, *Meeting of October 20, 2010 – Employer Use of Credit History as a Screening Tool*, *Statement of Michael Eastman, Executive Director, Labor Law Policy, U.S. Chamber of Comm*erce. Available at: http://www.eeoc.gov/eeoc/meetings/10-20-10/eastman.cfm [Last visited 7 Feb. 2013].
[44] *Id*. at 3.
[45] Administrative Office of the U.S. Courts, *Bankruptcy Filings Down 14 Percent for March 2013.* (Updated 29 April) Available at: http://news.uscourts.gov/bankruptcy-filings-down-14-percent-march-2013, [Last visited 26 May 2013].

[46] Linfield, L.E., *Institute for Financial Literacy 2010 Annual Consumer Bankruptcy Report: A Five Year Perspective of the American Debtor*. Available at: http://www.financiallit.org/PDF/2010_Demographics_Report.pdf [Last visited 26 May 2013].
[47] United States Census Bureau, *People Quick Facts,* 2013. Available at: http://quickfacts.census.gov/qfd/states/00000.html [Last visited 30 May 2013].
[48] United States Department of Labor Bureau of Labor Statistics, *Databases, Tables & Calculators by Subject: Labor Force Statistics from the Current Population Survey*, 2013. (Updated 26 May) Available at: http://data.bls.gov/timeseries/LNS14000000 [Last visited 26 May 2013].
[49] Shepard, *supra* note 1 at 1704.
[50] Pub. L. 90-321, 91-508, 84 Stat. 1129 (1970) (codified at 15 U.S.C. §§ 1681a–1681x).
[51] Pub. L. No. 108-159, 117 Stat. 1952 (2003) (codified as amended in scattered sections of 15 U.S.C. §§ 1681a–1681x).
[52] David D. Schein & James D. Phillips, *Holding Credit Reporting Agencies Accountable: How the Financial Crisis May be Contributing to Improving Accuracy in Credit Reporting*, 24 Loyola of Chicago Cons. L. R. 328 (2012).
[53] United States Equal Employment Opportunity Commission, *Title VII of the Civil Rights Act of 1964.* Available at: http://www.eeoc.gov/laws/statutes/titlevii.cfm [Last visited 25 May 2013].
[54] United States Equal Employment Opportunity Commission, *The Age Discrimination in Employment Act of 1967.* Available at: http://www.eeoc.gov/laws/statutes/adea.cfm [Last visited 25 May 2013].
[55] United States House of Representatives Office of the Law Revision Counsel, *Title 42: The Public Health and Welfare, Chapter 21: Civil Rights,* 2012. Available at: http://uscode.house.gov/download/pls/42C21.txt (Last visited 25 May 2013].
[56] United States Department of Justice Civil Rights Division, *Information and Technical Assistance on the Americans with Disabilities Act*, 2013. Available at: http://www.ada.gov/ [Last visited 13 May 2013].
[57] United States Equal Employment Opportunity Commission, *EEOC Files Nationwide Hiring Discrimination Lawsuit Against Kaplan Higher Education Corp.*, 2010. Available at: http://www.eeoc.gov/eeoc/newsroom/release/12-21-10a.cfm [Last visited 20 May 2013].
[58] *Id*.
[59] Trevor Hughes, *Shaky Credit Reports Could Hurt some Job Applicants; Seven State Legislatures Act to Limit Hiring Requirement*, USA TODAY, 2B, March 6, 2012.
[60] 21 Vermont S. A. §495i (2012).
[61] Colorado S.B. 13-018*:* Permissible Use of Credit Information by Employers. (signed 19 April 2013)
[62] Richard E. Flint, *Consumer Bankruptcy Policy: Ability to Pay and Catholic Social Teaching*, 43 St. Mary's L.J. 333 (2012).