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THE AVAILABILITY OF CREDIT TO KANSAS WOMEN

—A report of the Kansas Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Kansas Advisory Committee.

October 1975

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A report prepared by the Kansas Advisory Committee
to the U.S. Commission on Civil Rights.

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Kansas Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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LETTER OF TRANSMITTAL

KANSAS ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS
October 1975

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Sirs and Madam:

The Kansas Advisory Committee submits this report of its study on the availability of credit to women as part of its responsibility to advise the Commission about civil rights problems within the State. During our 6-month investigation, which culminated in a 1-day open meeting in December 1974, we examined the policies of establishments that grant retail and interbank credit cards in Lawrence, Topeka, and Wichita as they relate to the extension of credit to women. Because of the auxiliary role which credit bureaus play in consumer credit, they were also included in the study.

The Advisory Committee found that married, divorced, and widowed women who are creditworthy have more difficulty obtaining consumer credit than their male counterparts. Credit bureau policies concerning the filing of women's credit histories often aid creditors in discriminating against women. Credit histories of married women are automatically filed under their husband's name unless they request otherwise. Most women, however, do not know this option is available.

The Advisory Committee is making recommendations to the U.S. Congress, to the Kansas Legislature, and to creditors. These recommendations include amending the Fair Credit Reporting Act and the Equal Credit Opportunity Act, and passing a Kansas State law prohibiting credit discrimination based upon sex and/or marital status. We urge you to concur with our recommendations and to assist this Advisory Committee in followup activities.

Respectfully,

/s/

CONSTANCE L. MENNINGER

ACKNOWLEDGMENTS

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The Advisory Committee would also like to thank the dean of women's office at the University of Kansas for its assistance.

Final edit and review was conducted in the Commission's Office of Field Operations, Washington, D.C., by Bonnie Mathews, assisted by Bruce E. Newman, and Audree B. Holton. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

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CHAPTER I
INTRODUCTION

Since World War II the American economy has grown tremendously. Part of this growth has occurred in the area of consumer credit. In 1950, for example, outstanding consumer credit amounted to \$21.5 billion, and by 1971 this had increased more than five times to \$137.2 billion.¹ In September 1974 the Federal Reserve Board reported that total outstanding consumer credit was \$187.9 billion.² This growth has been attributed in part to:

...the natural adoption of consumer and business to changes in the ability and willingness of consumers to incur debt, as well as to a continued shift toward the ownership of assets.³

Senator Harrison Williams, Jr. (D-N.J.) told the U.S. Senate on February 15, 1973:

In today's economy, credit is essential. It allows people to spend as they prefer, to meet unforeseen emergencies, and to invest in consumer durables such as cars and refrigerators.⁴

1. National Commission on Consumer Finance, *Consumer Credit in the United States* (December 1972), p. 5 (hereafter referred to as *Consumer Credit*).
2. "Consumer Credit Rise Slowing," Kansas City Star, Nov. 24, 1974.
3. Consumer Credit, p. 5.
4. U.S., Congress, Congressional Record, 93rd Congress, 1st. sess., Feb. 15, 1973.

Consumer credit is not unique to the 20th century. The National Commission on Consumer Finance has described the credit practices of the American colonial period:

*Retail credit was available to farmers on a crop-to-crop basis. When they were short on cash, they did as many consumers do today -- they traded their expectations of future income for goods and services from local merchants.*⁵

Colonial merchants did not levy a finance charge, but raised the price of the merchandise to defer credit costs. Furniture was the major item sold on the installment plan. By the middle of the 19th century, sewing machines, books, and pianos were also offered on the installment plan. The credit sale of automobiles, beginning in 1910, stimulated both the automobile industry and the consumer credit industry.⁶

Today, the Federal Reserve System identifies two types of consumer credit - installment and non-installment. The latter, defined as "consumer credit scheduled to be repaid as a single, lump sum" includes service credit such as health care costs, public utilities, single-payment loans, and nonrevolving charge accounts. Installment credit includes all consumer credit scheduled to be repaid in two or more payments. There are four major categories: automobile loans, other consumer loans, personal loans, and home repair loans.

In the past 20 years installment credit has outpaced non-installment credit in growth -- the former has grown 5.9 times, while the latter only 2.8 times. By the close of 1970 installment credit accounted for 80 percent of all consumer credit outstanding.⁷ Figure 1 traces consumer credit growth for a 30-year period.

The National Retail Merchants Association identified certain standards used to determine who should be granted credit:

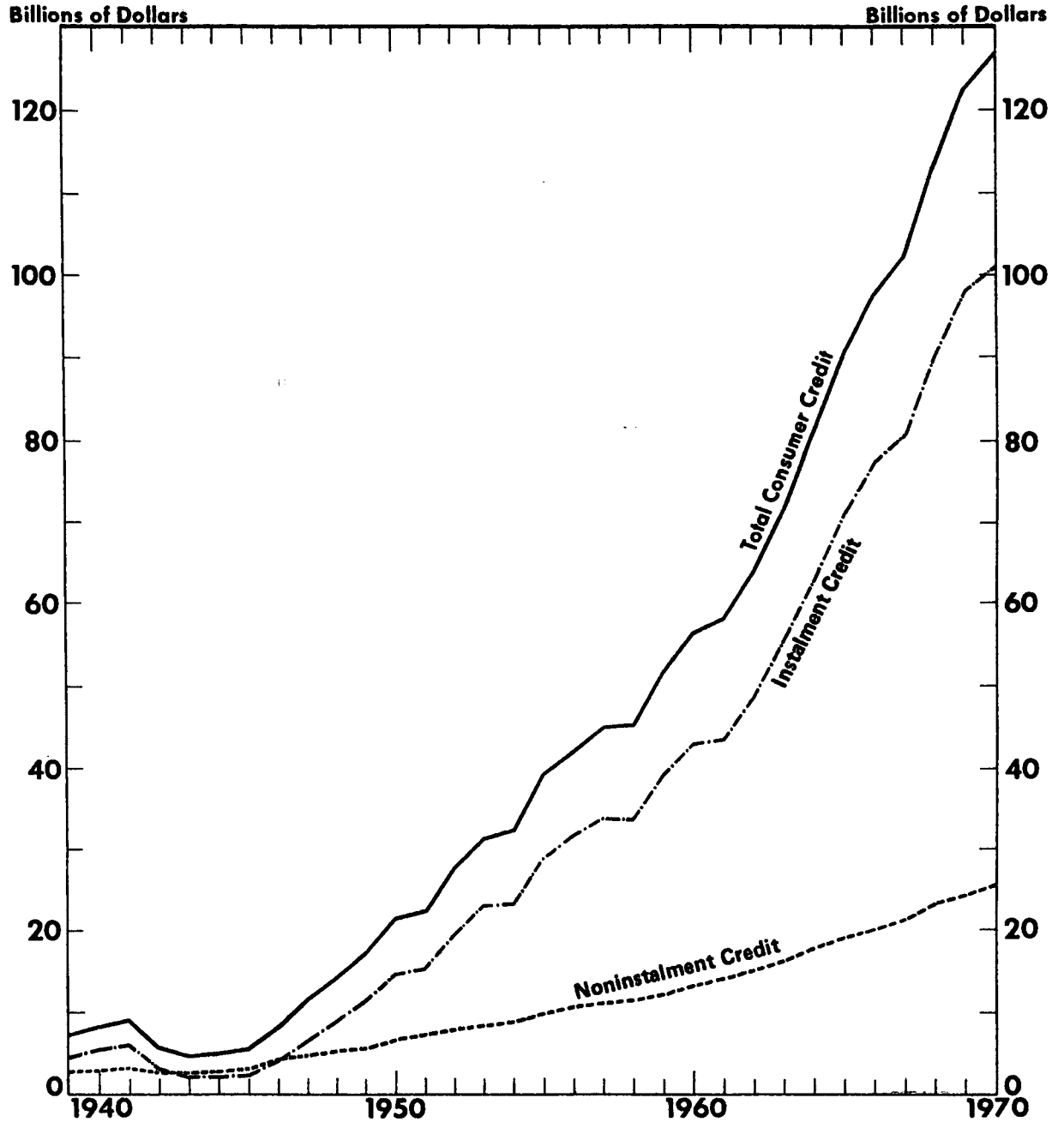
The credit granting process by its very nature is selective, or if you will, 'discriminatory.' However, the selection process is not arbitrary, but rather a process whereby a credit grantor,

5. Consumer Credit, p. 5.

6. *Ibid.*

7. *Ibid.*, pp. 7-8.

FIGURE 1
**CONSUMER INSTALMENT AND NONINSTALMENT
CREDIT OUTSTANDING, 1939-1970**



SOURCE: National Commission on Consumer Finance based on FRB data.

through a totally reasoned judgment based on experience, assesses the credit applicant's ability and willingness to pay. Such a process, of necessity, discriminates in favor of those who exhibit ability and willingness to pay and against those who do not possess such qualification.⁸

Bess Myerson, consumer affairs advisor for the First National City Bank (New York), has defined credit criteria this way:

Ability to pay means a steady income large enough to pay the applicant's rent, living expenses, monthly bills and outstanding debts. Willingness to pay means a credit history of regular and prompt payment.⁹

Yet, many creditors are not guided solely by these criteria, but also the factors of sex and marital status. Betty Howard, director of the division on women's affairs of the Minnesota Department of Human Rights, summed up the problem when she said, "Men are bad credit risks when they don't pay their bills, women -- just because they are women!"¹⁰

Although few studies of credit risk factors have included sex and marital status as variables, the available data suggest that women are better credit risks than men and that marital status is not a determinant of creditworthiness.

David Durand in a 1941 study for the National Bureau of Economic Research said, "The specific problem undertaken in this study is the analysis, by use of statistical methods, of some credit factors generally considered important in consumer installment financing." He concluded:

8. Harry N. Jackson, *Statement on behalf of the National Retail Merchants Association before the U.S. House of Representatives, Committee on Banking and Currency, Subcommittee on Consumer Affairs, Washington, D.C., Nov. 6, 1973, p. 14.*

9. Bess Myerson, "How to Fight For the Credit That is Due You," *Redbook Magazine*, September 1974, p. 76.

10. Barbara J. Katz, "Women and Credit," *The National Observer*, June 3, 1972, p. 9.

The classification of borrowers by sex and marital status indicates that women are better risks than men; and the superiority appears to be statistically significant. No significant difference, however, is evident between the risk characteristics of married and single persons.¹¹

The following year, a study conducted for the Bureau of Business Research at Ohio State University concluded:

Knowing both the sex and marital status of an applicant is of little value other than for purposes of identification.¹²

More than 20 years later Paul F. Smith in a study, "Measuring Risk in Consumer Instalment Credit," tested 20 variables for their effect on credit risk. His data showed that 2.0 percent of the single men had bad credit accounts compared with 0.8 percent of the single women. Similarly, he found that 1.7 percent of the married men had bad accounts, but this was true for only 0.6 percent of the married women.¹³

The findings of these limited studies should have provided impetus for comprehensive credit risk studies examining sex and marital status. However, this has not happened. J. H. Sinnard, credit manager of the J. M. McDonald Company of Hastings, Nebr. (with stores in Kansas) told the Advisory Committee:

No statistics of credit reliability among the categories of customers [by sex and marital status] are collected or maintained. In our opinion, each category of applicant accepted will contain customers who perform with a high, average, and low degree of reliability.¹⁴

-
11. *David Durand, Risk Elements in Consumer Instalment Financing (N.Y.: National Bureau of Economic Research, 1941), pp. 19, 74.*
 12. *Dwight A. Steward, "Factors Affecting Credit Ratings of Consumers in Franklin County, Ohio" (Columbus, Ohio: Bureau of Business Research, Ohio State University, 1942).*
 13. *Paul F. Smith, "Measuring Risk in Consumer Instalment Credit," Management Science, Vol. II (November 1964), p. 335.*
 14. *J. H. Sinnard to Thomas L. Neumann, October 1974.*

Norman C. Lee, credit supervisor of BankAmericard, Kansas City, Mo., similarly stated, "We do not keep comparative records of sex or marital status of our applicants or cardholders."¹⁵

The National Commission on Consumer Finance has identified five major types of credit problems faced by women:

1. Single women have more trouble obtaining credit than single men. (This appeared to be more characteristic of mortgage credit than of consumer credit.)
2. Creditors generally require a woman upon marriage to reapply for credit, usually in her husband's name. Similar re-application is not asked of men when they marry....
3. Creditors are often unwilling to extend credit to a married woman in her own name....
4. Creditors are often unwilling to count the wife's income when a married couple applies for credit....
5. Women who are divorced or widowed have trouble re-establishing credit. Women who are separated have a particularly difficult time, since the accounts may still be in the husband's name.¹⁶

Virginia Knauer, Special Assistant to the President on Consumer Affairs, has said, "The reasoning used to deny women credit is often a cobweb of myths and suppositions unsupported by research on the statistical risks involved or on the individual's creditworthiness."¹⁷ Ms. Myerson has paraphrased some of these myths:

15. Norman C. Lee to Thomas L. Neumann, July 18, 1974.

16. The National Commission on Consumer Finance was established by Title IV of the Consumer Credit Protection Act of 1968 (Public Law 90-321) to study "debt collection practices, responsibility for enforcement of consumer credit protection laws, and the availability of consumer credit to women." In the course of its investigations, the Commission held three public meetings. In December 1972 it published a report of its findings and recommendations, Consumer Credit, pp. vii, 152, 153.

17. James C. Hyatt, "Women Complain That They Often Can't Get Credit Because of Their Sex," Wall Street Journal, July 18, 1972.

1. Nature itself makes women poor credit risks. Single women are just marking time until they're married women. Married women are just marking time until they're mothers. Too many interruptions for a consistent payment record.
2. Sure, there are more women today who work, but they're still poor credit risks, emotionally and psychologically. They don't know how to manage money -- it's a new experience for them.
3. The credit industry does not discriminate against women! Standards have to be maintained -- employment, ability to pay, previous credit record. We turn down people, men and women, but for good reasons, not because of sex alone.¹⁸

To determine the availability of credit to Kansas women, the Kansas Advisory Committee to the U.S. Commission on Civil Rights in June 1974 began a study of credit practices in the State. First, the Advisory Committee collected general background information on credit granting and credit discrimination nationwide.¹⁹ Next, Advisory Committee members identified Kansas women who had alleged credit discrimination based on sex and/or marital status. This was accomplished by contacting women's groups and agencies throughout the State that handle credit discrimination complaints.

Advisory Committee members also interviewed credit managers of retail establishments and interbank credit card departments to ascertain their credit granting policies. Because of the large role played by credit bureaus in the consumer credit industry, personnel of these bureaus were interviewed in several cities in the State. The Advisory Committee limited its study to retail and interbank credit cards in the Wichita, Topeka, and Lawrence metropolitan areas.

To highlight the problems faced by women in obtaining credit, either because of their sex or marital status or both, the Advisory Committee held a 1-day public meeting in Topeka, Kans., on December 18, 1974. This report represents the findings of the 6-month investigation.

18. Myerson, "Fight For Credit," pp. 106-107.

19. Source materials are on file in the Central States Regional Office of the U.S. Commission on Civil Rights in Kansas City, Mo.

In 1974, during the time of the Advisory Committee's study, the U.S. Congress passed the Equal Credit Opportunity Act. The Act, which will be effective October 28, 1975, prohibits discrimination in the granting of credit based upon sex and/or marital status. The Advisory Committee found that members of the credit industry were largely unaware of provisions of this act. Unless they become informed and Federal agencies are vigorous in their enforcement efforts, equal credit opportunity will be little more than words on paper.

CHAPTER II
THE CHANGING EMPLOYMENT STATUS OF WOMEN

According to the U.S. Departments of Commerce and Labor, in 1900, 20.4 percent of all women of working age were employed, constituting 18.1 percent of the total labor force. By 1940 this had slightly changed with 25.4 percent of all women of working age employed-- 24.3 percent of the total labor force. World War II accelerated the entry of women into the job market. In 1945, 35.7 percent of all women of working age held jobs and represented 29.6 percent of the total labor force. By 1972, 37.4 percent of the labor force was female, representing 43.8 percent of all women of working age.²⁰

Between October 1973 and October 1974 about one and a quarter million women joined the labor force -- over 24,000 a week--about 2 1/2 times the rate of increase of the male labor force. It also represented a greater increase in absolute numbers than for male entries into the labor force, according to the U.S. Bureau of Labor Statistics. (Transcript, p. 33)²¹

The rise in the percentage of employed women in the last 2 decades has resulted mainly from the increase in the number of married women in the labor force. The percentage of working women who are single,

20. U.S., Congress, Joint Economic Committee, Economic Problems of Women, 93rd Congress, 1st sess., 1973, p. 6 (hereafter cited as Economic Problems).

21. Page numbers in parentheses cited here and hereafter in the text refer to statements made to the Kansas Advisory Committee at its open meeting, Dec. 18, 1974, as recorded in the transcript of that meeting.

widowed, divorced, or separated remained fairly constant between 1950 and 1972, but the participation of married women living with their husbands has almost doubled. In 1950, 23.8 percent of these women worked, and by 1972 the figure had jumped to 41.5 percent.²² Of women in the labor force with children under 18 years of age, according to the Bureau of Labor Statistics, about 40 percent are employed. (Transcript, p. 36)

Table 1 on the following page summarizes women's participation in the labor force, 1900-1972.

For single women the average work-life expectancy is 45 years -- 2 years more than the average for men. At age 35, widowed, divorced, or separated women can expect to work for 28 additional years. This is just 6 months less than the work-life prediction for a 35-year-old man. If a married woman with children re-enters the labor force when she is 35, she can expect to work for 24 more years -- just 4 years less than a 35-year-old man.²³

Many reasons have been advanced for the increased participation of women in the labor force. Elliot Browar, assistant regional director for labor statistics, U.S. Department of Labor, Kansas City, Mo., told the Advisory Committee:

The last three decades have been years of extraordinary economic and social change for women. The tremendous response of married women to labor market demand and to an increasingly service-oriented economy, accompanied by an increased number of households headed by women, and landmark legislation prohibiting employment discrimination based on sex have all contributed to an increasing role for women in the labor force.
(Transcript, p. 34)

For most women, working is not a luxury but an economic necessity. In many families in which husband and wife are present, both salaries are necessary to keep the family above the poverty level or to insure a decent standard of living. In addition, the total number of female heads of household (13 million) comprised 22 percent of all heads of household (62 million), 20 percent of all white household heads, 34 percent

22. Economic Problems, pp. 6-7.

23. Myerson, "Fight For Credit," p. 106.

Table 1

Women in The Labor Force, Selected Years. 1900-72

Year	Woman in labor force (thousands)	Women in labor force as percent of	
		Total labor force	All women of working age
1900-----	5,114	18.1	20.4
1910-----	7,889	20.9	25.2
1920-----	8,430	20.4	23.3
1930-----	10,679	22.0	24.3
1940-----	12,845	24.3	25.4
1945-----	19,270	29.6	35.7
1950-----	18,412	28.8	33.9
1955-----	20,584	30.2	35.7
1960-----	23,272	32.3	37.8
1965-----	26,232	34.0	39.3
1970-----	31,560	36.7	43.4
1972-----	33,320	37.4	43.8

Note: Data for 1900 to 1940 are from decennial censuses and refer to a single date; beginning 1945 data are annual averages.

For 1900 to 1945 data include women 14 years of age and over; beginning 1950 data include women 16 years of age and over.

Labor force data for 1900 to 1930 refer to gainfully employed workers. Data for 1972 reflect adjustments to 1970 Census benchmarks.

Sources: Department of Commerce, Bureau of the Census, and Department of Labor, Bureau of Labor Statistics.

of all black heads, 24 percent of all Native American heads, 27 percent of all Puerto Rican heads, 19 percent of all Japanese American heads, 17 percent of all Mexican American heads, 13 percent of all Filipino American heads, and 12 percent of all Chinese American heads.²⁴

The statistics indicate that almost one-third of all married women living with their husbands who have children under 6 years in each of the areas under consideration are in the labor force.²⁵ Table 2 on the following page gives an occupational breakdown for Kansas women.

Kansas Profile

The 1970 population of Kansas, as reported by the U.S. Bureau of the Census, is 2,246,578, reflecting a 3.1 percent increase since 1960²⁶ and approximately 5.3 percent since 1950.

Of the current population, 1,145,005 are women, constituting 50.9 percent of the State's population. The vast majority of these women are white 1,082,248 or 94.5 percent; 54,045 are black (4.7 percent); 4,325 are Native American (0.4 percent); 1,957 are Asian American (0.2 percent); and 2,430 (0.2 percent) are women of other races.²⁷ Census figures for 1970 indicate that the female Spanish language population of Kansas is 22,448 (2.0 percent). The U.S. Commission on Civil Rights believes this figure is a substantial undercount of women of Spanish background.²⁸

24. U.S., Commission on Civil Rights, Women and Poverty, (June 1974), p. 8.

25. U.S., Department of Commerce, Bureau of the Census, 1970 Census of Population, General Social and Economic Characteristics - Kansas, No. PC(1)-C-18 Kansas, p. 18-204 (hereafter referred to as General Social and Economic Characteristics).

26. U.S., Department of Commerce, Bureau of the Census, Congressional District Data--Districts of the 93rd Congress (December 1971) p. 5 (hereafter cited as Congressional District Data).

27. U.S., Department of Commerce, Bureau of the Census, 1970 Census of Population, General Population Characteristics - Kansas, No. PC(1)-B18 Kansas, p. 18-58 (hereafter referred to as General Population Characteristics).

28. General Social and Economic Characteristics - Kansas, p. 18-206. See U.S., Commission on Civil Rights, Counting the Forgotten--the 1970 Census Count of Persons of Spanish Speaking Background in the United States, (April 1974).

Table 2

Occupations by Race for Kansas Women - 1970

<u>Occupation</u>	<u>Female Employed</u> <u>14 yrs. & over</u>		<u>Minority Women</u> <u>14 yrs. & over</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
	<u>318,213</u>	<u>100</u>	<u>16,108</u>	<u>100</u>
Professional, technical & Kindred workers	50,777	16.0	1,829	11.4
Managers, administrators, except farm	13,484	4.2	228	1.4
Sales workers	24,148	7.6	398	2.5
Clerical and kindred workers	101,707	32.6	3,027	18.8
Craftsmen, foremen and kindred workers	6,021	1.4	324	2.0
Operatives, except transport	22,411	7.0	1,512	9.4
Transport equipment operators	1,754	0.6	60	0.4
Laborers, except farm	3,127	1.0	225	1.4
Farmers and farm managers	1,562	0.5	10	0.1
Farm laborers and foremen	1,778	0.6	--	--
Service workers, except private household	61,880	19.4	4,966	30.8
Private household workers	11,336	3.6	1,620	10.1
Occupation not reported	18,228	5.7	1,909	11.9

Source: U.S. Department of Commerce, Bureau of the Census.

The median age for Kansas women is 30.3 years compared with 27.1 years for Kansas males. Census figures for 1970 show 865,667 females 14 years of age and over in the State. Of these, 536,699 (62.0 percent) are married women living with their husbands; 177,046 (20.5 percent) are single and have never been married; 8,630 (1.0 percent) are separated from their husbands; 32,255 (3.7 percent) are divorced; and 111,037 (12.8 percent) are widowed.²⁹

Kansas has two Standard Metropolitan Statistical Areas (SMSA's), Wichita and Topeka, and shares the Kansas City SMSA with Missouri.³⁰ Of the two SMSA's in Kansas, Wichita is the more populous. Located in south-central Kansas, it includes Butler and Sedgwick counties and the central city of Wichita. Census figures for 1970 show an SMSA population of 389,352, with 276,554 persons or 71.0 percent in the city proper. A majority of the SMSA's population, 200,047 (51.4 percent) is female. Of this number, 179,209 (89.6 percent) are white; 14,813 are black (7.4 percent); 4,193 (2.1 percent) are of Spanish language background; 1,040 (0.5 percent) are Native American; 415 (0.2 percent) are Asian American; and 377 (0.2 percent) are women of other races. Their average age is 27.8 years compared with 25.5 years for males.³¹

The city of Wichita has a diversified industrial base which includes 600 manufacturers. Twenty-two firms employ at least 250 persons.³² Retail credit sales for July 1974 totalled \$8,496,000, an increase of 23 percent since July 1973.³³

29. General Population Characteristics, p. 18-71.

30. The U.S. Office of Management and Budget defines an SMSA as "...a county or group of contiguous counties (except in New England) which contains at least one central city of 50,000 inhabitants or more or 'twin cities' with a combined population of at least 50,000. Contiguous counties are included in an SMSA if, according to certain criteria, they are found to be metropolitan in character and socially and economically integrated with the central city."

31. General Population Characteristics, p. 18-76; General Social and Economic Characteristics, p. 18-296.

32. Wichita Area Chamber of Commerce, Industrial Development Department, "Wichita, Kansas Community Audit," (July 1974), p. 3.

33. U.S., Department of Commerce, Social and Economic Statistics Administration, Bureau of the Census, Monthly Retail Trade, Current Business Reports, BR-74-9, (September 1974), p. 12.

The Topeka SMSA, in northeast Kansas, covers Shawnee County and includes the city of Topeka. In 1970 the Topeka SMSA had a population of 155,322 with 125,011 persons or 80.5 percent in the city of Topeka. Females constitute the majority sex in the SMSA. In 1970 there were 79,361 females, composing 51.1 percent of the population. Of these, 69,497 (87.6 percent) were white; 5,745 (7.3 percent) were black; 3,192 (4.1 percent) were Spanish language background; 518 (0.6 percent) were Native American; 292 (0.2 percent) were Asian American; and 238 (0.2 percent) were of other races. The median age for females in the SMSA was 28.6 compared with 25.8 for males.³⁴

As the capital of Kansas, Topeka's economy is heavily influenced by State government and related activities. The Chamber of Commerce lists 13 companies in the city employing 250 persons or more. In July 1974 retail credit sales for the SMSA totalled \$4,622,000, a decrease of 1 percent since the previous July.³⁵

Although not contained in any of the State's SMSA's, the city of Lawrence is important as the site of the University of Kansas. Located in Douglas County directly east of Shawnee County, in 1970 Lawrence had a population of 45,698. Women were slightly less than half of the city's population -- 22,561 or 49.4 percent. Of this, 20,461 (90.7 percent) were white; 1,006 (4.5 percent) were black; 272 (1.2 percent) were of Spanish language background; and 822 (3.6 percent) were women of other races.³⁶

A somewhat smaller percentage of women in Kansas are in the work force than in the nation as a whole. According to the 1970 census, 38.7 percent of all Kansas women of working age are in the labor force, which constitutes 35.8 percent of the State's labor force.

34. General Population Characteristics, p. 18-76; General Social and Economic Characteristics, p. 18-296.

35. Monthly Retail Trade, p. 12.

36. General Population Characteristics, p. 18-91; General Social and Economic Characteristics, p. 18-322.

Table 3 below indicates female employment in the Topeka and Wichita SMSA's and in Lawrence. The percentage of women 16 years and over in the work force in these areas is considerably higher than for the State as a whole, and in all cases exceeds the national average.

Table 3

Percentage of Females in the Labor Force
in Selected Areas in Kansas (in percent):

	Females 16 years and over	Married Women Husband Present	
		Total	Children under 6 years of age
Topeka (SMSA)	45.2	44.0	32.6
Wichita (SMSA)	44.0	42.2	30.5
Lawrence	45.6	43.7	36.1

Source: U.S., Department of Commerce, Bureau of the Census, 1970.

CHAPTER III
LEGAL OVERVIEW

Property Rights of Kansas Women

The legislature shall provide for the protection of the rights of women in acquiring and possessing property, real, personal, and mixed, separate and apart from the husband, and shall also provide for their equal rights in the possession of their children.

*Article 15, Section 16 of the
Constitution of the State of Kansas*

To evaluate the property rights of Kansas women, it is important to examine the English system of common law, which was brought to this country. Under common law, a single woman could contract with others, sue and be sued, manage and control her lands and personal property, maintain a cause of action in court, retain the proceeds for her own use, and keep other earnings that might come to her.³⁷ When she married, however, her legal existence ceased. A married couple, under common law, was one person--and the husband was that person.³⁸

Under Anglo-Saxon law, the husband had almost absolute control over his wife. He was entitled to her services, earnings, goods, and chattels. He had the right to limit her cause of action in court,

37. Leo Kanowitz, *Women and the Law* (Albuquerque: University of New Mexico Press, 1968) p. 35.

38. *Palmer v. Turner*, 43 S.W. 2d 1007 (1938). *Osborn v. Osborn*, 102 Kans. 890 (1925). *Leare v. Saunders*, 84 S.W. 2d 993 (1935).

and he could collect and enjoy rents and profits from the wife's real estate. During the marriage the husband was solely responsible for the support of his wife and family.³⁹

In the late 1800s, many States, including Kansas, passed what is commonly referred to as the "Married Women's Property Act." Below are two important sections of the Kansas Act:

The property, real, and personal which any woman in this State may own at the time of her marriage, and the rents, issues, profits or proceeds thereof, and any real, personal, or mixed property which shall come to her by descent, devise, or request, or the gift of any person except her husband, shall remain her sole and separate property, notwithstanding her marriage, and not be subject to the disposal of her husband or liable of his debts....

A married woman, while the marriage relation subsists, may bargain, sell and convey her real and personal property and enter into any contract with reference to the same in the manner to the same extent and like affect as a married man in relation to his real and personal property.⁴⁰

The Married Women's Property Act conferred upon married women distinct rights and powers respecting contracts, the carrying on of business, and the owning, controlling, and disposing of property, equal to those held and enjoyed by the husband.⁴¹

With the development of case law and statutory law, women began to share in the marriage estate. Upon the death of a spouse, the survivor is entitled to at least one-half of all the real estate owned by the decedent. This one-half interest can only be divested by the consent of the surviving spouse or by commission of a crime. All joint ownership of property is vested in the surviving spouse.⁴²

Regardless of the statutes and cases cited above, the Married Women's Property Act did not remove the husband's common law duty to support his wife and family.⁴³ Courts have construed this duty to

39. *Frisly v. Hladky*, 30 P. 2d 1001 (1934), *Bauer v. Abrahams*, 216 P. 259 (1923).

40. K.S.A. 23-201-202.

41. *Harrington v. Lowe*, 73 Kans. I (1966).

42. *Busenburk v. Busenburk*, 33 Kans. 572 (1885), *Helm v. Helm* 11 Kans. 19 (1873).

43. *Frisly*, supra.

require the husband to provide the "necessaries."⁴⁴ Necessaries as defined by Chipp v. Murray, are those things needed and suitable to the rank and condition of the spouses and the style of life to which they are accustomed. Further, the kinds and amounts of necessities are to be determined in each case by the means, ability, social position, and circumstances of both husband and wife. Therefore, some case law implies that the husband is responsible for the debts of his wife when she has contracted for necessities.

The Married Women's Property Act did more than give married women the right to own and share real and personal property. Courts have interpreted this act to give married women the right to enter into a contract. In Harrington v. Lowe, the court stated:

Kansas affords no grounds for declaring invalid a married women's contract, even though she possesses no separate estate, property, separate trade or business. A married woman can enter any legal contract, the same as a man.

This decision has been followed in subsequent cases before the bar.⁴⁵

The Kansas courts have not construed this right to extend to retail credit purchases by married women. Whether that right exists under the Married Women's Property Act is unknown.

Federal Equal Credit Opportunity Legislation

While there has been a voluntary improvement in credit procedures in recent years, women are still too often treated as second-class citizens in the credit world.

These were President Gerald Ford's words October 28, 1974, when he signed the Equal Credit Opportunity Act. "This legislation," he said, "officially recognizes the basic principle that women should have access to credit on the same terms as men."⁴⁶ The Equal Credit Opportunity Act, part of Public Law 93-495, states:

44. Chipp v. Murray, 191 Kans. 73 (1963).

45. Harrah v. Harrah, 196 Kans. 147 (1966), O'Grady v. Potts, 193 Kans. 648 (1964).

46. "Ford Signs a Measure Barring Denial of Credit on Basis of Sex," New York Times, Oct. 30, 1974.

*It shall be unlawful for any creditor to discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.*⁴⁷

Violators of the act are liable for actual damages and punitive damages of up to \$10,000 for an individual complaint, and no more than "...the lesser of \$100,000 or 1 percent of the net worth of the creditor" for class actions."⁴⁸

Federal agencies with enforcement responsibilities under the act are the Comptroller of the Currency, Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Interstate Commerce Commission, Civil Aeronautics Board, Department of Agriculture, Farm Credit Administration, Securities and Exchange Commission, Small Business Administration, and Federal Trade Commission.

To implement the act, the Federal Reserve System has drafted its proposed regulations which will be in final form by October 1975 when the act goes into effect. The proposed regulations require creditors to maintain accounts in the names of both spouses if both are authorized to use the account after October 28, 1976. Creditors are also required to keep records for 2 years of written applications, any statement by the applicant alleging discrimination, and any statement made by the creditor at the request of the applicant concerning reasons for denial or termination of credit.

The proposed regulations would prohibit creditors from inquiring or using information concerning birth control, childbearing intentions or capabilities, or discounting any part of an individual's income due to marital status when evaluating an applicant's creditworthiness.

Staff Director John A. Buggs of the U.S. Commission on Civil Rights, in commenting on the proposed regulations, pointed out that they contained no description of the duty of Federal agencies to enforce the act.⁴⁹ He recommended that the regulations be strengthened by including a model compliance program, which at a minimum would cover the following:

47. 15.U.S.C. 1691.

48. 15 U.S.C. 1691e.

49. John A. Buggs to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, June 25, 1975, U.S. Commission on Civil Rights files.

- (1) Data collection and record keeping by creditors.
- (2) Regularly scheduled compliance reviews, including instructions on the scope and frequency of reviews.
- (3) Complaint handling including provisions for informing the public how to file complaints, instructions for the scope of investigations, and time limits for the completion of those investigations.
- (4) Procedures for attempting to achieve voluntary compliance, with time limits for entering into negotiations after any findings of discrimination have been made and limits on the length of time negotiations will be continued.
- (5) Sanctions including time limits for notification of non-compliance and a description of the sanctions allowed law.⁵⁰

Proponents of equal credit opportunity for women have expressed concern that provisions of the Equal Credit Opportunity Act relating to State property laws, many of which discriminate against women, lessen the effectiveness of the act. This may cause a problem in Kansas. Although the Married Women's Property Act gives women full power to contract in their own names, it is still uncertain whether this contractual right extends to retail credit.

The act sets forth its relation to State laws as follows:

- (a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title: Provided, however, that this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.
- (b) Consideration or application of State property laws directly or indirectly affecting credit-

50. Section 704 of the Equal Credit Opportunity Act lists the legal authorities for sanctions available to each agency with enforcement responsibilities and permits each agency to exercise any other enforcement authority conferred on it by law.

worthiness shall not constitute discrimination for purposes of this title.

- (c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: Provided, that in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.
- (d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State of the United States.
- (e) Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. (emphasis added)

Casey Eike, assistant to the dean of women at the University of Kansas, told the Advisory Committee she thought the Equal Credit Opportunity Act would be strengthened if credit bureaus were included. (Transcript, p. 25) Wesley Fitzgerald, president of the Credit Bureau of Lawrence, Inc., told Commission staff, "Credit bureaus are so basic to the issuing of credit I don't see how they could not be included. Unless credit bureaus are required to maintain nondiscriminatory files, they have no value."⁵¹

Joe Murphy, president of the Affiliated Credit Bureaus, Inc. of Wichita, held another view. He wrote Commission staff that he did not believe that credit needs to be included since the Fair Credit Reporting Act and the Fair Credit Billing Act "cover areas protecting consumers." Neither act, however, deals with discrimination within the credit industry based upon sex and/or marital status. The Fair Credit Billing Act does not affect credit bureaus.

⁵¹. Wesley Fitzgerald, telephone interview, Feb. 13, 1975.

None of the four credit managers who participated in the Advisory Committee's informal hearing had more than a cursory knowledge of the Equal Credit Opportunity Act.

R. G. Scott, credit manager of Crosby's retail store in Topeka, Kans., told the Advisory Committee, "I have read something on it, [the act] but I'm not really familiar." (Transcript, p. 179) He said he keeps abreast of pertinent Federal, State, and local legislation by subscribing "to the daily local legal news and I receive a monthly bulletin from the Consumer Credit Association." (Transcript, p. 179)

Tom Akers, credit manager, Master Charge, First National Bank, Kansas City, Mo., said he was not familiar with the act. Asked if he should be informed about the act, he answered, "Yes I'm sure I will, if it has an effect on us." (Transcript, p. 212)

Similarly, Norman Lee, credit supervisor for BankAmericard, Commerce Bank, Kansas City, Mo., told the Advisory Committee:

I'm not completely familiar with this new act. A portion of the act that I am aware of, cites that credit cannot be denied, such as to particular factors, age, sex, or a multiple of things. What I am trying to say, age, sex, and this is not relevant to our decision. Remember here again, as I have said before, we are in business to make money as most banks are and any time we have a chance to put on a customer to increase our potential income--that application is going to be approved, if creditworthy. (Transcript, p. 235)

Some early versions of the bill which were introduced contained sanctions against discrimination based on race, color, religion, ethnic origin, and age. However, these were not included in final passage of the Equal Credit Opportunity Act.

"I don't know much about that law either, I admit," Jack Sinnard general credit manager of McDonald's, Hastings, Nebr., told the Advisory Committee. (Transcript, p. 195) Asked about becoming more informed, he replied:

This is a problem. I am a director of ICCA, Sixth District, International Consumer Credit Association, and I think that the information--getting the information down to credit grantors is a difficult task. I don't believe it's filtered down far enough. (Transcript, p. 196)

State Legislative Action

At the time the U.S. Congress passed the Equal Credit Opportunity Act, 33 States had either passed laws specifically prohibiting discrimination based upon sex and/or marital status in the granting of credit or were using the public accommodations clause of State civil rights laws to prohibit such discrimination. These State laws vary in their definitions of credit discrimination, comprehensiveness, and penalties for creditors who discriminate. Twenty States prohibit credit discrimination on the basis of sex and/or marital status, but only 11 of these allow victims to collect damages. Another 6 States prohibit credit discrimination on the basis of sex only. Of these, 4 provide methods to award damages to the aggrieved. Six other States prohibit credit discrimination based upon sex under the public accommodations clause of each of these State civil rights acts -- 3 of these provide for damages. One other State prohibits credit discrimination based upon sex and/or marital status and allows for damages under the public accommodations clause as part of its civil rights act.

Of the 17 States that do not have laws prohibiting credit discrimination, only 7 have introduced bills in this area. (See Table 4 on following page.)

Ruth Wilkin, Kansas State Representative from Topeka, told the Advisory Committee:

I wanted to introduce legislation in the 1974 legislature which would help women in obtaining credit, but I felt I did not have the facts necessary to substantiate and support an adequate bill. Therefore, I introduced a resolution asking for a study of the matter, hoping it would be adopted and given to an interim committee for study. (Transcript, p. 242)

The resolution was not passed but died quietly in committee along with many other measures, Representative Wilkin said.

Since July 1, 1972, the Kansas Act Against Discrimination has prohibited sex discrimination, but the State has no law specifically prohibiting credit discrimination based upon sex and/or marital status. The Kansas Commission on Civil Rights (KCCR) has been processing such complaints under Section 44-1009(c)(1), the public accommodations clause of the Kansas Act Against Discrimination:

TABLE 4

Status of State Legislation Prohibiting Sex Discrimination in the Granting of Credit: August 1974

No Bill Introduced	Bill Introduced But Not Passed	Statute Passed in 1972, 1973, or 1974				Records of Bills Passed By State Legislature Are Not Available
		Statute Prohibits Discrimination Based Upon:		Public Accommodations Clause of State Civil Rights Act Prohibits Discrimination Based Upon:		
		Sex And/Or Marital Status	Sex Only	Sex and Marital Status	Sex Only	
Alabama Arizona Arkansas Mississippi Montana ¹ Nebraska ¹ Nevada ¹ New Hampshire ¹ New Mexico ¹ North Dakota ¹	Georgia Hawaii Idaho Louisiana South Carolina	California ¹ Connecticut Florida ¹ Illinois ² Iowa Maine Maryland Massachusetts ¹ Michigan Minnesota Missouri New Jersey New York North Carolina Oklahoma Rhode Island Tennessee ¹ Vermont Washington ¹ Wisconsin	Alaska ¹ Colorado Indiana Kentucky ¹ Ohio Texas ¹ Virginia ^{1 3}	Delaware Oregon ¹	Kansas Pennsylvania ^{1 3} South Dakota ^{1 3} Utah ¹ West Virginia	Wyoming

- 1 Provisions for collecting damages.
- 2 Applies only to credit cards.
- 3 Applies only to home financing and repairs.

Source: Compiled by the Central States Regional Office of the U.S. Commission on Civil Rights and based on correspondence with each State Legislature.

(c) It shall be an unlawful discriminatory practice:

(1) For any person, as defined herein, being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny, or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this act because of race, religion, color, sex, physical handicap, national origin, or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

Under this act, public accommodations include "any person as defined herein, who caters or offers his [sic] goods, services, facilities, and accommodations to the public...."⁵²

The question of whether the public accommodations clause covers credit transactions of retail establishments was decided March 1, 1975, by the Supreme Court of the State of Kansas in the case of William V. Minner v. Sears, Roebuck and Company.⁵³ Mr. Minner alleged that Sears failed to extend him equal treatment because of his race in the evaluation of his credit application. The Kansas Commission on Civil Rights went to District Court to enforce a subpoena against Sears to produce documents. The court ruled in the commission's favor, ordering Sears to turn over all available documents. Sears appealed the decision, contending, among other issues, that it is not considered a public accommodation under the Act Against Discrimination. The Supreme Court thought otherwise. "The interests of the individuals affected in the case should be subordinated to the policy of eradicating the cancer of discrimination from our society," it ruled unanimously. It went on to say that:

*The refusal of credit to a purchaser or a prospective buyer in connection with the retail sale of goods and merchandize on the basis of religion, color, sex, physical handicap, national origin or ancestry constitutes an unlawful discriminatory practice within the purview of the Kansas Act Against Discrimination.*⁵⁴

⁵². K.S.A., Chapter 44, Act. 10, Sec. 44-1002(h).

⁵³. Minner v. Sears, Roebuck, and Company (Kans. Sup. Ct. Docket No. 47,405)

⁵⁴. "Sears Told to Reveal Credit Files," Kansas City Times, Mar. 2, 1975, p. 12B.

Marcia Harley, a Topeka attorney, told the Advisory Committee:

The Kansas Act Against Discrimination should be amended specifically to include credit transactions. We are talking about a situation now where we are saying maybe banks can be called State institutions, and maybe chain stores can be called public accommodations, but when you get into those kinds of things, you're really pushing to be able to deal with credit problems. You're looking for an angle with which to be able to deal with them and it would be so much simpler in the litigation to have it spelled out in the act that it was going to cover credit transactions. (Transcript, p. 67)

Since fiscal year 1973, KCCR, however, has handled very few complaints of credit discrimination based upon sex, as shown in the following table:

Table 5

Fiscal Year	Total Sex Discrimination Complaints Received	Complaints of Credit Discrimination Based Upon Sex
1973	112	2
1974	171	2
1975 (1st quarter)	48	2

Source: Kansas Commission on Civil Rights

Of the six credit complaints listed in Table 5, only two were involved with retail credit.⁵⁵

Several hearing participants told the Kansas Advisory Committee that the commission is overburdened with its current responsibilities and small staff. Cora Hobbie, chairperson of the Governor's Commission on the Status of Women, said that her commission has no

⁵⁵. Thomas W. Moore, education specialist, Kansas Commission on Civil Rights, to Leslie A. Berger, Oct. 30, 1974, U.S., Commission on Civil Rights, Central States Regional Office files.

enforcement powers and must refer complaints to the KCCR if the matter falls within its jurisdiction. "I think the Kansas Civil Rights Commission is more active than it has been," she said, "but one of our biggest problems today is the delay. Some of the items that people refer to us, the situations are either taken care of or eliminated by the period of time they have to wait." (Transcript, p. 13)

Ms. Harley agreed with Ms. Hobble. She told the Advisory Committee, "They simply put too much under that act [Kansas Act Against Discrimination]. There is no way that the Kansas Civil Rights Commission can administer it." (Transcript, pp. 67-68)

CHAPTER IV
CREDIT BUREAUS

Of all the business institutions touching the lives of Americans, the one they ought to keep on best terms with is also the least visible. Behind the U.S. retailing scene, credit bureaus operating nationally or locally keep dossiers on almost everybody's financial life. A favorable credit bureau report about your income, debts, and bill-paying habits can admit you to the world of credit cards, charge accounts, loans and mortgages....Each year merchants and lenders get credit reports on 100 million customers and find grounds in those reports for denying credit to upwards of 1.3 million.⁵⁶

Don Miller, manager of the Credit Bureau of Topeka, told the Advisory Committee, "We don't approve or disapprove credit, and all we can do is give the report and, it's up to each bank or company or department store or whatever it is to make credit decisions." (Transcript, p. 143) Mr. Miller's sentiments were echoed by credit bureau representatives from Lawrence and Wichita. Wesley Fitzgerald, president of the Credit Bureau of Lawrence, Inc., said that credit bureaus are "not involved in the decisionmaking process itself, but in reality, of course, they furnish a lot of information on which that decision is made." (Transcript, p. 161)

56. Jean Carper, "The Reputation Merchants," Money, February 1974, p. 26.

In theory, the credit bureau is a neutral third party. It maintains files on financial information on persons, which are sold to its members, e.g., retail stores, banks, loan companies. This information, with other data, is used by creditors to decide whether to grant or deny credit to individuals.

Associated Credit Bureaus, Inc., a national organization, has adopted what it calls the "common language of the consumer credit industry."

It is a language which utilizes a standard code of letters for identifying credit granters and a standard set of definitions, codes by letters and numbers, for the terms of sale and manner of payment.

This common language simplifies credit reporting and guarantees to consumers that all credit granters use the same terms to describe the same kinds of pay habits.⁵⁷

Figure 2 on the following page illustrates this common language.

Since April 25, 1971, credit bureaus have been regulated by the Fair Credit Reporting Act which provides consumers certain rights previously unavailable to them, such as:

The right of an individual to know 'nature and substance' of all information in his or her file at the credit bureau, even if there is no reason to suspect it is unfavorable. There usually is a nominal fee, unless the consumer has been denied credit in the last 60 days due to information contained in the bureau.

The right to dispute any of the information contained in the file (specific procedures are provided) and to have that information deleted if it is inaccurate.

The right to file a civil suit if a credit bureau has either willfully or negligently failed to comply with the requirements of the act. Actual and punitive damages are provided.⁵⁸

57. Associated Credit Bureaus, Inc., "The Common Language of the Consumer Credit Industry," (Houston, Tex.)

58. 15 U.S.C. §1681 (g), (i), (o).

FIGURE 2

YOUR GUIDE FOR USING THE COMMON LANGUAGE FOR CONSUMER CREDIT

TERMS OF SALE

Open Account (30 days or 90 days)	O
Revolving or Option (Open-end a/c)	R
Instalment (fixed number of payments)	I

USUAL MANNER OF PAYMENT	TYPE ACCOUNT		
	O	R	I
Too new to rate; approved but not used.....	0	0	0
Pays (or paid) within 30 days of billing; pays accounts as agreed.....	1	1	1
Pays (or paid) in more than 30 days, but not more than 60 days, or not more than one payment past due.....	2	2	2
Pays (or paid) in more than 60 days, but not more than 90 days, or two payments past due.....	3	3	3
Pays (or paid) in more than 90 days, but not more than 120 days, or three or more payments past due.....	4	4	4
Account is at least 120 days overdue but is not yet rated "9"	5	5	5
Making regular payments under Wage Earner Plan or similar arrangement.....	7	7	7
Repossession. (Indicate if it is a voluntary return of merchandise by the consumer.)	8	8	8
Bad debt; placed for collection; skip.....	9	9	9

KIND OF BUSINESS CLASSIFICATION

Code	Kind of Business
A	Automotive
B	Banks
C	Clothing
D	Department and Variety
F	Finance
G	Groceries
H	Home Furnishings
I	Insurance
J	Jewelry and Cameras
K	Contractors
L	Lumber, Building Material, Hardware
M	Medical and Related Health
N	National Credit Card Companies and Air Lines
O	Oil Companies
P	Personal Services Other Than Medical
Q	Mail Order Houses
R	Real Estate and Public Accommodations
S	Sporting Goods
T	Farm and Garden Supplies
U	Utilities and Fuel
V	Government
W	Wholesale
X	Advertising
Y	Collection Services
Z	Miscellaneous

The Advisory Committee received a variety of complaints from women concerning credit bureaus. Single women who had maintained their own credit accounts said that when they married, their files no longer existed because the credit bureau had placed these files in the name of the husband. Married women who had obtained credit in their own names said their credit history was filed by the credit bureau in the husband's name unless the women requested otherwise. Some married women complained that accounts held jointly under "Mr. and Mrs. John Doe," or "John and Mary Doe," were filed by the credit bureau only in the name of "John Doe." Married women also found that even when they had their own files at the credit bureau, when they made application for credit, creditors might request both the woman's and the husband's files from the credit bureau. Divorced women said that the burden of proof was upon the woman to determine which credit maintained during the marriage was hers.

For these reasons, the Advisory Committee included credit bureaus in its study. Preliminary interviews were conducted by staff with representatives of the Credit Bureau of Topeka, Credit Bureau of Lawrence, Inc., and Affiliated Credit Bureaus, Inc. of Wichita. Representatives of each bureau were invited to participate in the Kansas Advisory Committee's informal hearing, but Affiliated Credit Bureaus, Inc. of Wichita did not appear. Two followup letters to the Wichita credit bureau were necessary to obtain information paralleling that received from the credit bureaus in Lawrence and Topeka, which sent representatives to the open meeting.

Credit Bureau of Topeka

The Credit Bureau of Topeka has a staff of 28--2 men and 26 women--27 are white and one is Mexican American. The bureau's activities are supervised by a 12-member board of directors from various sectors of the business community. There is no consumer representative.

The bureau is manually operated, as contrasted with computerized operations, and in December 1974 maintained 384,000 files. Although the bureau serves mainly Shawnee County, persons in surrounding areas, such as Ottawa, Emporia, and Holton, who do business in the county may have files at the credit bureau.

Credit bureau manager Don Miller told the Advisory Committee what information may be contained in a person's credit file:

We'll have the name, address, employment, usually a Social Security number, and then any ledger information. In other words, if you have a loan at the bank or finance company, or a department store, [a person's credit file will contain] the date it was opened, the highest amount of credit, the balance owing, and the credit rating that the firm gives. Once again, the credit bureau doesn't give that, the firm gives it. In addition to that, we'll have any information out of the District Court, the Magistrate Court in Topeka. (Transcript, p. 143)

The credit bureau discontinued inclusion of a person's race in credit files 10 years ago.⁵⁹

However, Mr. Miller said:

...there would be a chance that we would have a racial thing, but it could come from the court on the marriage license, and that would be one place in the credit record. (Transcript, p. 145)

If a person's race were included on a court slip attached to a person's file, Mr. Miller said, it would not be reported to a creditor. (Transcript, p. 145)

When the credit bureau receives a court notice that a couple has married, their individual credit files will be routinely combined, even though they have not requested such action. (Transcript, p. 146) Mr. Miller told the Advisory Committee:

We do have separate files at the credit bureau on individuals [women] that have requested it. I can see in the not too distant future where we'll have his, hers, and their [s] credit files...where they have signed for a home, for example, or a car. (Transcript, p. 149)

No fee is charged to a woman for separating her credit file from that of her husband.

In many cases, these separate files are cross-referenced, Mr. Miller said, but, if a creditor requested Mary Doe's file, only her report would be sent. However, if Mary Doe, applies for credit at a store and the creditor asks the credit bureau for credit information on both John and Mary Doe, Mr. Miller said, "we must give them a report." (Transcript, p. 150) The creditor is charged for two files.

59. Don Miller, interview in Topeka, Kans., July 2, 1974.

According to the Fair Credit Reporting Act, a consumer reporting agency may furnish a consumer report under the following circumstances and no other to a person which it has reason to believe:

Intends to use the information in connection with a credit transaction involving the consumer [an individual] on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer...(emphasis added)⁶⁰

A very small percentage of the married female population has actually requested separate files. "We couldn't have two files for everybody in Shawnee County," Mr. Miller said. (Transcript, p. 150)

An account for Mr. and Mrs. John Doe, Mr. Miller told the Advisory Committee, is not really a joint account. "A woman has got to get the record in her own name," he said. The credit bureau separates the credit files of divorced couples upon the granting of the divorce. However, in most cases the man gets the credit, Mr. Miller said, "because most women don't have the accounts in their name." (Transcript, pp. 147, 151) Mr. Miller said:

*If Joan Doe, this girl had two department store charge accounts and we called and they have never heard of her...she was married to a bum and she paid the bill for 15 years, she really has no credit and there's nothing I can do about it.
(Transcript, p. 151)*

Jaimie Ritchie, of Topeka, told the Advisory Committee that she had worked 4 years during the 5 1/2 year period of her marriage. During that time, she and her husband held several joint charge accounts and paid two car loans. Following her divorce, she said, she could not claim any of this credit history since it had all been reported in her husband's name to credit bureaus in cities where they had lived.

Credit Bureau of Lawrence, Inc.

The Credit Bureau of Lawrence, Inc. is a corporation run by a three-member board of directors. President Wesley Fitzgerald owns all shares of stock and also serves on the board of directors (by

60. 15 U.S.C. 1681b (3) (A).

law one member of the board must be a stockholder). The bureau has a 12 person staff--10 women, 2 men, all of whom are white. The bureau maintains 50,000 accounts, and in late 1974 was converting from a manual system to a microfilm system. Credit files are kept for residents of Douglas County, Tonganoxie County, and part of De Soto County.

Mr. Fitzgerald described the information that may be included in a credit file: address, date moved to address, previous address, telephone number, marital status, dates of change in marital status, place of employment, job title, length of time employed at that job, spouse's employment, job title, length of time employed at that job, places where application for credit is made, places where credit is established, bank loans outstanding, bank loans paid, and banks where savings accounts are maintained.⁶¹

When a single woman marries, her credit file is automatically merged with that of her husband. Mr. Fitzgerald explained the rationale behind this:

Because most of them [credit files] are that way. The majority of the files are merged, and that's the reason we do it. It's purely an administrative decision. I would say if the others were the other way....It's a matter of bookkeeping, record keeping. (Transcript, p. 163)

The Credit Bureau of Lawrence, Inc. will separate files of married couples upon request, at no charge. Mr. Fitzgerald told the Advisory Committee:

I have encouraged it [married women establishing their own credit files]. I have talked to several groups. Well, let me put it this way--I don't encourage them to separate it or not separate it because there are many women who don't want to separate files and there are many who want separate files. That's their privilege. All I encourage is if a woman wants a separate file, that she come down and go over it with us and separate the files. In fact, I had ads on the radio--I ran ads 9 months last year encouraging people to go down and look over their credit reports. (Transcript, p. 162)

61. Wesley Fitzgerald, interview in Lawrence, Kans., Oct. 17, 1974.

Mr. Fitzgerald told the Advisory Committee that it does not cost more to establish a credit file for a married woman than for a single woman or a single man. "The paper work is all the same," he said. "Less than a dollar for it--for the personnel and everything involved." (Transcript, pp. 163, 164)

He described the procedure for separating credit files of married couples:

What we do is go over it [the joint file] with her and [find out] what is hers, we'll set up a file for her and what is, just say, her husband's, will remain in his file. Those things that are jointly owned or signed for, such as a mortgage or a car, we'll put a copy in both [files] and cross reference because they're jointly responsible. (Transcript, p. 163)

According to Mr. Fitzgerald, the procedure for separating credit files in cases of divorce, separation, or widowhood is in a state of flux. Marriages and divorces are picked up from the newspapers (so the person's race is not obtained). In case of divorce, the files are separated, and all credit that is clearly the woman's is placed in her file. A letter is sent to the woman asking her to come to the credit bureau to help determine what is hers, he said. (Transcript, p. 164)

The Advisory Committee asked Mr. Fitzgerald if he had considered placing the burden of proof equally on both parties to the divorce by also sending a letter to the man. He replied:

That's something--I would say that's up in the air right now because...when we first started to look for this, the first idea was to send a letter to both to ask them to come down jointly and look over the files. But that didn't appear to be practical because that wasn't going to happen. So, right now we're at the stage where we send her a letter asking her to come down and go over the file. (Transcript, pp. 167-68)

Asked whether contact with both parties might be necessary to avoid disputes about credit, Mr. Fitzgerald responded:

I think so. This is a hard area...that's something we have to try to work on because...she will come down and say this is mine, and he will say no, it's mine. And in that case, I would say that we don't put it in [either credit file] if we don't get an agreement

one way or the other, we don't put it in.
(Transcript, p. 168)

Affiliated Credit Bureaus, Inc., Wichita

Affiliated Credit Bureaus, Inc. of Wichita maintains 190,000 computerized credit files for persons living in south-central Kansas. The board of directors determines bureau policies, which are executed by a staff of 98, of whom 87 are female. Minority staff totals three.⁶²

The possible contents of an individual's credit file were detailed for Commission staff: address, previous address, sex, marital status, number of dependents, place of employment, sometimes job title, spouse's place of employment, job title, credit applications made, credit established, outstanding bank loans, paid bank loans, and any bad checks turned over to a collection agency.⁶³

According to Affiliated Credit Bureaus, Inc., when a single woman marries, "upon request we combine [woman's file with her husband's], otherwise nothing; marriage license information is insufficient to ever identify with a subject's record."⁶⁴

This, however, did not accord with the experience of Jeanne Cardenas, an assistant professor from Wichita. She had maintained credit when she was single, she told the Advisory Committee, and several months after her marriage she checked the status of her file at the credit bureau. The first question she was asked was whether she was recently divorced. She informed them that she was recently married, and was then told that her information was "automatically" placed in her husband's file. Ms. Cardenas said she immediately made an appointment to separate her file. (Transcript, p. 80)

Credit bureau personnel again told her that "this is the way we always do it...this is standard procedure." Ms. Cardenas told the Advisory Committee:

62. Joe Murphy to Thomas L. Neumann, Jan. 23, 1975, U.S. Commission on Civil Rights, Central States Regional Office files (hereafter referred to as Murphy letter).

63. Joe Murphy, Jack Holderman, and Dick Jensen, interview in Wichita, Kans., Oct. 3, 1974, (hereafter cited as Credit Bureau Interview).

64. Murphy letter, p. 2.

...I got the feeling that unless someone else objects to that standard procedure, we'll be standard entities.... I wanted to have a credit rating of my own so that I would be an independent credit person from my husband, so that I would not be lost as a person in terms of the credit bureau. (Transcript, pp. 81, 82)

In fact, Ms. Cardenas was "lost" in the credit bureau. Her credit information was not included in her husband's credit file nor in a file for Jeanne Cardenas, her married name. Further search uncovered her file still listed in her maiden name, she said. (Transcript, pp. 81-82) Therefore, if creditors had received applications from Jeanne Cardenas, a check at the credit bureau would have disclosed no credit history.

Ms. Cardenas said that the name on her file was corrected and her file separated from her husband's. She was not charged for this. "They were at first reluctant because they probably thought what kind of an odd ball are you," Ms. Cardenas told the Advisory Committee. However, "they were very gracious about doing what I requested them to do, once I explained to them why...I wanted it that way." (Transcript, p. 81)

Sharon Poindexter, chairperson of the Wichita YWCA task force dealing with credit, related the following incident to the Advisory Committee:

One of the ladies in our group said she was married in 1940, but her file goes back to 1934. And what this means is that she, as an individual person, does not have a credit file; that she is part of an enterprise. She was part of a group, a business or however you wanted to look at it. She does not have a file herself....I think with us it was the attitude that if the credit bureau can be so conscientious to know when you're married to merge your file, and you as a single woman had a file before you were married, that they ought to be conscious of which of these things were made by you...We conclude instead of merging the files, there ought to be some system of cross referencing it so anything--any status of an individual would be kept on the individual.... (Transcript, pp. 126-127)

Affiliated Credit Bureaus, Inc. will separate women's credit files from their husband's upon request. Based upon the small number of requests to date, this has created few problems for them. According to

the credit bureau, "If married women have their own credit and income - no problem - but unless she has credit references and own income, there is no information with which to start a file. Women are not charged for this service unless they need the file established the day it is requested."⁶⁵

Ms. Poindexter told the Advisory Committee that the credit bureau told her task force:

...it takes \$20 to process an account ledger and the ledger is the print-out sheet. And our interpretation of that was that it took \$20 to separate the file. (Transcript, p. 131)

However, credit bureau staff indicated that it did not know how much it costs to separate the files of married couples. When the credit files of married couples are separated, they are cross-referenced. If Mary Doe applies for credit, her husband John Doe's file will not be given out unless "...inquiring member requests both files." In case of divorce, the divorce-granted notice is filed in the husband's file, and the spouse's name and employment are deleted. No changes are made in the credit file of separated couples unless a request is made. In case of death of a spouse, "name of subject records remains same unless change requested. Data entered regarding death of either spouse."⁶⁶

In any of these changes of marital status, credit bureau personnel said a woman would retain some of the credit the couple maintained jointly "assuming that the credit granter can identify a part of the credit belonging to the wife."⁶⁷ The credit bureau did not indicate whether this would be done automatically or only upon request.

65. *Murphy letter, p. 3.*

66. *Ibid.*

67. *Ibid.*

CHAPTER V
CREDIT CARDS

Married Women

The Advisory Committee received 17 complaints from married women alleging discrimination in applying for credit from banks and retail stores. Their concerns focused on five major issues:

- (1) In many cases, credit applications contain an inherent bias against married women.
- (2) Married women attempting to obtain their own credit accounts in their name are often asked more questions about their husband's financial status than a male in a similar situation.
- (3) Some creditors ask for signatures of both husband and wife when a married woman applies for credit.
- (4) Many married women applying for credit accounts in their own names receive credit cards issued to Mr. John Doe, Mrs. John Doe, or Mr. and Mrs. John Doe, instead of to Mary Doe. Even if they receive cards in their own names, their husbands are billed for their purchases. The credit, therefore, is in name only and the account in reality is his.
- (5) Creditworthy married women often receive the credit to which they are entitled only after a lengthy battle.

Jane R. Chapman and Margaret J. Gates, co-directors of the Center for Women Policy Studies, Washington, D.C., told the Joint Economic Committee of Congress:

*...the application forms themselves can be discriminatory--as in cases where the name of the applicant is asked for, followed by a second blank asking for the name of wife, if married. The applicant is obviously expected to be male.*⁶⁸

Walker Bros. of Wichita, Pelletier's of Topeka, and Kresge-Kmart-Jupiter, a national chain store, in late 1974 were all using credit applications biased in this way against married women. The Walker application form asked for the name of the applicant on the first line and "wife's name" on the second line. Applications of the latter two stores requested the name of the applicant on the first line but subsequently asked for "wife's employer," clearly implying that the applicant is male. A similar application form was used in early December 1974 by the First National Bank of Kansas City, Mo., for its Master Charge accounts. (See sample application forms on the following pages.)

Tom Akers, credit manager for Master Charge, First National Bank of Kansas City, Mo., told the Advisory Committee that these are old applications. We are still using them because we have 15,000 more to go." (Transcript, p. 207) Asked if this application might be misleading, Mr. Akers responded:

I don't think so, myself. We don't require that every blank be filled in. If they feel it is discriminatory, we take this into consideration.
(Transcript, p. 207)

The application, however, does not indicate that all blanks do not have to be completed.

Norman Lee, credit supervisor for BankAmericard, Commerce Bank, Kansas City, Mo., told the Advisory Committee that his company's new application does not require applicants to indicate Mr., Mrs., Miss, or Ms. (Transcript, p. 231)

After Louise Wheeler had been an assistant professor of law at the University of Kansas for 19 months, she applied for a Master

68. Economic Problems, p. 204.

FIGURE 3

KRESGE-KMART-JUPITER CHARGE

WHAT IS IT Our Charge Plan has no fixed limit or fixed monthly payment. Once opened it runs continuously from month to month. You never have to pay the balance in full. As your balance increases, payments increase, and as your balance reduces, payments reduce. Adjust it yourself to your own seasonal needs.

HOW IT WORKS When you've received your Credit Card, you're ready to shop. When shopping, simply present your Credit Card, have the sales-check imprinted with your name and address, and take the merchandise with you. Once each month you'll receive a statement along with all the original saleschecks for the thirty-day period ending with your billing date, making it easy to check your bill.

WHAT YOU PAY The statement, received a few days after your billing date, will show your total balance, and in a separate column the amount now due, based on the payment chart below. For Example:

When your balance is	\$5 to \$50	\$51 to \$100	\$101 to \$150	\$151 to \$200	Over \$200
Your Payment is	\$5	\$10	\$15	\$20	1/10 of Bal.

The "amount now due" as shown on your statement is the payment required for that month. A finance charge based on last month's balance, less payments and credits, is added to each monthly statement. Therefore, the more you pay, the less your finance charge will be. Should you choose to pay your account in full within twenty-five days from the billing date, you pay NO finance charge.

WHERE YOU PAY Make payments on your account at any Kresge, K mart or Jupiter Store, or mail your payment with the bill-head to S. S. KRESGE COMPANY CREDIT OFFICE

PLEASE PRINT AND COMPLETE ALL SPACES BELOW

LAST NAME		FIRST NAME		MIDDLE INITIAL	WIFE'S NAME	
PRESENT ADDRESS				CITY	STATE	ZIP
TYPE OF RESIDENCE	OWN	RENT	NUMBER OF YEARS	YOUR AGE	NUMBER OF CHILDREN	YOUR HOME PHONE
PREVIOUS ADDRESS		CITY		STATE	ZIP	
NUMBER OF YEARS	MARITAL STATUS	MARRIED SINGLE	WIDOW	DIVORCED SEPARATED	BANK ACCOUNT	CHECKING SAVINGS
PRESENT EMPLOYER			NUMBER OF YEARS	PREVIOUS EMPLOYER		NUMBER OF YEARS
ADDRESS			WEEKLY INCOME \$	ADDRESS		WEEKLY INCOME \$
POSITION		SOC. SEC. NUMBER		POSITION		
WIFE'S EMPLOYER			NUMBER OF YEARS	NEAREST RELATIVE		
ADDRESS			WEEKLY INCOME \$	ADDRESS		
POSITION		SOC. SEC. NUMBER		CITY AND STATE		PHONE
DEPARTMENT STORE CREDIT REFERENCES		CITY	ACCOUNT NUMBER	OTHER CREDIT REFERENCES		CITY
1.				2.		ACCOUNT NUMBER
3.				4.		

RETAIL CHARGE AGREEMENT

1. I agree to make payments in monthly installments according to the schedule below:

When my (our) balance is	\$5 to \$50	\$51 to \$100	\$101 to \$150	\$151 to \$200	Over \$200
I (We) will pay each month	\$5	\$10	\$15	\$20	1/10 of Balance

2. I understand there will be No finance charge added if my account is paid within 25 days after billing date, but if I choose to pay in installments, I will pay a Finance Charge on the amount remaining from last month's statement, after deducting payments and credits, and before adding current purchases, at the rate of 1½% Per Month or an Annual Percentage Rate of 18%, on balances under \$500, and 1% Per Month on amounts in excess of \$500, or an Annual Percentage Rate of 12%.

3. I agree to surrender Credit Card upon request and to be responsible for all purchases through its use until surrendered or until the Credit Department has been notified in writing of its loss or theft.

Signature _____ Address _____ Date _____

FIGURE 4

WALKER BROS.

NAME _____ PHONE _____

WIFE'S NAME _____

RESIDENCE _____

FORMER RESIDENCE _____

OCCUPATION - HUSBAND _____ FIRM _____

BUSINESS ADDRESS _____ HOW LONG _____

OCCUPATION - WIFE _____ FIRM _____

BUSINESS ADDRESS _____ HOW LONG _____

BANK _____

OWN REAL ESTATE _____

PERSONAL REFERENCE _____

OTHER ACCOUNTS _____

RELATIVE _____ ADDRESS _____

FINANCE CHARGE on Revolving Accounts

Computed by a "PERIODIC RATE" of 1½% PER MONTH (or a minimum charge of 50 cents for balances under \$30.00) which is an ANNUAL PERCENTAGE RATE OF 18% applied to the previous balance after deducting current payments and/or credits appearing on statement.

Customer may at their option pay all of the "NEW BALANCE" or any portion of such "NEW BALANCE" but are required to pay the minimum periodic payment of 1/6 of their remaining balance before the 22nd of the month.

In consideration of WALKER BROS. extending credit to me based on the foregoing information, I agree to make my payments promptly each month.

SIGNATURE _____ DATE _____

FIGURE 5

APPLICATION FOR A PELLETIER'S CHARGE ACCOUNT

DATE _____

MR.	FIRST NAME	MIDDLE NAME	LAST NAME	WIFE'S/HUSBAND'S NAME
MRS.				
MISS				

PRESENT RESIDENCE _____ HOW LONG _____ PHONE _____

FORMER RESIDENCE _____

YOUR BUSINESS _____ MRS. BUSINESS IF EMPLOYED _____

NEAREST RELATIVE _____ ADDRESS _____

YOUR PRESENT CHARGE ACCOUNTS OR REFERENCES _____

YOUR BANK _____

SIGNATURE _____

FOLD AND PLACE IN BOX OR MAIL—
MEMBER OF CREDIT BUREAU OF TOPEKA AND INTERNATIONAL CONSUMER CREDIT ASSN.

Pelletier's Charge Account Terms—Disclosure Under the
FEDERAL TRUTH IN LENDING ACT

- You CHOOSE, each month, how you wish to pay your PELLETIER charge account:

EITHER (1) Pay in full each month WITHOUT a FINANCE CHARGE;
OR (2) Pay within 30 days the applicable minimum monthly payment as listed below. In this case a FINANCE CHARGE will be imposed on the Adjusted Balance. The Adjusted Balance is determined by deducting all payments and credits during the monthly billing period from the Previous Balance (the unpaid balance at the beginning of the monthly billing period).

If your present balance is	less than \$10	\$11 to 100	\$101 to 150	\$151 to 200	\$201 to 250	\$251 to 300	\$301 to 350	\$351 to 400	over \$401
your ★ minimum monthly payment is	In full	\$10	\$15	\$20	\$25	\$30	\$35	\$40	10% of the balance

*A minimum monthly payment must be made each monthly billing period in accordance with the schedule at left or, at the option of Pelletier's, the entire balance will become payable.

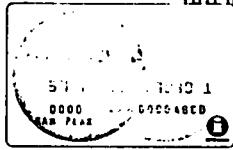
The monthly periodic rates used to compute the FINANCE CHARGE are 1½% on the portion of the Adjusted Balance not exceeding \$800, plus 1.2% on any excess over \$800. The corresponding ANNUAL PERCENTAGE RATES are 18% and 14½% respectively.

FIGURE 6

YOUR MASTER CHARGE APPLICATION

P.O. Box 1611
Kansas City, Mo. 64141

PLEASE PRINT



FOR BANK USE ONLY

57 CPS	06 CRL
07 CYL	08 EXP
05 NO. CDS.	

MR.
 MRS.
 MISS _____ AGE _____

FIRST NAME _____ MIDDLE NAME _____ LAST NAME _____

SINGLE MARRIED DIVORCED SPOUSE'S NAME _____ DEPENDENTS _____ (NUMBER)

ADDRESS _____ (NUMBER AND STREET) (CITY) (STATE) (ZIP CODE) HOW LONG AT THIS ADDRESS _____

PHONE _____ OWN HOME RENT LANDLORD OR MORTGAGE HOLDER _____

PREVIOUS ADDRESS _____ (NUMBER, STREET, CITY, STATE) HOW LONG AT PREVIOUS ADDRESS _____

WHERE DO YOU BANK _____ CHECKING SAVINGS MONTHLY INCOME _____

EMPLOYER NAME _____ ADDRESS _____ HOW LONG EMPLOYED _____

OCCUPATION _____ SOCIAL SECURITY NO. _____

PREVIOUS EMPLOYER _____ (NAME AND ADDRESS) HOW LONG EMPLOYED _____

WIFE'S EMPLOYER _____ (NAME AND ADDRESS) HOW LONG EMPLOYED _____ MONTHLY INCOME _____

NEAREST RELATIVE _____ (NAME AND ADDRESS) PHONE NUMBER _____

CREDIT REFERENCES (1) _____
 (GIVE NAME OF COMPANY AND ADDRESS) (2) _____
 (3) _____

YOUR SIGNATURE HERE _____ (DATE) SPOUSE SIGNATURE HERE _____ (DATE)

Detach, Fold, Moisten Gummed Edge, Seal and Mail in This Postage-Free Mailer.

Charge through the First National Bank of Kansas City, Mo. Her salary was \$17,500, and she previously had a BankAmericard in Palo Alto, Calif. She received a form letter from J. L. Nixon of the Master Charge Department of the Kansas City bank rejecting her credit application because of lack of "credit information and experience."⁶⁹ On March 12, 1973, Ms. Wheeler wrote to Master Charge and wrote again when she had not received a response by April 24, 1973. Her letter read in part:

It has now been 2 months since I originally applied for a Master Charge card and 7 weeks since I wrote you requesting an explanation for your refusal to extend credit to me. Considering the additional information with which I provided you in my letter, I find it most suprising that you have not as yet provided me with a card. Since there is no reason that I can discover why I should be ineligible, I must assume that the failure on your part to respond to my request is due to discrimination against me due to my sex.

I have already been in contact with an investigator for the Kansas Commission on Civil Rights and Consumer Protection Division of the Kansas Attorney General's office. I have been told that discrimination in the granting of credit could be encompassed in the prohibition against sex discrimination in public accommodations under the Kansas Act Against Discrimination.⁷⁰

On May 8, 1973, Ms. Wheeler received her Master Charge card in the mail without an explanation. "You just have to harass them," she said.⁷¹

Mr. Akers told Commission staff in a subsequent interview it would be less complicated for Master Charge if married women would apply in their own right. Married women, he said, are evaluated for

69. J. L. Nixon to Louise Ann Wheeler, Mar. 2, 1973, U.S. Commission on Civil Rights, Central States Regional Office files.

70. Louise A. Wheeler to J. L. Nixon, Apr. 24, 1973, U.S. Commission on Civil Rights, Central States Regional Office files.

71. Ginzy Schaefer, "Women Find Credit Snag," Kansas City Star, May 10, 1973, p. 1N.

credit on the same criteria as anyone else.⁷² Later on, however, during the Advisory Committee's informal hearing, Mr. Akers said that he would prefer that married couples use one account number with separate cards rather than "his" and "hers" accounts:

I would prefer to have one myself. We will not set up two, but [instead] simply one, because our experience has been it's confusing to get two different statements. Nobody ever looks at the number, or they will send one check and it is applied to one or the other. It's a bookkeeping problem. (Transcript, p. 221)

Donna J. Wolfson, Ph.D., employed at the Kansas Neurological Institute, Topeka, Kans., applied for her own credit account during September 1972 at the J.C. Penney Company, Inc., White Lakes Shopping Center, Topeka, Kans. Her husband already had a J.C. Penney charge card. Dr. Wolfson was told that she could simply use her husband's card, but she explained that she wanted her own account, and was told, "No, it is not our policy." She filed a formal complaint with the Kansas Commission on Civil Rights, charging the J.C. Penney Company, Inc., with discrimination against her because of her sex.⁷³ The conciliation agreement, reached July 19, 1973, stated, in part:

Respondent recognizes the possibility that the situation as per PA141-73 [complaint of Wolfson v. J.C. Penney Co. Inc.] could have simply been one of the problems encountered by business establishments, i.e. a tired employee, a poor employee, a misunderstanding between the initial parties, or an unfulfilled effort. Any one or a combination could have culminated into PA141-73.

However, the Respondent recognizes its duties to its clientele, therefore accepting its responsibility for its representatives. This document is not to be construed as a statement of guilt or an admission of any violation of the Kansas Act Against Discrimination.

-
72. Tom Akers, interview in Kansas City, Mo., Nov. 17, 1974 (hereafter referred to as Akers Interview).
73. State of Kansas, Commission on Civil Rights, "On the Complaint of Dr. Donna J. Wolfson vs. J. C. Penney Company," Aug. 10, 1972, Docket No. PA141-73.

*Respondent, as a cooperative reflection of its good faith and company policy, hereupon consents to the satisfactory adjustment of PA141-73 to include the following: 1. the immediate offering of credit privileges to Donna Wolfson providing she completes an application and is found to have the ability and willingness to pay....*⁷⁴

Soon after the conciliation agreement, Donna Wolfson applied for a J.C. Penney charge card, which she received.

In a similar circumstance in late 1973, Carolyn Kortge, an account executive from Wichita, Kans., applied for a Master Charge account through the First National Bank in Wichita.⁷⁵ At the time of her application she had been employed at her job for 8 months. Ms. Kortge told the Advisory Committee that she did not indicate her marital status on the application and did not supply her husband's name. The only information she completed was about herself. "I did not want to be Mrs. Kortge," she said, "I wanted to be just Carolyn Kortge. I work in my own name. I bring a paycheck in my own name. I want credit in my own name." (Transcript, pp. 85, 86)

On Nov. 23, 1973, J. K. Carey of the Master Charge credit department sent a form letter to Ms. Kortge rejecting her application for the following reason:

*In your application you indicated that you have been on the job for less than 1 year. At the present time, we require at least 1 year in your current occupation before application can be considered.*⁷⁶

Ms. Kortge told the Advisory Committee that she did not think this was an unreasonable standard but that her husband had some doubts:

74. *State of Kansas, Commission on Civil Rights "In the matter of conciliation between J. C. Penney Company, Inc., Respondent and the Kansas Commission on Civil Rights, on the complaint of Donna Wolfson, complainant," July 19, 1973, Docket No. PA141-73, p. 2.*

75. *A representative of the Master Charge division of First National Bank of Wichita was scheduled to appear at the open meeting, but because of last minute illness and jury duty, no one appeared.*

76. *J. K. Carey to Carolyn L. Kortge, Nov. 23, 1973, U.S. Commission on Civil Rights, Central States Regional Office files.*

...consequently he made application for the same Master Charge at the bank and received immediately his card [within several weeks] and a letter of congratulations on being accepted. He had been employed at his job some 3 months less than I had, and this was his first job, he just graduated-- completed a Ph.D., and had been a student for most of those 8 years of our marriage, and I had been employed all of those years. So, in his first 6 months of employment, he was a better credit risk than my 8 or 9 years of employment....(Transcript, p. 86)

After her husband received his credit card, Ms. Kortge said that she contacted the Women's Political Caucus in Wichita for assistance and was told to call the credit department at the bank, which she did. The Kortge's were invited to lunch at the executive dining room at the bank. During the luncheon, Ms. Kortge said that the Master Charge representatives explained their decision:

They said to me...that there are a number of factors involved in determining credit eligibility, and of course this 1-year requirement was only one of them, and together they created a balance. It was very complicated and had been waived in my husband's case because there were other things that outweighed it in my husband's case, [the lifetime earnings potential of a person with a doctorate degree]. One of the things which was against me, they said, [was] that I had not said that I was married and when they checked the credit reference they found that I was married, and it was determined that if I had given false information in one case, I might have given it in others. I said that I'm not giving false information. I have not given information. Somehow it seemed different to me but it didn't to them. (Transcript, p. 88)

This second reason did not appear on the form rejection letter which Ms. Kortge received. Both Carolyn Kortge and her husband have their own Master Charge cards. It took Ms. Kortge approximately 4 months to receive hers, whereas her husband received his in a matter of weeks.

One Topeka woman who did not fight for her credit did not receive it. In December 1974 a Topeka school administrator wanted to purchase a sewing machine in a small retail store and was interested in extending the payments over a 4-month-period. The clerk indicated she could pay

over a period of 36 months. However, all of those credit questions which the clerk asked concerned the woman's husband. The woman assured the clerk that she had a good position and did not have to rely upon her husband's money. She then told the clerk to pretend that she was divorced that morning and to put the credit in her name. The clerk said that if she were divorced, the credit would be denied automatically. In any case, she did not receive the credit.⁷⁷

Several other women told the Advisory Committee that when they completed and signed credit applications in their own name, the accounts were opened in their husbands' names.

In the fall of 1973, Caryl Smith, an associate dean of women at the University of Kansas, applied for a BankAmericard through the Commerce Bank of Kansas City, Mo. Her husband was employed by the same employer and received the identical salary. Ms. Smith had been employed in her job for 13 months. She had changed the application form from "wife" to spouse but did not put down her husband's name. Her signature was the only one appearing on the application. A short time later, she said, "my husband received a card in his name." (Transcript, p. 95)

After consulting with an attorney, Ms. Smith sent the credit card in her husband's name back to BankAmericard with a letter requesting re-examination of the original application. The letter indicated that a carbon copy had been sent to an attorney. Ms. Smith said that she had received a credit card in her own name in return mail. (Transcript, pp. 94, 95)

During the Advisory Committee's informal hearing, Norman Lee, credit supervisor for BankAmericard, was asked his reaction to the incident. He said, "Somewhere on the application his name [the husband's] had to be implicated." (Transcript, p. 234) It was emphasized to Mr. Lee that Mr. Smith had not signed the application. Mr. Lee's response did not clarify how the husband was issued the credit card:

Here again, this is an isolated instance; it depends on the verifiable information. If we could not verify what the income is, we are again at liberty to see what the salary is and to verify what that individual says. If we cannot verify any information, we'll ask for more information from anyone. (Transcript, p. 234)

77. Information on file at the Central States Regional Office of the U.S. Commission on Civil Rights, Kansas City, Mo.

The Advisory Committee questioned Mr. Lee further about BankAmericard's policies in regard to married women.

Advisory Committee: Are there any circumstances in BankAmericard in which an application is made by a married employed woman, [and] has been returned asking either the husband's signature or the card has been sent in the husband's name?

Mr. Lee: Of course, here again the guidelines. It depends on how much information we can obtain on that one individual, regardless of male or female, divorced or married.

Advisory Committee: Would that be possible if all the information were given?

Mr. Lee: This depends on how the individuals request it. If they want it that way, we have no steadfast rules or guidelines.

Advisory Committee: If the applicant specifically requested it in her name?

Mr. Lee: This depends entirely again on how much information that woman supplies us with. If she has the stability and willingness and ability to repay, sure we're in business for it.

Advisory Committee: Does she have to supply you her husband's name and employment in salary?

Mr. Lee: Not necessarily. It would be helpful to find out that individual's background. (Transcript, pp. 227, 228)

Ted Diehl, credit collections manager of BankAmericard, told Commission staff that credit cards are issued exactly as the credit application is signed.⁷⁸ Asked if BankAmericard requires both spouses to sign a credit application, Mr. Diehl responded in the negative but said that under Missouri law⁷⁹ they could require this. Although the BankAmericard office covers parts of Kansas, Mr. Diehl did not know whether Kansas law offered a similar option.⁸⁰

78. Ted Diehl and Norman Lee, interview in Kansas City, Mo., Nov. 18, 1974. (hereafter referred to as Diehl-Lee interview).

79. State of Missouri, Senate Bill No. 427, 77th General Assembly, signed into law June 18, 1974.

80. Diehl-Lee Interview.

This same issue arose at the open meeting, and Norman Lee said: "I don't know what the State of Kansas laws are, and it is not significant because we do review on an individual basis." (Transcript, p. 228)

Debbie Sandstrum, employed in Wichita, applied for a credit card at the J.M. McDonald Co., a retail store in Wichita. About a week later, Mr. Sandstrum received a letter from McDonald's asking him to come in and discuss the application. Ms. Sandstrum went to speak with the credit manager. Ms. Sandstrum asked if it were possible to have the card issued in her name only. The credit manager said that it was usual to put the husband's name on the card. Ms. Sandstrum replied, "I pay all the bills and have a full-time job (45 hours a week). My husband attends college full time and has a part-time job." The credit manager also said that a check at the credit bureau had not turned up any credit information on either of the two, despite an outstanding car loan on which they were making payments.

Ms. Sandstrum spoke to an employee of the credit bureau who opened up a credit file but only asked questions about Mr. Sandstrum.⁸¹ On December 17, 1974, the day before the Advisory Committee's informal hearing, Ms. Sandstrum received a J.M. McDonald Co. credit card in her own name.

The Advisory Committee questioned Jack Sinnard, credit manager, J.M. McDonald Co., Hastings, Nebr., about his company's policies concerning credit accounts for married women based on their own credit-worthiness:

That is one of the problems that you're certainly faced with in this area. In that law, [Equal Credit Opportunity Act] there is reference to giving the husband's name when applying for credit under certain circumstances, and I think some other things have to change before I can answer.

I would say if I knew you [the woman] and there were other factors to influence my decision...and say for instance, you had an account as husband and wife and you came in my store and requested a change of account, I would not say anything. But really, as the State laws are now, depending on what State you're talking about, you must be careful on that. (Transcript, p. 195)

81. U.S. Commission on Civil Rights, Central States Regional Office, Credit Discrimination Form Re: Debbie Sandstrum, Oct. 29, 1974.

Our business is women-oriented you might say, so why wouldn't we do that? We would encourage the women to open an account, wouldn't we? (Transcript, p. 196)

Approximately a week prior to the informal hearing, Mr. Sinnard submitted a copy of the following undated, policy statement:

ALL STORES AND CREDIT OFFICES

J. H. SINNARD

OUR POLICY WITH REFERENCE TO GRANTING OF CREDIT

Over the years there have been many changes with reference to credit qualifications, most recently as related to discrimination in the granting of credit to women.

We feel it is important that all our Associates involved in granting credit understand our policies. This applies not only to those in our credit offices but to each associate who deals with our customers.

OUR CREDIT POLICY IS:

Based upon the character and capacity of the applicant, the financial position of the applicant, information received from credit bureau checks which will set forth the satisfactory paying habits of the applicant, personal knowledge of applicant and the credit interview, we will grant credit to any qualified adult.

OUR POLICY PERTAINING TO NAMES ON ACCOUNTS IS:

If a woman wishes to open an account in her name, her maiden name or her married name, we will do so. The qualifying factors are set forth above and apply to all credit applicants. This has always been McDonald's Credit Policy. In no instance do we require the signature of the spouse before opening an account.

We urge you to discuss our Credit Policy at your next store meeting to make certain it is understood by all Associates.⁸²

During the open meeting, Mr. Sinnard was asked whether the written credit criteria are disseminated regularly to credit employees. He responded that they are not because "...it's very difficult to write something of that nature....I don't think you can do that because I believe every customer at the door is a potential credit customer and

⁸². J. H. Sinnard, J. M. McDonald Co., "Our Policy with Reference to Granting of Credit."

we may have different sets of criteria that may allow you to open an account for that person." (Transcript, p. 198)

K. B. Hobbs, credit manager for Pelletier's retail department store in Topeka, Kans., was invited by the Advisory Committee to participate in the informal hearing, but declined the invitation because of heavy pre-Christmas business. In an interview with Commission staff, Mr. Hobbs said that Pelletier's discourages married women from opening accounts in their own names. Although the majority of the store's credit accounts are opened by women, he said, they are issued in the husband's name--Mrs. John Doe. Mr. Hobbs maintained that separate accounts for married women throw a "monkey wrench into the cog wheels of credit" because the more deviations there are from standard operating procedure, the more paper work problems result. Furthermore, he said, knowing human nature, women would not remember in what name the account was listed and would cause needless delay for store personnel. Asked what he would do if a married woman insisted on credit in her own name, he responded that he would first try to ascertain whether she were separated or divorced.⁸³

Walker Bros. retail clothing store in Wichita was invited to participate in the informal hearing, but also declined the invitation because of the anticipated heavy Christmas sales. During an interview with Commission staff, J. M. Hill, Walker Bros. credit manager, said that credit cards conform to the signature on credit applications. However, married men are asked only general information about their wives, but married women must supply financial information about their husbands. Furthermore, credit applications in which married women omit their husband's name will be rejected. Mrs. Hill said, however, this information usually can be elicited from the city directory.⁸⁴

R. G. Scott, credit manager of Crosby's, a Topeka department store, stated that until recent complaints had forced a change of policy, married women wanting accounts in their own names were asked detailed information about their husbands, but married men were not questioned about their wives. Although married women can establish credit in their own name at Crosby's, Mr. Scott said he did not think many women knew this. He estimated that about 80 percent of the store's customers are women, but only 20 percent of the accounts maintained by married women are in their own names. (Transcript, pp. 176, 177)

83. K. B. Hobbs, interview in Topeka, Kans., Nov. 11, 1974 (hereafter referred to as Hobbs Interview).

84. J. M. Hill, A. Clay, interview in Wichita, Kans., Nov. 13, 1974.

One additional complaint made to Commission staff came from a married woman in Lawrence, who applied for a credit card in her own name. She received the card in her own name, but her first bill came addressed to her husband.⁸⁵

When A Single Woman Marries

Another area of alleged credit discrimination brought to the Advisory Committee's attention concerns the credit of single women when they marry. Many creditors either change the woman's credit limit, place the account in the husband's name, or ask the husband to complete an application.

Jeanne Cardenas, whose problems with the credit bureau in Wichita were described previously, told the Advisory Committee about difficulties she had encountered when she changed marital status. For several years when she was single, she said, she held a BankAmericard issued by the Fourth National Bank and Trust Co. of Wichita. Her credit limit was \$900. In March 1974 when her card expired, she did not receive a new one. In April she received a new application form. Ms. Cardenas contacted BankAmericard questioning this procedure, and was told that because she had moved, the card was not forwardable. Ms. Cardenas gave her new name and address and requested that they send the card. BankAmericard asked for her husband's name and occupation. "I did not want to give it to them because I wanted to maintain the credit in my own name," Ms. Cardenas told the Advisory Committee. "I did not want to lose my identity as a person with valid credit and they objected to this." (Transcript, p. 75)

Ms. Cardenas called various managers until BankAmericard agreed it could issue the card without the information about her husband. However, she was still required to fill out a new application. When the card was finally issued in her name, Ms. Cardenas found that the credit limit was reduced by 44 percent to \$500. She did not question the action "because by that time I was so tired that I wanted to take the card and forget the whole mess." (Transcript, p. 78) According to BankAmericard then, Ms. Cardenas was less creditworthy after her marriage than before.

A representative from BankAmericard of Wichita was asked to appear at the open meeting, but did not attend.

85. Information on file at the Central States Regional Office of the U.S. Commission on Civil Rights, Kansas City, Mo.

Officials from BankAmericard of Kansas City, Mo., told Commission staff that when a single man marries, he does not have to notify the company unless he wants a card for his wife. In the case of a single woman marrying, although she can keep the account in her own name, it becomes identified with her husband's account. BankAmericard representatives said that the company needs to know the husband's name, address, etc., "for legal purposes," and so it can "handle the account better" with more current information.⁸⁶ Mr. Lee explained BankAmericard policy in this regard:

Advisory Committee: In the event that a single woman marries and notifies you that she wants the account name changed only, but she wants to maintain the account in her own name, what do you ask of her?

Mr. Lee: First, the reason why she wants it, why she wants it changed.

Advisory Committee: The married name, but she still wants to retain the card, her own account.

Mr. Lee: She can do that. Here again, this is a question of legality. Mary Doe married John Smith. Technically Mary Doe no longer exists. Legally, she no longer exists. She has changed her name. Now, we do it not from a standpoint of a legal aspect so much as for identification purposes. We want to know what the name is.

Advisory Committee: Will that card be issued in Mary Smith's name?

Mr. Lee: Yes, if she wants it that way. We may ask for more information from the husband--first off, we'll look at her history and see how she maintained the account in her own name. In this capacity--if she is still working and still handling her account in a satisfactory manner, it's a simple process of changing the last name on the card under the same account number and receiving the same history. (Transcript, pp. 232, 233)

R. G. Scott of Crosby's told the Advisory Committee that neither men nor women have to notify the store when they marry. "It all depends on how she wants to carry the account. We have married women carrying it in their maiden names." Asked if the credit limit of a woman is ever changed upon marriage, Mr. Scott indicated that if the new husband has had credit, his wife would be penalized:

86. Diehl-Lee Interview.

It depends on the husband's credit. Usually when a woman gets married, we check the husband's credit and if it has any derogatory statements, we'll make adjustments as necessary. (Transcript, p. 176)

J. H. Sinnard of the J. M. McDonald Co. told the Advisory Committee that he can't require single women to notify him when they get married. If a single woman does, Mr. Sinnard said "our policy is that we always ask this person for a credit application because that changes the name on the account, and it could affect it. Really, today, if a woman wants an account, in her name, I have no objection to that." Later, however, he offered another interpretation. Asked if single women have to complete new applications upon marriage, he answered, "Not always. If it's an account that has been established and the person is employed, I don't ask for a new application." (Transcript. p. 210)

Mr. Akers of Master Charge, Kansas City, Mo., told the Advisory Committee that marriage has no effect on the account of a woman, "unless she wants to change the name on it. If she requests a name change," he said, "we'll change the name to a married name." Asked if there was any instance in which the credit limit would be changed, he responded, "Just increased, if they request it and we feel that they have been with us long enough to be established." Mr. Akers said that when either a man or woman marries, Master Charge tries to get information on the new spouse. (Transcript, pp. 220, 221)

Single, Separated, Divorced, or Widowed Women

The Advisory Committee received far more complaints from married women alleging credit discrimination than from women of other marital statuses. Although no single women contacted the Advisory Committee complaining of credit discrimination by retail stores or interbank credit cards, other studies have documented disparate treatment of single women in the granting of credit. The Utah Advisory Committee to the U.S. Commission on Civil Rights in a recent study on sex discrimination in the granting of credit found "a substantial degree of differential treatment toward single females based apparently on their sex."⁸⁷

The National Commission on Consumer Finance has also found that "single women have more trouble obtaining credit than single men. This

87. Utah Advisory Committee, U.S. Commission on Civil Rights, Credit Availability to Utah Women (1975), p. 9. (hereafter cited as Credit Availability to Utah Women).

appeared to be more characteristic of mortgage credit than of consumer credit.⁸⁸ During its informal hearing, the Kansas Advisory Committee was informed of several incidents in which Kansas women had difficulty obtaining mortgage loans. (Transcript, pp. 224, 225) Women's rights groups in Topeka also indicated to Commission staff that this was a problem.⁸⁹ However, mortgage credit was not included in the Advisory Committee's project on consumer credit.

Widowed, separated, and divorced women find themselves tangled in a "catch-22" situation. When they are married and living with their husbands, many creditors extend them credit in their husband's names. Joint credit maintained by the couple is considered to belong to the husband alone. When these women are without spouses, they find that they are nonentities in the credit world. In evaluating an application of a widowed, separated, or divorced woman to determine her willingness to pay (a good credit history), a creditor often finds a blank slate.

One widowed woman wrote the Kansas Advisory Committee, "I found that I could get credit in my deceased husband's name (he was an attorney) before I could get it in my own--I was a school teacher at the time. Now, this is ridiculous."⁹⁰ Another widow told the Advisory Committee that after her husband's death she contacted a national oil company and told them to place the account in her name. For 4 years, she said, they billed her deceased husband, until she finally told them "where they could find him to collect the bill."

The Advisory Committee received no allegations of credit discrimination from separated women. However, no conclusions can be drawn from this because the Advisory Committee's study was not a scientific study using a random sample. The Utah Advisory Committee to the U.S. Commission on Civil Rights surveyed credit managers in three Utah cities and found that 47 percent required a woman to return her credit card when she separates from her husband. Only 27 percent said this was their policy for separated men. Sixty-three percent stated that they

88. Consumer Credit, p. 152.

89. Jane Werholtz, interview in Topeka, Kans., Oct. 10, 1974.

90. On file at the Central States Regional Office, U.S. Commission on Civil Rights, Kansas City, Mo.

would issue a new credit card to a man if he applied while separated compared to 30 percent when the same question was asked concerning women.⁹¹

The Advisory Committee received allegations of credit discrimination from 12 divorced women. One school librarian from Wichita capsulized the dilemma in a letter to the Advisory Committee. "Where and how does one begin to establish good credit standing, if each company requires a reference from another company? Ironically, in my situation, responsibility for the good credit standing my ex-husband and I had as a married couple rested largely on my shoulders."⁹²

Carol Boone, director of the Consumer Protection Association, Lawrence, Kans., applied for a Master Charge card through the United Missouri Bank, Kansas City, Mo., in August 1974 shortly after her appointment. Ms. Boone has an extensive credit history. She holds a mortgage on a house and another on other property. She had a Master Charge account in California and several major department store credit cards, all in her married name.

Master Charge sent Ms. Boone a rejection letter stating that she could find out the reason her credit was denied if she made a request in writing. She did. After receiving no response, she telephoned Master Charge and spoke to a credit representative. Ms. Boone explained her credit history, and he agreed to re-investigate her application. Shortly thereafter Ms. Boone received a second rejection letter, citing lack of credit experience as the reason credit was denied. She wrote Master Charge a second letter, re-emphasizing her credit history and annual income. She also mentioned that her job had increased her awareness of discrimination against women in the credit field. About a month later she received a Master Charge card in the mail with no explanation.⁹³

Ms. Boone told the Advisory Committee, "...it was only through nagging that I did get credit even though I was creditworthy, and although they didn't write me back to tell me why I wasn't issued credit, they eventually issued me a credit card rather than say why it wasn't given to me." (Transcript, p. 271)

91. Credit Availability to Utah Women, p. 32.

92. On file at the Central States Regional Office, U.S. Commission on Civil Rights, Kansas City, Mo.

93. U.S. Commission on Civil Rights, Central States Regional Office, Credit Discrimination Form Re: Carol Boone.

Persistence does not work in all cases. Jaimie Ritchie, a professional employee of the State of Kansas, was divorced in April 1973 following a 5 1/2-year marriage. Before marriage she had repaid a bank loan, and after marriage she and her husband made payments on two car loans and several retail credit obligations. Following her divorce she established credit with two retail stores, one interbank creditor, and one national oil company. She also had a car loan, which had been paid several months in advance at the time of the Advisory Committee's informal hearing.

In August 1974 Ms. Ritchie applied for a BankAmericard through Commerce Bank of Kansas City, Mo. She did not hear from them until the following October, when she received a form letter denying her credit on two counts: short employment (less than 2 years) and insufficient credit history. In October 1974 Ms. Ritchie had been employed by the State of Kansas for 11 months. Immediately prior to that she had worked on a 4-month temporary job (in the same field) with the U.S. government.

Ms. Ritchie asked BankAmericard the reasons for her rejection. She described her contact to the Advisory Committee:

*She [the BankAmericard employee] indicated that you had to have two credits for a continuing period of 2 years...and she said the minimum employment was 2 years in your current job. But she said if your credit references were good, then the length of time in your employment did not count that much.
(Transcript, pp. 104, 105)*

In an interview with Commission staff, BankAmericard representatives said that there is no minimum length of employment, although they would not extend credit to a person who changes jobs frequently. If an upwardly mobile person changes jobs in the same occupational area, this is not held against his/her credit application.⁹⁴ Mr. Lee of BankAmericard told the Advisory Committee, "We look at each application on an individual basis." (Transcript, p. 226)

Ms. Ritchie also questioned the credit representative about the sources used to check her credit:

She indicated that the only thing she had done was to contact the credit bureaus....She said there was no credit history on me at all with the bureaus....

94. Diehl-Lee Interview.

She said they did not check any of the references that I gave aside from the credit bureau's because there were some stores...who would not furnish such information, and also they did not feel it was their responsibility to have to do any more checking than with just the credit bureau. They also did not feel that it was their responsibility to pay the credit bureau to update my file. (Transcript, p. 105)

Ms. Ritchie asked the BankAmericard representative if the joint credit record she had maintained with her husband could be applied to her application:

She indicated that there was a possibility that they could check my husband's file with the credit bureau. She said she didn't know if it would help or not....I told her I would think about it and I called back the following Monday and I talked with another person in the credit department and they said that there was no possibility of doing that at all. No possibility of going back and checking my husband's credit and applying it to mine. (Transcript, pp. 108, 109)

Mr. Lee, however, told the Advisory Committee during its informal hearing:

We have a full time staff and if we can't obtain enough history, that's the purpose of the investigator, to contact the companies as listed on the application to see if we can get a reference to indicate the depth of the credit. (Transcript, p. 237)

Mr. Lee earlier told Commission staff that there was no problem with disseminating credit policies among employees,⁹⁵ although this did not seem to be the case in Ms. Ritchie's experience. Her application was not approved.

One woman who contacted the Advisory Committee said she had been married 15 years prior to her recent divorce. During all those years, she had been employed as a registered nurse in Kansas City, Mo., although not at the same job. After her divorce, she moved to Topeka and started a new job. For a year, she had used a credit card in her

95. *Ibid.*

own name from a national retail store chain along with a national oil company credit card. Shortly after her divorce, she said, she applied for credit at a Topeka branch of another national retail chain where she and her husband had held a joint account for many years. First, the store lost her application, and she was required to reapply. Her credit was then denied because she had not been on her present job long enough. She was told that the store would give her a \$50 coupon book, and see "how she did." After 6 months or a year, they would re-evaluate her credit application.⁹⁶

Ann Graham, a Topeka researcher, told the Advisory Committee that she had been a fairly regular cash customer at Buttrey's retail store at White Lakes Shopping Center in Topeka--a women's clothing chain with headquarters in Minneapolis, Minn. In mid-1972, she said, she bought a coat on layaway and paid it off early. In October 1972, after she was divorced, she applied for credit at Buttrey's, and a month later inquired about the application. She was told it had been rejected because she had not lived long enough at the same address. She had been employed for more than a year at the same job.⁹⁷

Marietta Armstrong, acting credit manager for Buttrey's, White Lakes Shopping Center, told Commission staff that it was formerly the store's policy "to watch divorcees more carefully," but because of complaints it had discontinued this policy. She indicated that the length of time at present address was important, but intra-city changes of residence posed little problem. Layaways, she said, were often a good means for establishing credit at the store.⁹⁸

Ms. Graham reapplied for credit at Buttrey's in November 1974 and was issued a card shortly thereafter.

K. B. Hobbs, credit manager at Pelletier's, Topeka, told Commission staff that it is difficult for divorced women to obtain credit at Pelletier's. He said that because the husband was the sole support of the family, a divorced woman would have no credit history. Mr. Hobbs was asked if the couple's joint account with Pelletier's could be

96. *Information on file at the Central States Regional Office, U.S. Commission on Civil Rights, Kansas City, Mo.*

97. *U.S. Commission on Civil Rights, Central States Regional Office, Credit Discrimination Form Re: Ann Graham.*

98. *Marietta Armstrong, interview in Topeka, Kans., Nov. 11, 1974.*

used to demonstrate past credit for the woman. He answered "no" because the account was in the man's name. Asked what information he would ask a divorced woman applying for credit, he replied that Pelletier's would need to know her ex-husband's name and date of divorce. This way, he said, it could check to see if the couple's joint account with Pelletier's was delinquent. If so, Mr. Hobbs explained, this would be used against the woman because "she probably made the purchase."⁹⁹

Mr. Akers, credit manager for Master Charge, First National Bank, Kansas City, told the Advisory Committee he has no way of determining whether or not a couple has divorced unless either person notifies him. In such cases, he said, he requires both cards be returned. (Transcript, p. 211)

The Advisory Committee asked Mr. Akers what happens when he receives an application from a divorced working woman with no credit history. he replied:

Generally, she would be advised at that time that we could not open an account, but what I have all my people do, and myself, is to explain to these ladies that if they contact the credit bureau, in most cases the credit bureau will give them the information. I think most of the stores are willing to go back and look to see if they can--sometimes they can't tell who paid it, but actually the information is in the husband's name. Now, we are hoping that this will change, which will make it easier for us. (Transcript, p. 211)

Another problem for divorced women is that many creditors refuse to consider court-ordered alimony and child support as legitimate sources of income.

A Lawrence woman, Sharon Beach, wrote the Advisory Committee that she was having difficulty getting credit with the local branch of a national retail chain. She was not working but received \$400 per month in court-ordered child support and alimony. Furthermore, she said, her husband, "in his own good will," sends an additional \$250 per month.¹⁰⁰

99. Hobbs Interview.

100. Sharon Beach to Commission staff, Jan. 10, 1975, U.S. Commission on Civil Rights, Central States Regional Office files.

Mr. Hobbs of Pelletier's told Commission staff that alimony is not an acceptable form of income.¹⁰¹ Mr. Diehl of BankAmericard of Kansas City, Mo., agreed. Alimony is no good even if it is court ordered, he said, because payments can stop at anytime.¹⁰²

On the other hand, R. G. Scott indicated that Crosby's accepts alimony and child support payments as valid sources of income. (Transcript, p. 179) Credit manager Tom Akers told the Advisory Committee that Master Charge counts alimony in determining a divorced woman's ability to pay. (Transcript, p. 214)

101. *Hobbs Interview.*

102. *Diehl-Lee Interview.*

CHAPTER VI.
CONCLUSIONS

The Kansas Advisory Committee found that it is generally more difficult for creditworthy women to receive credit from retail stores and interbank credit cards than for their male counterparts. Creditworthy women who have been denied credit often find that they must make persistent efforts to obtain the credit to which they are entitled.

The first Federal legislation prohibiting credit discrimination based on sex and marital status--the Equal Credit Opportunity Act--will become effective October 28, 1975. Yet, obstacles remain, not the least of which are the attitudes of creditors. Many rely upon myths about women--assumptions that may never have been valid and others that perhaps were true over a century ago. The Kansas Advisory Committee found little or no familiarity with the Equal Credit Opportunity Act among members of the consumer credit industry whom they interviewed.

Kansas legislative effort in the area of credit discrimination has been minimal. The interpretation of retail stores as public accommodations under the Kansas Act Against Discrimination is precarious at best. The only legislative action specifically aimed at credit discrimination--a 1974 study proposal--died in committee. It is hoped that this report will provide the Kansas legislature with the empirical data necessary to draft credit discrimination legislation to fill any gaps in the Equal Credit Opportunity Act.

In the course of its investigation, the Advisory Committee met with many managers of retail and interbank credit card accounts and representatives of credit bureaus. Although many were extremely cooperative, others kept the lid tightly sealed on their operations. Some refused to participate in the informal hearing, giving a variety of reasons. Some said the heavy volume of Christmas business prevented their at-

tendance. Others said that because there was a new Federal law nothing more had to be done, and since they did not discriminate, there was no reason they should be involved. Some said they did not care to respond to complaints brought against them, while others stated that because they had not been subpoenaed, they were not legally required to participate.

By statute, the Advisory Committee to the U.S. Commission on Civil Rights can study and collect information in their community on the denial of equal protection of the law because of race, color, religion, sex, or national origin. With such authority the Kansas Advisory Committee undertook this project. However, while examining the availability of credit to women, the Advisory Committee identified other credit problems--practices that go beyond the Commission's mandate. These are identified so they can be addressed by the appropriate authorities: (1) Few creditors have clearly established credit criteria. This results in arbitrary and subjective credit decisions; (2) Many credit granting institutions do not have an adequate mechanism for insuring an even application of credit "policies" by employees. Applicants are told different, often contradictory versions of company "policy" by various credit employees; (3) Unless creditors base their decisions for rejecting an application on information obtained from a consumer reporting agency or a third party source, they do not have to tell the applicant why credit was denied; and (4) Many credit bureaus are not diligent about updating files.

CHAPTER VII.
FINDINGS AND RECOMMENDATIONS

Based upon a 6-month study by Advisory Committee members and Commission staff, including a 1-day open meeting involving a variety of persons knowledgeable about the availability of credit to women, the Kansas Advisory Committee to the U.S. Commission on Civil Rights reports the following findings and recommendations:

Finding #1: Availability of Credit to Women

The Advisory Committee found that credit is not available to creditworthy women on an equal basis with creditworthy men. Married women face six major problems when applying for credit:

1. Some credit applications contain an inherent bias against married women.
2. Some creditors require both spouses to sign a credit application.
3. Some creditors issue credit cards in the husband's name to married women applying for their own accounts.
4. Some creditors issue credit cards to married women in their names, but bill their husbands for the purchases. Such accounts are "in name only" since the credit history accrues to the husband.
5. Some creditors ask married women more questions about their husband's financial status than a male in a similar situation.
6. Creditworthy women often receive the credit to which they are entitled only after a lengthy struggle.

The Advisory Committee did not find that single women have difficulty obtaining retail and interbank credit cards, but received several discrimination complaints concerning mortgage and personal loans. No complaints from separated women were brought to the Advisory Committee's attention.

Widowed women often find it easier to establish and continue credit in their deceased husbands' names than in their own. Divorced women often find themselves without credit after their divorce. Joint credit maintained during marriage follows the male, not the female. A bad credit rating, however, follows both individuals. Many creditors are reluctant to consider court-ordered alimony and child support as valid sources of income.

Recommendation 1a:

The Advisory Committee recommends that consumer creditors adopt an application form that is not biased against married women. This would ensure that the initial application for credit would be free of sex/marital status bias. Model forms are attached for reference.

Recommendation 1b:

The Advisory Committee recommends that creditors establish routine procedures to comply with both the letter and spirit of the Equal Credit Opportunity Act. For example, where both individuals in a joint account are creditworthy, creditors should routinely credit both with the account, which should be in the names of Mary Doe and John Doe. If only one partner to a joint account is creditworthy, the account should belong to that person, i.e., John Doe or Mary Doe, with a second card issued in this name to the other partner.

Finding #2: Credit Bureaus

Although credit bureaus do not grant or deny credit, the Advisory Committee found that the information they report to creditors plays a major role in credit decisions. The actions of credit bureaus may contribute to credit discrimination against women in the following ways:

1. Automatically merging the files of single women with their husband's when they marry.
2. Incorporating the credit history of married women who have their own credit accounts with their husbands' unless they re-

Model Credit Application

For individual account complete Part A only. For joint accounts complete both A and B.

Part A

Last Name	First Name	Middle Initial	Date of Birth
Home Address		Street	Apt. #
City	State	Zip Code	# of Years
Previous Address		City	State
			# of Years
Telephone #	Closest Relative not living with you		
Address		City	State
Present Employer		Address	
City	State	Zip Code	
Length of Employment		Monthly Salary	
Previous Employer		Address	
City	State	Zip Code	
Length of Employment		Monthly Salary	
Sources of additional income		Amount	# of Dependents (including self)
Checking Account #	Bank	City	State
Savings Account #	Bank	City	State
Credit References	Account #	Balance Owng	Monthly Payment
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
Name and Address of Mortgage Holder or Landlord			
<input type="checkbox"/> Own Monthly Payments			
<input type="checkbox"/> Rent 			
Signature (The name in which you want the credit card issued)			

Part B

Last Name	First Name	Middle Initial	Date of Birth
Home Address		Street	Apt. #
City	State	Zip Code	# of Years
Previous Address	City	State	# of Years
Telephone #	Closest Relative not living with you		
Address		City	State
Present Employer		Address	
City		State	Zip Code
Length of Employment		Monthly Salary	
Previous Employer		Address	
City		State	Zip Code
Length of Employment		Monthly Salary	
Sources of additional income		Amount	# of Dependents (including self)
Checking Account #	Bank	City	State
Savings Account #	Bank	City	State
Credit References	Account #	Balance Owing	Monthly Payment
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

Name and Address of Mortgage Holder or Landlord

Own Monthly Payments

Rent

Signature (The name in which you want the credit card issued)

NOTE: This application does not include Federal-Truth-In-Lending information. Individual creditors must add this to the model application.

quest otherwise. Many women do not know credit bureau procedures in this regard.

3. Assigning joint credit, i.e., Mr. and Mrs. John Doe, John and Mary Doe, to the husband.
4. Following a divorce, separation, or during widowhood, requiring only the woman to identify the credit that was hers and hers only during marriage.
5. If a creditor requests credit information on a married woman who has her own credit file and also on her husband who has not applied for credit, the credit bureau will comply and send two files.

Recommendation 2a:

The Advisory Committee recommends that the U.S. Congress amend the Fair Credit Reporting Act (15 USC 1681) to require that credit bureaus do not merge the files of married couples unless requested by both spouses. Upon request, credit bureaus should also be required to separate files of married couples that were combined prior to such amendment of the Fair Credit Reporting Act.

Recommendation 2b:

The Advisory Committee recommends that the Federal Trade Commission examine the policies and practices of credit bureaus in Lawrence, Topeka, and Wichita, Kans., in regard to their compliance with 15 USC 1681b(3)(A). If they are supplying creditors the husband's file with a married woman's separate file when only the woman has applied for credit, the Federal Trade Commission should issue a cease and desist order.

Recommendation 2c:

The Advisory Committee recommends that the U.S. Congress amend the Fair Credit Reporting Act so that within 30 days after a credit bureau receives notice of a divorce or separation, a letter is sent to both former marriage partners. Each should be asked to substantiate his/her individual credit history within 10 days of receipt of letter. The credit bureau should verify this information with creditors, and separate credit files should be established for each person. In the case of a widow or widower, the credit bureau should write to this person within 30 days after a death notice is received. The person should be asked to substantiate his/her individual credit history within 10 days of receipt of letter. After the credit bureau verifies this information, a credit file should be established for this person. The credit

bureau should file joint credit issued to Mary and John Doe in each individual's file unless the couple requests a single file.

Recommendation 2d:

The Advisory Committee recommends that the Fair Credit Reporting Act be amended or that the Federal Trade Commission issue regulations requiring all credit bureaus to make use of local media and other forms of advertisement, such as posting their policies in the establishments of all member credit grantors, to inform the public of their policies in regard to credit files. Particular emphasis should be placed on their policies in regard to maintaining women's credit files.

Finding #3: Kansas State Legislation on Equal Credit Opportunity

The Advisory Committee found that the only legislation introduced in Kansas relating to equal credit opportunity was a 1974 study resolution, which died in committee. Complaints of credit discrimination based upon sex are processed by the Kansas Commission on Civil Rights under the public accommodations clause of the Kansas Act Against Discrimination. The act does not cover discrimination based upon marital status.

Recommendation 3:

The Advisory Committee recommends that the Kansas legislature pass a law prohibiting credit discrimination based upon sex and marital status. The following model legislation is suggested.

Fair Credit Extension Act

Section 1. Definitions

- (a) Credit -- "Credit" means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefore;
- (b) Creditor -- "Creditor" means any person who regularly extends or arranges for the extension of credit for which the payment of finance charge or interest is required whether in connection with loans, sale of property or services, or otherwise.
- (c) Application for Credit -- "Application for Credit" means any communication, oral or written, by a person to a creditor

requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended;

- (d) Income -- "Income" shall include but not be limited to wages, salaries, spousal and child support payments, pension benefits, social security, disability or survivorship benefits, and any other source of moneys received on a regular basis;
- (e) Person -- "Person" means any individual, partnership, corporation, association, government, or governmental division or agency, or other entity.

Section 2. Unlawful Credit Extension Discrimination

- (a) No woman, regardless of marital status, shall be denied credit in her own right and in her own name if the earnings and other property and/or other income over which she has management and control are such that a man managing and controlling the same amount of earnings or possessing the same amount of property would receive credit.
- (b) No woman, regardless of marital status, managing and controlling earnings and other property and/or other income shall be offered credit on terms less favorable than those offered to a man seeking the same type of credit and managing and controlling the same amount of earnings and other property.
- (c) A credit reporting agency shall maintain separate credit histories for each spouse. A credit reporting agency shall only issue credit reports of persons who have applied for credit.
- (d) It shall not be unlawful credit discrimination for a financial institution extending credit to a married person to require both the husband and the wife to sign a note for a mortgage.
- (e) Nothing contained herein shall be construed to deprive credit grantors of their right to deny credit or limit its terms based upon its evaluation of the applicant's capability or willingness to repay, or to require any credit grantor to give preferential treatment to any applicant because of sex or marital status.

Section 3. Denial of Credit

- (a) In every case where an application of credit is rejected, the applicant, upon request, shall be informed in writing of the reasons for such rejection.

Section 4. Remedies

- (a) When any person willfully violates any provision of this Act, a person who is denied credit or is offered credit in willful violation of this Act may on his or her own behalf and behalf of all those similarly situated, do any or all of the following:
 - (1) Bring an action to recover for actual damages, injunctive relief, and ten thousand dollars (\$10,000) in addition thereto, suffered any person denied the rights provided by this Act on whose behalf the action was brought.
 - (2) Petition the court for award of costs and reasonable attorneys' fees, which the court shall award if the action is successful.
- (b) Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. Actions for injunction under this chapter may be prosecuted by the Attorney General or any District attorney, county counsel, city attorney, or city prosecutor in this State in the name of the people of the State of Kansas upon their own complaint or upon the complaint of any board, officer, person, corporation, or association, or by any person acting for the interests of itself, its members, or the general public.
- (c) Any person who intentionally violates any injunction issued pursuant to this Act shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation.

(State legislation in California, Illinois, Maine, and North Carolina serve as bases for the above model legislation.)

Finding #4: Equal Credit Opportunity Act

On October 28, 1975, the Federal Equal Credit Opportunity Act becomes effective. During its field investigation, the Advisory Committee found that members of the consumer credit industry have little more than a superficial knowledge of the act. Also, many women are unaware of legal remedies available to them under the act.

Recommendation 4a:

The Advisory Committee recommends that the Federal Reserve System, as the prescriber of the regulations governing the Equal Credit Opportunity Act, publicly disseminate information about the act. Its activities should include, but not be limited to: (1) convening regional conferences for members of the consumer credit industry as soon as possible; (2) conducting a public service advertising campaign similar to that for the Fair Housing Act; (3) preparing fact sheets for members of the consumer credit industry informing them of their responsibilities; and (4) preparing and supplying posters to credit grantors describing provisions and enforcement procedures of the Equal Credit Opportunity Act.

Recommendation 4b:

The Advisory Committee recommends that all women familiarize themselves with their credit rights, as contained in Appendix A of this report.

APPENDIX A

GUIDELINES FOR WOMEN WHO WANT TO
ESTABLISH CREDIT IN THEIR OWN RIGHT

GUIDELINES FOR WOMEN WHO WANT TO ESTABLISH
CREDIT IN THEIR OWN RIGHT

If you are a woman of any marital status who has an income, it is important for you to establish credit in your own right and name.

1. Start a savings or checking account in your own name at a local bank.
2. After the account(s) (has) (have) been established for a time, try securing a small loan, i.e., \$100, from the bank. Make sure the loan is in your name with no co-signer. Repay the loan in a timely fashion, or if possible, in less time than required.

If your application is refused, do not accept the decision without requesting a full explanation. Write a letter to the bank fully describing why you are creditworthy and asking for the reason(s) your credit was denied. If it was because of an adverse report supplied by a consumer reporting agency, under the Fair Credit Reporting Act (15 USC 1681m) the bank must supply in writing the name and address of this agency. Go to the bank and demand to speak to the top officer.

3. Go to the local credit bureau and make certain a file is established in your own name and based only upon your own credit history and financial information. Check back periodically to make sure all your new credit appears in your file. If you have not been denied credit, under Federal law the credit bureau may charge you to see your file. Each time you change your marital status make certain the credit bureau knows this and that your file reflects any name change.
4. The easiest places to start obtaining retail credit are from local retail stores as opposed to national chains. Fill out the credit application in your own name, indicating your own employment and credit background. If you are married, you may indicate this and supply your husband's name. However, do not accept a card for John Doe, Mrs. John Doe, or Mr. and Mrs. John Doe. This credit will be your husband's. Make sure your card is issued to Mary Doe. If your credit is denied, follow the advice in #2 above. If you receive no satisfaction you are ready to enlist the aid of some third parties.

5. Under the public accommodations clause of the Kansas Act Against Discrimination you may file a credit complaint based upon sex with the:

Kansas Commission on Civil Rights
535 Kansas Avenue
Topeka, Kansas
(913) 296-3206

6. Effective October 28, 1975, the Federal Equal Credit Opportunity Act prohibits credit discrimination based upon sex and/or marital status. The law permits creditors to ask for the signature of both spouses of a marriage, but still prohibits them from denying credit to a married woman in her own name. You may pursue your complaint under either step 5 or 6, but not both.

- a. For retail credit discrimination contact:

Federal Trade Commission*
Old Federal Building
911 Walnut Street, Room 2806
Kansas City, Missouri 64106

- b. For intra-bank credit cards contact:

For National Banks:

Office of the Comptroller of the Currency
Washington, D.C. 20219

For member banks of the Federal Reserve System other than National Banks:

Federal Reserve Board
Washington, D.C. 20551

For banks insured by the Federal Deposit Insurance Corporation, other than members of the Federal Reserve System:

Board of Directors
Federal Deposit Insurance Corporation
Washington, D.C. 20429

* The Federal Trade Commission is closing its Kansas City, Mo. office in late October 1975, and relocating to Denver, Colo. Their new office address is not yet available.

**For Federally Chartered Savings and Loan
Associations:**

**Federal Home Loan Bank Board
101 Indiana Avenue, N.W.
Washington, D.C. 20522**

Remember: Just as it is discriminatory for creditors to deny credit to women simply on the basis of her sex and/or marital status, legislation would not entitle you to credit if you are not creditworthy. Self-analyze yourself on the two criteria creditors use: ability to pay (income from all sources) and willingness to pay (a credit history of prompt payment). If you demonstrate both the ability and willingness to pay, demand the credit that's due you. Let creditors know your knowledge of Federal and State laws.

Reprints are available from:

**U.S. Commission on Civil Rights
Central States Regional Office
911 Walnut Street
Kansas City, Missouri 64106**

U. S. COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425

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