In addition to housing discrimination cases, many courts have relied on the extensive body of law in the employment discrimination area as a source of precedent in credit discrimination cases. For example, courts often turn to employment discrimination law when analyzing disparate impact claims in credit discrimination cases. In addition, most federal courts in credit discrimination cases have used a modified version of the three-part, burden-shifting analysis developed by the Supreme Court for employment law cases in the McDonnell-Douglas case. Advocates might consider using employment discrimination law theories to develop novel legal theories in credit discrimination cases. For example, one commentator has suggested tackling the problem of discrimination in the offering of pre-screened credit by using the analysis developed in cases challenging discrimination in employment recruitment.

However, there are some differences between the two areas of law. For example, creditors are prohibited by the ECOA from favoring married couples over unmarried couples by only allowing the former to open joint accounts. In contrast, several courts have held that state employment laws which forbid marital status discrimination do not prohibit employers from discriminating against unmarried couples.

Footnotes

120 The Equal Employment Opportunity Commission’s website, www.eeoc.gov, is a good resource on federal employment anti-discrimination law and includes relevant statutes, regulations, and the EEOC’s enforcement guidance, which is its interpretation of current issues in the law. Other employment anti-discrimination law resources include Paul Grossman & Barbara Lindemann, Employment Discrimination Law (3d ed. 1996).


122 See § 4.2.3.2 [1], infra (describing the McDonnell-Douglas test and the split among federal courts as to whether it should be applied in credit discrimination cases).


Note that Title VII of the federal Civil Rights Act, which is the federal anti-discrimination employment law, does not prohibit marital status discrimination. 42 U.S.C. § 2000e-2(a)(1).
1.10.2 Employment Discrimination Law

Links

[1] https://library.nclc.org/nclc/link/CD.04.02.03.02