

## Illinois Employment Law Legislative Update

### New Illinois Act Prohibits Employer Discrimination Based on Credit History

Last week, Illinois Governor Pat Quinn signed into Illinois law an act that prohibits employers from running credit checks on job applicants. The Illinois Employee Credit Privacy Act (the “Act”), which becomes effective on January 1, 2011, significantly restricts employers from inquiring into an applicant’s or current employee’s credit status or history.

Under the Act, an employer is prohibited from making hiring, recruiting, or discharge decisions—or discriminating against an individual with respect to compensation or terms of employment—based on that individual’s credit history or credit report. The Act also prohibits employers from inquiring about an applicant’s or employee’s credit history or obtaining an applicant’s or employee’s credit report from a consumer reporting agency.

A press release from the governor’s office states that the new law will “remove a significant barrier to employment for the growing segment of the population whose credit history has been affected by the historic national recession.”

It is significant to note, however, that the new Act does not prohibit employers from conducting thorough background investigations that do not include uncovering or reviewing information relating to credit history.

Certain employers are exempted from the Act, including certain banking, financial and insurance companies, state law enforcement or investigative units, state or local government agencies that otherwise require the use of a credit history or report and any entity defined as a “debt collector” under federal or state law.

The Act also includes select exceptions that allow for inquiry into credit history where satisfactory credit history is a bona fide occupational requirement of a particular job, such as positions involving bonding or security under state or federal law, unsupervised access to cash or assets over \$2,500, signatory power over business assets of \$100 or more per transaction, managerial positions in control of a business and positions with access to personal or confidential information, financial information, trade secrets, or state or national security information.

Employers who violate the Act can be subject to civil damages and/or injunctive relief. A plaintiff who prevails in an action under the Act is entitled to costs and recovery of attorney’s fees. The Act also prohibits retaliation against anyone who files a complaint under the Act, testifies or participates in an investigation or proceeding under the Act, or opposes violation of the Act.

### New Law Expands Illinois Family Military Leave Act

Governor Quinn also recently signed a bill into law amending the Illinois Family Military Leave Act to extend the same eligibility for leave to adult children and grandparents of individuals called to military service (for more than 30 days) that is currently provided to spouses and parents of such individuals. Public Act 096-1417.

The Family Military Leave Act requires employers that have between 15 and 50 employees to provide up to 15 days of unpaid family military leave to an employee, while employers with more than 50 employees are required to provide up to 30 days of unpaid family military leave.

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Under the amendments, any days of leave provided by employers with more than 50 employees must be reduced by the number of days of leave provided to an employee for any “qualifying exigency” under the federal Family and Medical Leave Act (“FMLA”) arising out of the fact that the employee’s spouse or child is on covered active duty as defined in the FMLA.

The amendment is effective January 1, 2011.

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