

Illinois Enacts New Law Governing Employer's Use of Credit History

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On August 10, 2010, Illinois enacted H.B. 4658, the Employee Credit Privacy Act, which governs the use of credit information for employment purposes. The new law makes it an unlawful employment practice for an employer to:

- Fail to hire or recruit, discharge, or otherwise discriminate against an individual because of the individual's credit history;
- Inquire about an applicant's or employee's credit history; or
- Obtain an applicant's or employee's credit report from a consumer reporting agency.

Employers may still use credit history for employment decisions if satisfactory credit history is an established bona fide occupational requirement. Significantly, this exception includes situations where the employee has access to confidential information (e.g., personal or financial information), as well as where state or federal law requires bonding or other security cover an individual holding the position, the individual has unsupervised access to business assets valued over a certain amount, or the position is a managerial position that involves setting the direction or control of the company. The new law also allows employers to continue to conduct background investigations on employees or potential employees as long as that investigation does not involve information on credit history.

Illinois's law will go into effect on January 1, 2011, making it the fourth state to restrict employer's use of an individual's credit history for hiring decisions (Oregon enacted a law earlier this year, and Hawaii and Washington had previously enacted similar laws in 2009 and 2007 respectively).