

Cook County Ordinance Prohibits Employers from Discriminating Based on Credit History

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On May 20, 2015, the Cook County Board of Commissioners unanimously voted to amend the county's Human Rights Ordinance (File #: 15-3088) to prohibit employers from making employment decisions based on the credit histories of current or prospective employees.

The amended Ordinance, which is now in effect, applies to private employers that have a principal place of business – or are doing business – in Cook County, Ill. Under the broad definition in the amended Ordinance, an individual's credit history encompasses records of past borrowing and repaying, including information about late payments and bankruptcy.

An employer is generally prohibited under the Ordinance from firing, refusing to hire or recruit, discharging, or otherwise discriminating against an individual with respect to employment or employment-related matters based on the individual's credit history or credit report. Moreover, an employer may not typically inquire into an employee's credit history or order or obtain an employee's credit report from a consumer reporting agency.

An employer may, nonetheless, inquire into an employee's credit history or take action based on an employee's credit history where the position for which the employer is hiring:

- Requires bonding or other security covering under state or federal law;
- Involves the custody of or unsupervised access to cash or marketable assets of \$2,500 or more;
- Involves signatory power over business assets of \$100 or more per transaction;
- Is managerial, involving setting the direction or control of the business;
- Involves access to personal or confidential information, financial information, trade secrets, or state or national security information;
- Meets the criteria, under administrative rules promulgated by the U.S. Department of Labor or Illinois Department of Labor, of a position for which a satisfactory credit history is a bona fide occupational requirement; or
- Is one for which the employee's credit history is required by or exempt under other applicable law.

Moreover, the amended Ordinance does not apply to:

- Bank holding companies, financial holding companies, banks, savings and loan associations, credit unions, or trust companies, or their affiliates or subsidiaries, which are authorized to do business under U.S. or Illinois law;
- Companies authorized to engage in insurance or surety business pursuant to the Illinois Insurance Code, including employees or agents acting on their behalf;
- Municipal law enforcement, investigative units, or municipal agencies that require the use of employee credit histories or credit reports; or
- Debt collection entities as defined under federal, state, or county law.

The Cook County Commission on Human Rights has the authority to investigate violations of the amended Ordinance and to impose penalties on violators.

Cook County’s amended Ordinance largely mirrors legislation already in effect in Chicago and Illinois. Similar legislation is also in place in New York City and numerous other states, including California, Colorado, Connecticut, Hawaii, Maryland, Nevada, Oregon, Vermont, and Washington.

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