



New Illinois Equal Pay Bans Employers From Soliciting Salary History

Effective September 29, 2019, Illinois employers are prohibited from inquiring into a job applicant's wage and salary history.

The Illinois Equal Pay Act of 2003 was enacted to prohibit discriminatory employment practices based on gender and race. To further this objective, the Act recently was amended to make it unlawful for an employer to solicit a job applicant's wage and salary history or to consider that information in employment decisions. The new law aims to advance pay equality in the Illinois workforce.

Pursuant to the Amendment, Illinois employers are prohibited from seeking from the applicant or from the applicant's current and former employer(s) information about a new job applicant's prior wages, salary history, benefits, and other compensation. The new law does not apply to an employee seeking a position with his or her existing employer or to employee information that is a matter of public record. However, under the Amendment, regardless of the source of information, it is unlawful for an employer to screen job applicants based on their compensation history.

Although the scope of proscribed information is broad, the law permits exchanges of certain information. For instance, employers can provide information about the compensation offered for a position and may discuss wage and salary expectations with job applicants. The prohibition also does not extend to job applicants who voluntarily disclose wage and salary history, provided that such information is not used as a factor for hiring or compensation decisions. Employers also cannot require employees to sign a contract or waiver that forbids them from making such disclosures, but an employer can prohibit a human resources employee, supervisor, or other employee with access to wage or salary information from disclosing that information absent the affected employee's written consent.

Penalties for violating the Act can be significant. An employee has up to five years to bring a civil action against an employer for violating the law and can recover up to \$10,000.00 in special



damages, among other relief where appropriate. A \$5,000.00 civil penalty also may be imposed per employee affected. In short, if the publically stated goal of countering wage disparity is insufficient to motivate an employer, it risks paying a steep price for its failure to comply with the new law.

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