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Client Alert: New Amendments to the Illinois Equal Pay Act

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On September 29, 2019, amendments to the Illinois Equal Pay Act went into effect. The changes limit the use of wage or salary histories in hiring. Employers will need to review their hiring practices and forms to ensure compliance with the amendments.

The Amendments prohibit employers from:

- (1) screening job applicants based on their current or prior wages or salary histories, including benefits or other compensation, by requiring that the wage or salary history of an applicant satisfy minimum or maximum criteria,
- (2) requesting or requiring a wage or salary history as a condition of being considered for employment, as a condition of being interviewed, as a condition of continuing to be considered for an offer of employment, as a condition of an offer of employment or an offer of compensation, and
- (3) requesting or requiring that an applicant disclose wage or salary history as a condition of employment.

Employers also are prohibited from seeking information about the salary (including benefits or other compensation or salary history) of a job applicant from any current or former employer, with some exceptions. This prohibition does not apply if a job applicant’s wage or salary history is a matter of public record or the job applicant is a current employee and is applying for a position with the same current employer.

Although inquiries about prior salary are prohibited, an employer may provide information about the wages, benefits, compensation, or salary offered in relation to a position and may engage in discussions with an applicant for employment about the applicant’s expectations with respect to wage or salary, benefits, and other compensation.

The amendments further protect employees’ rights to discuss wages, salary, benefits, or other compensation. Employers cannot require employees to sign any contract or waiver of these rights. An employer may, however, prohibit a human resources employee, a supervisor, or any other employee whose job responsibilities require or allow access to other employees’ wage or salary information from disclosing that information without prior written consent from the employee whose information is sought or requested.

The anti-retaliation provision of the Act was expanded to include these new prohibitions. A violation of these new provisions may subject an employer to a civil action, and the employer could be liable for any damages incurred, special damages up to \$10,000, injunctive relief, and costs and attorney's fees. Employers who violate the law also are subject to civil penalties of up to \$5,000 for each violation for each employee affected.

Employers should review their interviewing and hiring policies as well as their application forms in light of these new amendments.