



## CREDIT HISTORY DISCRIMINATION and job postings barring the unemployed

Chicago has amended its Human Rights Ordinance to prohibit employment discrimination based on credit history and to prohibit postings of job opportunities that require applicants to be employed. The amendments apply to actions taken on or after May 1, 2012.

**What is Credit History Discrimination?** The amendments parallel the Illinois Employee Credit Privacy Act, but now violations in Chicago may also be addressed by filing a complaint at the Commission on Human Relations. The amendments apply to employers, their agents, employment agencies, and labor unions. Unless an exemption applies, these individuals or businesses—

- May not inquire about the credit history of an applicant or employee.
- May not order or obtain the credit report of an applicant or employee.
- May not rely on a credit history or credit report to fire, refuse to hire, refuse to recruit, or discriminate regarding terms or conditions of employment.

Credit history is defined as a record of a person's past borrowing and repaying, including information about late payments and bankruptcy. A credit report is a communication by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing, credit capacity, or credit history.

**Exemptions** Jobs exempt from the prohibitions against credit history discrimination include—

- Jobs in banking.
- Jobs in insurance or surety companies.
- Jobs in municipal law enforcement or investigative agencies.
- Jobs in debt collection businesses.
- Jobs where a satisfactory credit history is required under other laws or is a "bona fide occupational requirement" for a particular position or group of employees.

Examples where satisfactory credit history may be required include—

- Jobs with signatory power over business assets of \$100 or more per transaction.
- Jobs involving custody or unsupervised access to cash or marketable assets worth \$2,500 or more.
- Managerial positions involved in setting the direction or control of a business.
- Positions with access to personal or confidential information, financial information, trade secrets, or state or national security information.
- Positions which require bonding or other security.

**Job Advertisements May Not Bar the Unemployed** Job postings or advertisements may no longer require applicants to be employed. Nor may they state any restriction on employment prohibited by the Human Rights Ordinance. This applies only to the employers, their agents, employment agencies, and labor unions that cause the posting of a job opportunity. It does not apply to third-party publishers such as newspapers or internet sites that only receive and circulate job postings.

**More Information** See the back of this flyer for selected ordinance provisions. For more information, see [www.cityofchicago.org/humanrelations](http://www.cityofchicago.org/humanrelations) or telephone the Commission.

**SELECTED LEGAL PROVISIONS ON CREDIT HISTORY DISCRIMINATION  
AND JOB OPPORTUNITY ADVERTISEMENTS**

**From Chapter 2-160, Chicago Municipal Code (Human Rights Ordinance)**

**2-160-020 Definitions**

- (aa) "Credit history" means a record of an individual's past borrowing and repaying, including information about late payments and bankruptcy.
- (aaa) "Credit report" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing, credit capacity, or credit history.

**2-160-053 Credit History**

(a) Except as provided in this section, no employer, agent of an employer, employment agency or labor organization shall do any of the following:

- (i) File or refuse to hire or recruit, discharge, or otherwise discriminate against an individual with respect to employment, compensation, or a term, condition, or privilege of employment because of the individual's credit history or credit report.
- (ii) Inquire about an applicant's or employee's credit history
- (iii) Order or obtain an applicant's or employee's credit report from a consumer reporting agency.

(b) The prohibitions contained in this paragraph shall not prevent an inquiry or employment action if a satisfactory credit history is an established bona fide occupational requirement of a particular position or a particular group of employees. A satisfactory credit history is not a bona fide occupational requirement unless at least one of the following circumstances is present:

- (i) State or federal law requires bonding or other security covering an individual holding the position.
- (ii) The duties of the position include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. For the purpose of this exception (ii), "marketable assets" means company property that is specially safeguarded from the public and to which access is only entrusted to managers and other select employees. "Marketable assets" do not include the fixtures, furnishings, or equipment of an employer.
- (iii) The duties of the position include signatory power over business assets of \$100 or more per transaction.
- (iv) The position is a managerial position which involves setting the direction or control of the business.
- (v) The position involves access to personal or confidential information, financial information, trade secrets, or state or national security information. For purposes of this exception, the following definitions apply:
  - a. "Personal or confidential information" means sensitive information that an employee, customer, client, or service recipient gives explicit authorization for another person to obtain, process, and keep; that an organization entrusts only to managers and a select few employees; or that is stored in secure repositories not accessible by the public or low-level employees.
  - b. "Financial information" means non-public information on the overall financial direction of an organization, including, but not limited to, company taxes or profit and loss reports.
  - c. "Trade secrets" means sensitive information regarding a company's overall strategy or business plans. This does not include general proprietary company information such as handbooks, policies, or low-level strategies.
  - d. "State or national security information" means information only offered to select employees because it may jeopardize the security of the state or the nation if it were entrusted to the general public.
- (vi) The position meets criteria in administrative rules, if any, that the U.S. Department of Labor or the Illinois Department of Labor has promulgated to establish the circumstances in which a satisfactory credit history is a bona fide occupational requirement.
- (vii) The employee's or applicant's credit history is otherwise required by or exempt under other applicable law.

(c) The prohibitions contained in this paragraph shall not apply to any of the following:

- (i) Any bank holding company, financial holding company, bank, savings bank, savings and loan association, credit union, or trust company, or any subsidiary or affiliate thereof, that is authorized to do business under the laws of Illinois or of the United States.
- (ii) Any company authorized to engage in any kind of insurance or surety business pursuant to the Illinois Insurance Code, including any employee, agent, or employee of an agent acting on behalf of a company engaged in the insurance or surety business.
- (iii) Any municipal law enforcement or investigative unit, including without limitation the Office of the Inspector General, Police Department, and Independent Police Review Authority.

**2-160-055 Job Opportunity Advertisements**

No person shall publish or cause to be published, in print or on the internet, an advertisement for, or other posting of, any job opportunity that requires the applicant for the position to be employed or which states any other preference, limitation, or discrimination prohibited by this ordinance. This prohibition does not apply to any third-party publisher of advertisements which is not itself the employer, agent of an employer, employment agency, or labor organization causing publication of the job opportunity.