

Wisconsin Employment Law Watch: Legislature Considers Making “Credit History” a Protected Class

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Practices

Workplace Training

A bill has been introduced in the Wisconsin Assembly that would add “credit history” to the list of classes protected from discrimination under the Wisconsin Fair Employment Act. Assembly Bill 350 was introduced on October 31, 2011. This development follows the introduction of a bill addressing arrest and conviction record discrimination in Wisconsin. (See our article, [Wisconsin Employment Law Watch: Legislature to Consider Conviction Record Discrimination Bill](#).)

The protected classes under the Wisconsin Fair Employment Act presently include age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, arrest record, conviction record, military service, use or nonuse of a lawful product off the employer’s premises during nonworking hours, and declining to attend a meeting or to participate in any communication about religious or political matters. The law does not address discrimination based on an individual’s credit history.

Assembly Bill 350 would add “credit history” to the list of protected classes. Under most circumstances, employers would be prohibited from relying up to information found in a consumer report described in the federal Fair Credit Reporting Act (FCRA) to make a hiring or adverse employment decision. A consumer report under FCRA is any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for credit, insurance, employment or other authorized purposes.

If an individual’s credit history is *substantially related* to the circumstances of the job, however, Assembly Bill 350 would allow the employer to request the individual’s authorization to obtain his or her credit history and to make an employment decision based on that history. Similarly, if the information affects the necessary eligibility of the employee to be bonded, it would not be unlawful for the employer to rely on the individual’s credit history in making an employment decision.

Jackson Lewis attorneys are available to discuss Wisconsin workplace developments.

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