



HAWAI‘I CIVIL RIGHTS COMMISSION

NEW 2009 LAW PROHIBITS EMPLOYMENT DISCRIMINATION BASED ON CREDIT HISTORY OR CREDIT REPORT

WHAT KIND OF DISCRIMINATION IS PROHIBITED?

Under a newly enacted state law, effective July 1, 2009, it is illegal for an employer to “refuse to hire or employ or to bar or discharge from employment, or otherwise to discriminate against any individual ... because of the individual’s credit history or credit report.”* Hawai‘i is the first state to prohibit employment discrimination based on credit history or credit report.

WHAT DOES THE STATE LAW ALLOW – WHAT EXCEPTIONS AND DEFENSES ARE PROVIDED?

The law provides for several exceptions and defenses to the credit history or credit report protection:

- Employers are allowed to inquire into and consider a prospective employee’s credit history or credit report only after making a conditional offer of employment. The conditional offer of employment can be withdrawn if the credit history is directly related to a bona fide occupational qualification (BFOQ). To establish a BFOQ, an employer is required to show that a credit history or credit report is reasonably necessary to the normal operations of the business and has a substantial relationship to the functions and responsibilities of the position. For example, an employer could establish a BFOQ for a position that requires an employee to be bonded in order to perform the duties and responsibilities of the job.
- Federally insured financial institutions, banks and credit unions, are not covered by the new law.
- Managerial and supervisory employees are not protected by the new law.
- Employers who are expressly permitted or required by federal or state law to inquire into an individual’s credit history for employment purposes are not subject to the new law.

* Act 1, Special Session 2009, amending Hawai‘i Revised Statutes chapter 378, part I, §378-2.

WHO IS PROTECTED BY THE STATE LAW?

The law protects job applicants and employees.

WHO IS COVERED BY THE STATE LAW?

The law covers all private and government employers with one or more employees, except the federal government and federally insured financial institutions.

FOR MORE INFORMATION, CONTACT:

If you believe you have been subjected to illegal employment discrimination and want to file a complaint, or if you want additional information, contact:

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