



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4855

Introduced 1/15/2010, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

775 ILCS 5/1-102	from Ch. 68, par. 1-102
775 ILCS 5/1-103	from Ch. 68, par. 1-103
775 ILCS 5/2-101	from Ch. 68, par. 2-101
775 ILCS 5/2-103.1 new	

Amends the Illinois Human Rights Act. Provides that it is the public policy of this State to prevent discrimination in employment based on credit history and that it is a civil rights violation for any employer, employment agency, or labor organization to inquire into or to use a prospective employee's or employee's credit history as a basis to refuse to hire or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, or terms, privileges, or conditions of employment. Sets forth certain exceptions.

LRB096 14550 KTG 29386 b

1 AN ACT concerning human rights.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Human Rights Act is amended by
5 changing Sections 1-102, 1-103, and 2-101 and by adding Section
6 2-103.1 as follows:

7 (775 ILCS 5/1-102) (from Ch. 68, par. 1-102)

8 Sec. 1-102. Declaration of Policy. It is the public policy
9 of this State:

10 (A) Freedom from Unlawful Discrimination. To secure for all
11 individuals within Illinois the freedom from discrimination
12 against any individual because of his or her race, color,
13 religion, sex, national origin, ancestry, age, order of
14 protection status, marital status, physical or mental
15 disability, military status, sexual orientation, or
16 unfavorable discharge from military service in connection with
17 employment, real estate transactions, access to financial
18 credit, and the availability of public accommodations.

19 (B) Freedom from Sexual Harassment-Employment and Higher
20 Education. To prevent sexual harassment in employment and
21 sexual harassment in higher education.

22 (C) Freedom from Discrimination Based on Citizenship
23 Status-Employment. To prevent discrimination based on

1 citizenship status in employment.

2 (D) Freedom from Discrimination Based on Familial
3 Status-Real Estate Transactions. To prevent discrimination
4 based on familial status in real estate transactions.

5 (D-1) Freedom from Discrimination Based on Credit History.
6 To prevent discrimination in employment based on credit
7 history.

8 (E) Public Health, Welfare and Safety. To promote the
9 public health, welfare and safety by protecting the interest of
10 all people in Illinois in maintaining personal dignity, in
11 realizing their full productive capacities, and in furthering
12 their interests, rights and privileges as citizens of this
13 State.

14 (F) Implementation of Constitutional Guarantees. To secure
15 and guarantee the rights established by Sections 17, 18 and 19
16 of Article I of the Illinois Constitution of 1970.

17 (G) Equal Opportunity, Affirmative Action. To establish
18 Equal Opportunity and Affirmative Action as the policies of
19 this State in all of its decisions, programs and activities,
20 and to assure that all State departments, boards, commissions
21 and instrumentalities rigorously take affirmative action to
22 provide equality of opportunity and eliminate the effects of
23 past discrimination in the internal affairs of State government
24 and in their relations with the public.

25 (H) Unfounded Charges. To protect citizens of this State
26 against unfounded charges of unlawful discrimination, sexual

1 harassment in employment and sexual harassment in higher
2 education, and discrimination based on citizenship status in
3 employment.

4 (Source: P.A. 95-668, eff. 10-10-07; 96-447, eff. 1-1-10.)

5 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

6 Sec. 1-103. General Definitions. When used in this Act,
7 unless the context requires otherwise, the term:

8 (A) Age. "Age" means the chronological age of a person who
9 is at least 40 years old, except with regard to any practice
10 described in Section 2-102, insofar as that practice concerns
11 training or apprenticeship programs. In the case of training or
12 apprenticeship programs, for the purposes of Section 2-102,
13 "age" means the chronological age of a person who is 18 but not
14 yet 40 years old.

15 (B) Aggrieved Party. "Aggrieved party" means a person who
16 is alleged or proved to have been injured by a civil rights
17 violation or believes he or she will be injured by a civil
18 rights violation under Article 3 that is about to occur.

19 (C) Charge. "Charge" means an allegation filed with the
20 Department by an aggrieved party or initiated by the Department
21 under its authority.

22 (D) Civil Rights Violation. "Civil rights violation"
23 includes and shall be limited to only those specific acts set
24 forth in Sections 2-102, 2-103, 2-103.1, 2-105, 3-102, 3-102.1,
25 3-103, 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102,

1 5A-102, 6-101, and 6-102 of this Act.

2 (E) Commission. "Commission" means the Human Rights
3 Commission created by this Act.

4 (F) Complaint. "Complaint" means the formal pleading filed
5 by the Department with the Commission following an
6 investigation and finding of substantial evidence of a civil
7 rights violation.

8 (G) Complainant. "Complainant" means a person including
9 the Department who files a charge of civil rights violation
10 with the Department or the Commission.

11 (H) Department. "Department" means the Department of Human
12 Rights created by this Act.

13 (I) Disability. "Disability" means a determinable physical
14 or mental characteristic of a person, including, but not
15 limited to, a determinable physical characteristic which
16 necessitates the person's use of a guide, hearing or support
17 dog, the history of such characteristic, or the perception of
18 such characteristic by the person complained against, which may
19 result from disease, injury, congenital condition of birth or
20 functional disorder and which characteristic:

21 (1) For purposes of Article 2 is unrelated to the
22 person's ability to perform the duties of a particular job
23 or position and, pursuant to Section 2-104 of this Act, a
24 person's illegal use of drugs or alcohol is not a
25 disability;

26 (2) For purposes of Article 3, is unrelated to the

1 person's ability to acquire, rent or maintain a housing
2 accommodation;

3 (3) For purposes of Article 4, is unrelated to a
4 person's ability to repay;

5 (4) For purposes of Article 5, is unrelated to a
6 person's ability to utilize and benefit from a place of
7 public accommodation.

8 (J) Marital Status. "Marital status" means the legal status
9 of being married, single, separated, divorced or widowed.

10 (J-1) Military Status. "Military status" means a person's
11 status on active duty in or status as a veteran of the armed
12 forces of the United States, status as a current member or
13 veteran of any reserve component of the armed forces of the
14 United States, including the United States Army Reserve, United
15 States Marine Corps Reserve, United States Navy Reserve, United
16 States Air Force Reserve, and United States Coast Guard
17 Reserve, or status as a current member or veteran of the
18 Illinois Army National Guard or Illinois Air National Guard.

19 (K) National Origin. "National origin" means the place in
20 which a person or one of his or her ancestors was born.

21 (K-5) "Order of protection status" means a person's status
22 as being a person protected under an order of protection issued
23 pursuant to the Illinois Domestic Violence Act of 1986 or an
24 order of protection issued by a court of another state.

25 (L) Person. "Person" includes one or more individuals,
26 partnerships, associations or organizations, labor

1 organizations, labor unions, joint apprenticeship committees,
2 or union labor associations, corporations, the State of
3 Illinois and its instrumentalities, political subdivisions,
4 units of local government, legal representatives, trustees in
5 bankruptcy or receivers.

6 (M) Public Contract. "Public contract" includes every
7 contract to which the State, any of its political subdivisions
8 or any municipal corporation is a party.

9 (N) Religion. "Religion" includes all aspects of religious
10 observance and practice, as well as belief, except that with
11 respect to employers, for the purposes of Article 2, "religion"
12 has the meaning ascribed to it in paragraph (F) of Section
13 2-101.

14 (O) Sex. "Sex" means the status of being male or female.

15 (O-1) Sexual orientation. "Sexual orientation" means
16 actual or perceived heterosexuality, homosexuality,
17 bisexuality, or gender-related identity, whether or not
18 traditionally associated with the person's designated sex at
19 birth. "Sexual orientation" does not include a physical or
20 sexual attraction to a minor by an adult.

21 (P) Unfavorable Military Discharge. "Unfavorable military
22 discharge" includes discharges from the Armed Forces of the
23 United States, their Reserve components or any National Guard
24 or Naval Militia which are classified as RE-3 or the equivalent
25 thereof, but does not include those characterized as RE-4 or
26 "Dishonorable".

1 (Q) Unlawful Discrimination. "Unlawful discrimination"
2 means discrimination against a person because of his or her
3 race, color, religion, national origin, ancestry, age, sex,
4 marital status, order of protection status, disability,
5 military status, sexual orientation, or unfavorable discharge
6 from military service as those terms are defined in this
7 Section.

8 (Source: P.A. 95-392, eff. 8-23-07; 95-668, eff. 10-10-07;
9 95-876, eff. 8-21-08; 96-328, eff. 8-11-09; 96-447, eff.
10 1-1-10.)

11 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)
12 Sec. 2-101. Definitions. The following definitions are
13 applicable strictly in the context of this Article.

14 (A) Employee.

15 (1) "Employee" includes:

16 (a) Any individual performing services for
17 remuneration within this State for an employer;

18 (b) An apprentice;

19 (c) An applicant for any apprenticeship.

20 (2) "Employee" does not include:

21 (a) Domestic servants in private homes;

22 (b) Individuals employed by persons who are not
23 "employers" as defined by this Act;

24 (c) Elected public officials or the members of
25 their immediate personal staffs;

1 (d) Principal administrative officers of the State
2 or of any political subdivision, municipal corporation
3 or other governmental unit or agency;

4 (e) A person in a vocational rehabilitation
5 facility certified under federal law who has been
6 designated an evaluatee, trainee, or work activity
7 client.

8 (B) Employer.

9 (1) "Employer" includes:

10 (a) Any person employing 15 or more employees
11 within Illinois during 20 or more calendar weeks within
12 the calendar year of or preceding the alleged
13 violation;

14 (b) Any person employing one or more employees when
15 a complainant alleges civil rights violation due to
16 unlawful discrimination based upon his or her physical
17 or mental handicap unrelated to ability or sexual
18 harassment;

19 (c) The State and any political subdivision,
20 municipal corporation or other governmental unit or
21 agency, without regard to the number of employees;

22 (d) Any party to a public contract without regard
23 to the number of employees;

24 (e) A joint apprenticeship or training committee
25 without regard to the number of employees.

26 (2) "Employer" does not include any religious

1 corporation, association, educational institution,
2 society, or non-profit nursing institution conducted by
3 and for those who rely upon treatment by prayer through
4 spiritual means in accordance with the tenets of a
5 recognized church or religious denomination with respect
6 to the employment of individuals of a particular religion
7 to perform work connected with the carrying on by such
8 corporation, association, educational institution, society
9 or non-profit nursing institution of its activities.

10 (C) Employment Agency. "Employment Agency" includes both
11 public and private employment agencies and any person, labor
12 organization, or labor union having a hiring hall or hiring
13 office regularly undertaking, with or without compensation, to
14 procure opportunities to work, or to procure, recruit, refer or
15 place employees.

16 (D) Labor Organization. "Labor Organization" includes any
17 organization, labor union, craft union, or any voluntary
18 unincorporated association designed to further the cause of the
19 rights of union labor which is constituted for the purpose, in
20 whole or in part, of collective bargaining or of dealing with
21 employers concerning grievances, terms or conditions of
22 employment, or apprenticeships or applications for
23 apprenticeships, or of other mutual aid or protection in
24 connection with employment, including apprenticeships or
25 applications for apprenticeships.

26 (E) Sexual Harassment. "Sexual harassment" means any

1 unwelcome sexual advances or requests for sexual favors or any
2 conduct of a sexual nature when (1) submission to such conduct
3 is made either explicitly or implicitly a term or condition of
4 an individual's employment, (2) submission to or rejection of
5 such conduct by an individual is used as the basis for
6 employment decisions affecting such individual, or (3) such
7 conduct has the purpose or effect of substantially interfering
8 with an individual's work performance or creating an
9 intimidating, hostile or offensive working environment.

10 (F) Religion. "Religion" with respect to employers
11 includes all aspects of religious observance and practice, as
12 well as belief, unless an employer demonstrates that he is
13 unable to reasonably accommodate an employee's or prospective
14 employee's religious observance or practice without undue
15 hardship on the conduct of the employer's business.

16 (G) Public Employer. "Public employer" means the State, an
17 agency or department thereof, unit of local government, school
18 district, instrumentality or political subdivision.

19 (H) Public Employee. "Public employee" means an employee of
20 the State, agency or department thereof, unit of local
21 government, school district, instrumentality or political
22 subdivision. "Public employee" does not include public
23 officers or employees of the General Assembly or agencies
24 thereof.

25 (I) Public Officer. "Public officer" means a person who is
26 elected to office pursuant to the Constitution or a statute or

1 ordinance, or who is appointed to an office which is
2 established, and the qualifications and duties of which are
3 prescribed, by the Constitution or a statute or ordinance, to
4 discharge a public duty for the State, agency or department
5 thereof, unit of local government, school district,
6 instrumentality or political subdivision.

7 (J) Eligible Bidder. "Eligible bidder" means a person who,
8 prior to a bid opening, has filed with the Department a
9 properly completed, sworn and currently valid employer report
10 form, pursuant to the Department's regulations. The provisions
11 of this Article relating to eligible bidders apply only to bids
12 on contracts with the State and its departments, agencies,
13 boards, and commissions, and the provisions do not apply to
14 bids on contracts with units of local government or school
15 districts.

16 (K) Citizenship Status. "Citizenship status" means the
17 status of being:

18 (1) a born U.S. citizen;

19 (2) a naturalized U.S. citizen;

20 (3) a U.S. national; or

21 (4) a person born outside the United States and not a
22 U.S. citizen who is not an unauthorized alien and who is
23 protected from discrimination under the provisions of
24 Section 1324b of Title 8 of the United States Code, as now
25 or hereafter amended.

26 (L) Credit History. "Credit history" means information

1 provided in a consumer report, as defined in Section 603(d) of
2 the federal Fair Credit Reporting Act, 15 U.S.C. 1681a(d).

3 (M) Financial Institution. "Financial institution" means
4 any bank, credit union, insurance company, mortgage banking
5 company or savings and loan association which operates or has a
6 place of business in this State.

7 (Source: P.A. 86-1343; 87-579; 87-666; 87-895.)

8 (775 ILCS 5/2-103.1 new)

9 Sec. 2-103.1. Credit History.

10 (a) Unless otherwise authorized by law, it shall be a civil
11 rights violation for any employer, employment agency, or labor
12 organization to inquire into or to use an employee's or
13 prospective employee's credit history as a basis to refuse to
14 hire or to act with respect to recruitment, hiring, promotion,
15 renewal of employment, selection for training or
16 apprenticeship, discharge, discipline, tenure, or terms,
17 privileges, or conditions of employment, unless:

18 (1) the employee's or prospective employee's credit
19 history is substantially related to a bona fide
20 occupational qualification or licensed activity;

21 (2) employment, membership, or licensing depends on
22 the bondability of the individual under a standard fidelity
23 bond or an equivalent bond required by State or federal
24 law, administrative regulation, or the established
25 business practice of the employer and the individual may

1 not be bondable due to his or her credit history;

2 (3) employment involves a supervisory, managerial,
3 professional, or executive position at a financial
4 institution in which deposits are insured by a federal
5 agency having jurisdiction over the financial institution;

6 (4) employment is with a State or local government
7 agency which otherwise requires use of the employee's or
8 prospective employee's credit history; or

9 (5) the employee's or prospective employee's credit
10 history is otherwise required by federal or State law.

11 (b) Notwithstanding the exceptions set forth in subsection
12 (a), nothing in this Section shall permit an employer,
13 employment agency, or labor organization to conduct a credit
14 history check on an employee or prospective employee without
15 first obtaining that individual's written consent.