



### ***ILLINOIS LEGISLATION EFFECTIVE IN 2015***

**Public Act 98-774** Will create the “Job Opportunities for Qualified Applicants Act.” The new Act will prohibit employers.....does not apply to employers that had fewer than 15 employees in either the current or immediately preceding calendar year.....from inquiring about a prospective job applicant’s criminal record or criminal history until after: (1) the applicant has been found to meet the requirements for the position and has been selected for an interview; or (2) if no interview is scheduled, the employer has made a conditional offer of employment to the applicant. The new Act arguably does *not* apply to banks because it specifies an exception for an employer that is “required to exclude applicants with certain criminal convictions from employment due to federal or State law.” Both the Illinois Banking Act and the Federal Deposit Insurance Act prohibit a bank from knowingly hiring a convicted felon. The Illinois Department of Labor can investigate alleged violations and issue fines against employers who fail to rectify violations. [effective date: January 1, 2015]

**Public Act 98-819** Will amend the Illinois Insurance Code by adding a new Section governing “certificates of insurance.” Specifies that a certificate of insurance is not an insurance policy and cannot alter, amend or extend terms contained in an insurance policy. Prohibits unfair, misleading or deceptive certificates and authorizes Department of Insurance to make a referral to IDFPR if a non-compliant certificate was issued by a financial institution. [effective date: January 1, 2015]

**Public Act 98-821** Will amend the Illinois Real Property Transfer on Death (“T.O.D.”) Instrument Act (which became effective 01/01/2012) to: (1) clarify the condominium interests that are transferable T.O.D. (such as the condo owner’s exclusively designated parking space(s) and/or common area(s); (2) specify that a Power of Attorney agent lacks authorization to create or revoke a real estate T.O.D. created by his or her principal (although the agent retains authority to sell, transfer, or encumber the principal’s real estate to the extent authorized by the agency appointment); (3) validate real estate T.O.D.s that are “executed, witnessed and acknowledged in *substantial* compliance” with Section 45 of the Act (adding the word “substantial” to the law); (4) eliminate “acceptance” as a condition to make the T.O.D. effective; (5) authorize, but not require as a condition of transfer, that a beneficiary can record a notice of death affidavit with the county recorder to confirm transfer of title following the owner’s death; and (6) in the section requiring that any court challenge to the T.O.D. must be brought within two years after the owner’s death, add that a subsequent purchaser or “mortgagee for value” takes free and clear of any legal challenge to the T.O.D. transfer if the ownership interest of such subsequent purchaser/mortgagee attached prior without legal notice (before recordation of a *lis pendens* providing notice of the contested T.O.D. transfer). [effective date: January 1, 2015]

**Public Act 98-836** Will amend the Small Estate Affidavit Article of the Probate Act of 1975 to require that the affiant identify his or her relationship to the decedent and to require the affiant to classify the debts of the decedent, similar to the priorities of creditors under the Probate Act in an intestate situation: funeral/burial expenses; spouse’s or child’s awards; debts due to the U.S.; money owed to employees of decedent and “last illness” expenses; debts due to the State of Illinois; etc. Any distribution to an heir or legatee is subordinate to the classified debts. Affiant indemnifies holders of property, including financial institutions, that may incur loss due to reliance on the affiant’s small estate affidavit. Will also amend the Safety Deposit Box Opening Act to prohibit a lessor (e.g., a bank) from allowing access to the box to a third person if the lessor has already received a small estate affidavit, and to permit the affiant to examine the contents of the box (as opposed to a bank employee looking in the box only to search for burial instructions or a will). [effective date: January 1, 2015]

**Public Act 98-862** Will amend the Illinois Wage Payment and Collection Act to offer “wage payment cards” that access “Wage Payment Accounts” as an alternative method of paying an employees’ wages and final/severance compensation; specifies conditions and requirements applicable to wage payment accounts and cards, including clear and conspicuous notice to the employee that this method of payment is a voluntary alternative to other, traditional means of wage payment and that the employee must give voluntary written or electronic consent to receive wages by payroll card. [effective date: January 1, 2015]

**Public Act 98-984** Will amend Illinois’ Electronic Fund Transfer Act to prohibit imposition of a service charge at an ATM if the consumer is using a reloadable card issued by the Illinois State Disbursement Unit for accessing child support payments. [effective date: July 1, 2015]

**Public Act 98-1037** Will amend the Illinois Human Rights Act to define “intern” and to include interns among employees protected from harassment and other civil rights violations under Illinois law. [effective date: January 1, 2015]

**Public Act 98-1050** Will amend the Illinois Human Rights Act to add pregnancy and “common conditions related to pregnancy” as conditions for which an employee is protected against employment discrimination in the employer’s hiring, personnel evaluation, promotion/demotion, discipline and firing practices. Mandates that workplace reasonable accommodations be made for pregnancy and “common conditions related to pregnancy,” unless the employer can demonstrate an undue burden on business operations from the requested accommodations. Employer can request documentation from doctor regarding the need for reasonable workplace accommodations, but only with respect to the medical justification, suggested accommodations, the date or circumstances upon which medical accommodations became or will become advisable, and the probable duration of the condition justifying reasonable accommodations. It is the employee’s responsibility to obtain medical documentation for the employer. The legislation gives examples of “reasonable accommodations” including more frequent or longer breaks, light duty and/or assistance with manual labor, and access to private space

**for breastfeeding or expressing breast milk. P.A. 98-1050 also creates yet another workplace “poster” requirement, mandating that employers post a notice crafted by the Department of Human Rights in the workplace location where other HR posters are displayed. Employers must also amend their employee policy manual or handbook to reflect these new provisions regarding accommodation for pregnancy and pregnancy “common conditions.” [effective date: January 1, 2015]**

**Public Act 98-1081 Will amend the Illinois Banking Act to impose a fee (to be set by rule adopted by IDFPR) and to require payment of expenses incurred by IDFPR when a state-chartered bank goes through a voluntary dissolution; will repeal the Illinois Savings and Loan Act of 1985 and make corresponding transitional changes such as re-designating the “Savings and Residential Finance Regulatory Fund” as the “Residential Finance Regulatory Fund” and re-designating the “Board of Savings Institutions” as the “Board of Savings Banks;” will amend Illinois’ Savings Bank Act to delete a requirement that at least two-thirds of the directors on a savings bank’s board must be Illinois residents; will repeal certain provisions of the Savings Bank Act addressing IDFPR’s remedial alternatives in the case of a savings bank the stock of which is “impaired;” will make other changes to statutes not relevant to state banks or savings banks. [effective date: January 1, 2015]**

**Public Act 98-1093 Will add a new Article IVa to the Probate Act of 1975, creating a rebuttable presumption that an after-death transfer of property in excess of \$20,000 is void if the transferee/recipient is a “caregiver” of the transferor. “Caregiver” includes a person or entity (whether receiving compensation or not) assuming responsibility for all or a portion of the daily care of the transferor, and includes a spouse, child or employee of that person or entity but excludes family members of the transferor. Transfer instruments subject to the presumption include, but are not limited to, a will, payable on death contract or any “other beneficiary designation form.” The rebuttable presumption can be defeated if the transferee/recipient proves *by a preponderance of the evidence* that (s)he/it was already designated as a beneficiary of the threshold amount (i.e., \$20,000) prior to becoming the caregiver; or by *clear and convincing evidence* that (s)he/it did not use fraud,**

**duress or undue influence to become a recipient/transferee. A rebuttable presumption voiding a transfer under this legislation applies only in the context of an after-death transfer that is challenged in a civil action and does not impose any new or additional due diligence or investigative responsibility on a financial institution, trust company or trustee. [effective date is January 1, 2015, and only applies prospectively to transfer instruments executed after that date.]**

**Public Act 98-1119 Will amend Illinois' Consumer Fraud and Deceptive Business Practices Act to specify conditions under which a threatening patent infringement letter will be unlawful, including if: (1) the letter falsely threatens administrative or judicial action if the recipient does not pay some compensation; (2) the letter falsely states that litigation has been commenced against the intended recipient or an affiliate of the recipient; (3) the assertions in the threatening letter lack merit because the sender does not have the right to enforce or license the patent, the alleged patent has been held to be invalid by a court in a final, unappealed judgment, the patent has expired, or the content of the letter fails to give the recipient sufficient information about the infringement claim so that the recipient can determine the nature of the infringement claim and whether the recipient is or is not responsible for a patent infringement. [effective date: January 1, 2015]**

**For further information, please contact CBAI General Counsel Jerry Cavanaugh by phone (1/800-736-2224 from within Illinois) or by email at [jerryc@cbai.com](mailto:jerryc@cbai.com).**