

Puerto Rico Enacts Equal Pay Law, Prohibits Employers from Inquiring about Past Salary History

By Maralyssa Álvarez-Sánchez and K. Joy Chin

March 13, 2017

Almost two months after signing [sweeping employment law reform](#), Governor Ricardo Rosselló has signed Puerto Rico Act No. 16 of March 8, 2017, known as the “Puerto Rico Equal Pay Act.” Act 16 is effective immediately.

Although modeled after the federal Equal Pay Act, Act 16 goes further, limiting instances in which employers can inquire into an applicant’s salary history, among other key provisions.

Pay Discrimination Prohibition

Like the federal Equal Pay Act, Act 16 establishes a general prohibition of pay discrimination based on sex among employees in jobs that require equal skill, effort, and responsibility, and that are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex.

Past Salary History Inquiries Prohibited

Act 16 prohibits employers from inquiring into an applicant’s past salary history, unless the applicant volunteered such information or a salary was already negotiated with the applicant and set forth in an offer letter, in which case an employer can inquire or confirm salary history.

Pay Transparency

Act 16 forbids employers from prohibiting discussions about salaries among employees or applicants, with certain exceptions for managers or human resources personnel. It also contains an anti-retaliation provision protecting employees who disclose their own salary or discuss salaries with other employees, object to any conduct prohibited by the law, present a claim or complaint, or participate in an investigation under Act 16.

Remedies and “Self-Evaluation Mitigation”

Available remedies for victims of pay discrimination include back pay and an equal amount as a penalty. Double compensatory damages also are available as remedies. The additional back pay penalty can be waived if the employer demonstrates that, in the year prior to the presentation of a salary claim, the employer voluntarily undertook a “self-evaluation” of its compensation practices and made reasonable efforts to eliminate pay disparities based on sex. The self-evaluation or mitigating measures cannot be used as evidence of violation of the law for events that take place within six months after the self-evaluation’s completion or within one year of the self-evaluation if the employer has commenced reasonable and good faith mitigating measures. The Puerto Rico Secretary of Labor is tasked with preparing and distributing uniform guidelines for employer self-evaluations.

The Department of Labor is authorized to prepare interpretive regulations and must commence a statistical study into pay inequality among men and women. The federal EPA and its regulations will be used as reference in interpreting Act 16.

The penalty provisions of Act 16 will not be effective until March 8, 2018, to permit employers to take any mitigating measures.

Jackson Lewis attorneys are available to provide strategic guidance and to assist in interpreting the new law and in implementing or reviewing any requisite policies. Please contact a Jackson Lewis attorney with any questions.

Meet the Authors



Maralyssa Álvarez-Sánchez
Of Counsel
San Juan
787-522-7314
Maralyssa.Alvarez-
Sanchez@jacksonlewis.com



K. Joy Chin
Principal
Long Island
631-247-4613
ChinJ@jacksonlewis.com

©2017 Jackson Lewis P.C. This Update is provided for informational purposes only. It is not intended as legal advice nor does it create an attorney/client relationship between Jackson Lewis and any readers or recipients. Readers should consult counsel of their own choosing to discuss how these matters relate to their individual circumstances. Reproduction in whole or in part is prohibited without the express written consent of Jackson Lewis.

This Update may be considered attorney advertising in some states. Furthermore, prior results do not guarantee a similar outcome.

Jackson Lewis P.C. represents management exclusively in workplace law and related litigation. Our attorneys are available to assist employers in their compliance efforts and to represent employers in matters before state and federal courts and administrative agencies. For more information, please contact the attorney(s) listed or the Jackson Lewis attorney with whom you regularly work.

Related Articles You May Like

March 7, 2017

New Jersey Bill Requires More Information on Pay Stubs



The New Jersey Assembly Labor Committee has voted 8-0 in favor of amending the wage notification requirements under the state Wage Payment Law to require private and public employers to provide employees a statement for each pay period that includes deductions, gross wages, net wages, rate of pay, and the number of hours worked during...

March 1, 2017

St. Louis Minimum Wage Ordinance Valid, Missouri High Court Rules



A unanimous Missouri Supreme Court has upheld St. Louis City's local minimum wage ordinance, reversing a trial court judgment that had enjoined and invalidated the ordinance in 2015. *Cooperative Home Care, Inc. v. City of St. Louis*, Missouri, No. SC95401 (Mo. Feb. 28, 2017). While the Ordinance had a series of graduated minimum...

February 17, 2017

New York State Regulations Governing Payroll Debit Cards (Scheduled to Become Effective March 7) Held Invalid and Revoked



The New York State Department of Labor (NYSDOL) issued final regulations in September 2016, significantly restricting the use of payroll debit cards and imposing disclosure and consent requirements for direct deposit. The regulations (12 NYCRR §192) were to become effective on March 7, 2017. However, in a February 16, 2017...

Related Practices



©2017 Jackson Lewis P.C. All rights reserved. Attorney Advertising. Prior results do not guarantee a similar outcome. No client-lawyer relationship has been established by the posting or viewing of information on this website.

*Honolulu, Hawai'i is through an affiliation with Jackson Lewis P.C., a Law Corporation