

Legal Update

January 2017

SIGNIFICANT CHANGES IN ILLINOIS LAW

By Seth A. Stern and Cecilia M. Suh

We wish our clients and friends a healthy, happy, and prosperous 2017. Our January *Legal Update* highlights several new laws that may be of interest to Illinois businesses and individuals. We encourage all those affected by these developments to ensure that they are in compliance with these laws.

Amendments to the Illinois Personal Information Protection Act

Illinois has amended its Personal Information Protection Act (PIPA), which governs the protection of residents' electronic personal information. The amendments broadly expand the definition of "personal information" to include an individual's first name or first initial and last name and any of the following: (i) medical information; (ii) health insurance information; and (iii) unique biometric data. "Personal information" also now includes an individual's user name or email address in combination with a password or security question and answer that would permit access to an online account.

PIPA now imposes additional notice obligations for data breaches involving an individual's user name or email address along with a password or security question and answer. The notice must inform affected individuals of the breach and direct them to promptly change the affected log-in information and take steps to protect other accounts that may use the same log-in information. All data collectors with records of Illinois residents' personal information must also implement and maintain reasonable security measures to protect those records. Moreover, contracts for the disclosure of personal information must require the recipient to take reasonable measures to protect the information.

Changes to the Illinois Right to Privacy in the Workplace Act

Illinois has further amended its Right to Privacy in the Workplace Act, which restricts employers from requiring access to employees' personal online accounts. The amended Act makes it unlawful to require any employee or prospective employee to: (a) provide a user name and password for a personal account; (b) authenticate or access a personal account in front of the employer; or (c) invite the employer to join a group affiliated with his or her personal account, among other restrictions.

The Act also now prohibits employers from penalizing an employee for declining to provide the employer with his or her personal online account information. Employers also are prohibited from refusing to hire applicants who refuse to comply with requests that are prohibited by the Act. The amended Act does not, however, prohibit employers from obtaining information in the public domain or that is required for legal compliance. It also does not prevent an employer from requiring an individual to share specific content that has been reported to the employer, without requiring a user name and password, for certain limited purposes related to compliance or internal investigations. Notably, the Act now also applies to prospective employers throughout the recruiting and hiring process.

Changes to Unclaimed Property Procedures

Illinois amended its Uniform Disposition of Unclaimed Property Act to reduce the waiting period before

FVLD®

unclaimed property held by the government will be presumed abandoned from seven years to five years.

Trusts and Trustees Act Amendment Regarding Transfers of Real Property

The Trusts and Trustees Act now provides that any transfer of real property to a trust requires a transfer of legal title to the trustee evidenced by a written instrument of conveyance and acceptance. In addition, if the transferor is a trustee, an interest in real property shall not become trust property unless the instrument of conveyance is recorded in the recorder's office of the county where the property is located.

Land Trust Beneficiary Rights Act

The new Illinois Land Trust Beneficiary Rights Act is intended to protect the rights of land trust beneficiaries due to the changing land trust business, as banks, trust companies, and title companies enter and exit the land trust business in Illinois on a regular basis. The Act provides that if the identity of a trustee of a land trust has changed, but the beneficial ownership of the land trust does not change, the rights of the beneficial owner(s) shall not be impaired due to the change of trustee. The Act further provides that a change of trustee due to a sale, acquisition, or appointment governed by the Corporate Fiduciary Act shall not bar any court action filed by or in the name of either the previous or new trustee.

Amendment to the Illinois Wrongful Death Act (Molly's Law)

Molly's Law extends the statute of limitations for certain wrongful death cases. The law was named after an Illinois woman who died from a gunshot wound to the head. Her death raised several questions that remained unanswered, and her father allegedly faced difficulties obtaining information about the investigation. A judge eventually dismissed his wrongful death lawsuit because it was not filed within the two-year time period under the Wrongful Death Act. His story resulted in changes to the Act, which now permits certain wrongful death lawsuits to be brought within five years after the date of the death if the death is the result of "violent intentional conduct" or to be brought within one year after the final disposition of the related criminal case if the defendant is charged with certain offenses.

Changes to the Illinois Victims' Economic Security and Safety Act (VESSA)

VESSA generally requires employers to provide certain unpaid leave and other rights to employees when they or their relatives or household members are victims of domestic or sexual violence. VESSA, which previously applied only to employers with 15 or more employees, now requires employers with 1–14 employees to provide a total of four workweeks of VESSA leave during any 12-month period.

Three Final Reminders for Illinois Employers

Finally, affected employers are reminded of their obligations under three additional new laws that took effect on January 1, 2017: (1) the Employee Sick Leave Act, which regulates employers who provide personal sick leave benefits; (2) the Domestic Workers' Bill of Rights Act, which provides protections for domestic workers; and (3) the Freedom to Work Act, which restricts non-compete agreements for low-wage employees. We wrote about these laws in our [October 2016 Legal Update](#).

Please note that this Legal Update discusses only a small sample of new Illinois laws. Certain laws that we do not mention may nonetheless be particularly important to you or your business. Moreover, there may be new federal laws, and laws in other states where you do business, that affect you.

FVLD publishes updates on legal issues and summaries of legal topics for its clients and friends. They are merely informational and do not constitute legal advice. We welcome comments or questions. If we can be of assistance, please call or write Seth A. Stern 312.701.6837 sstern@fvldlaw.com, Cecilia M. Sub 312.701.6841 csub@fvldlaw.com, or your regular FVLD contact.

FVLD®

© 2017, Funkhouser Vegosen Liebman & Dunn Ltd.
All rights reserved.