



## The First New Employment Law of 2009: President Obama Signs Lilly Ledbetter Fair Pay Act

At a ceremony in the East Room of the White House today, President Obama signed the Lilly Ledbetter Fair Pay Act of 2009 ("Ledbetter Act"), making a workplace law the first one signed by the new President. The Ledbetter Act expands the scope of potential pay discrimination claims against businesses by expressly rejecting a recent United States Supreme Court opinion that limited the time period in which an employee could file a pay discrimination lawsuit. The new law amends Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans With Disabilities Act and the Rehabilitation Act, to allow an employee to file a claim for pay discrimination even if the initial violation took place many years earlier. For purposes of this new law, an unlawful pay or compensation practice will be deemed to have occurred on any of the following occasions:

- When a discriminatory compensation decision or practice is adopted;
- When an employee becomes subject to a discriminatory compensation decision or practice;
- When an employee is affected by the application of a discriminatory compensation decision or practice, including each time wages, benefits or other compensation is paid, resulting in whole or in part from such a decision or practice.

The last of these three items is the most significant change and will provide a greatly expanded time period for employees to file pay discrimination lawsuits. Under prior law, an employer could be sued only if it recently adopted a discriminatory pay practice or subjected employees to discrimination in pay or benefits because of race, sex or other unlawful grounds. Under the Ledbetter Act, that suit can now be filed even if the discriminatory pay practice or decision at issue was made dozens of years ago, if the employee can show that his or her most recent paycheck was affected "in whole or in part" by the older decision or practice. An employee (or even a former employee in some cases) can recover back pay for up to two years as well as compensatory and punitive damages.

Is there anything that businesses should do prospectively as a result of this new law? Most obviously, businesses should ensure that all compensation and benefits decisions are based on legitimate business factors, and not on sex, race, national origin or other impermissible grounds. In addition, businesses should periodically review compensation ranges within job classifications to ascertain whether current pay disparities might have been affected by discriminatory pay practices or decisions from years ago. Please contact us with any questions.

### Join Us for Breakfast at Riddell Williams on February 11!

To learn more about the Lilly Ledbetter Act as well as many other new laws that are likely to follow, join us at our first 2009 Breakfast Briefing. For more information, please visit our website at [www.riddellwilliams.com/news/index.html#breakfast](http://www.riddellwilliams.com/news/index.html#breakfast).

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