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## Top 12 states most at risk for employee lawsuits

NOV 03, 2015 | BY MELISSA HILLEBRAND, PROPERTYCASUALTY360.COM



Companies in Missouri have a 15% chance that an employee will file a lawsuit against them, as a result of anti-discrimination and fair employment laws there. (Photo: Shutterstock)

In 2014, U.S. companies had at least a 11.7% chance of an employment lawsuit being filed against them.

However, in 11 states plus the District of Columbia, the percentage is much higher. These states have discrimination laws that go beyond federal guidelines, which create additional obligations and risks for insurers, according to New York-based specialist insurer Hiscox.

And these suits are costly: The average total costs of claims that resulted in a defense and settlement payout is \$125,000, Hiscox says. The average self-insured retention (deductible) for these charges was \$35,000. Without Employment Practices Liability insurance, these companies would have had to pay an additional \$90,000. In addition, 81% of charges resulted in no payment by the insurance company — which highlights the “nuisance potential” of employment charges, such as a loss of goodwill or reputational damage.

The 2015 Hiscox Guide to Employee Lawsuits reveals which states have the highest probability of employees filing lawsuits, and the cost of employee charges and litigation. Hiscox used data from the federal and state levels of the Equal Employment Opportunity Commission.

Federal law prohibits discrimination based on age (over 40 years), disability, genetic information, national origin, race, color, religion and sex. It also is illegal to retaliate against a person who filed a discrimination complaint or suit.

The District of Columbia and the 11 states with the highest risk of employee lawsuits have state laws that exceed federal regulations in several areas:

- **Anti-discrimination/fair employment practices:** These include additional protected classes or impose restrictions on smaller-size companies that need to comply.
- **E-Verify:** All private-sector employers must enroll in the federal e-Verify system and use it to ensure all new hires are legally allowed to work in the U.S.
- **Pregnancy accommodation:** Employers must make reasonable accommodations to the known limitations related to pregnancy of an applicant or employee.
- **Criminal background checks:** Employers are restricted inquiring about — or requiring disclosure of — a job applicant's criminal record or criminal history.
- **Credit checks:** Employers are prohibited from taking employment actions related to the credit history or credit report of an employee or job applicant.

Below and on the following pages, the states most at risk for employee lawsuits:

## 12. Missouri

Chance of litigation: 15%.

Key state laws driving increased employee charges: Anti-discrimination/fair employment practices.





*(Photo: Thinkstock)*

## **11. Georgia**

Chance of litigation: 19%.

Key state laws driving increased employee charges: Anti-discrimination employment practices and e-Verify.



*(Photo: Thinkstock)*

## **10. Tennessee**

Chance of litigation: 20%.

Key state laws driving increased employee charges: Anti-discrimination employment practices.





*(Photo: Thinkstock)*

## 9. Arkansas

Chance of litigation: 22%.

Key state laws driving increased employee charges: Anti-discrimination employment practices.



*(Photo: Thinkstock)*

## **8. Illinois**

Chance of litigation: 34%.

Key state laws driving increased employee charges: Anti-discrimination employment practices, credit checks, pregnancy accommodations and criminal background checks.





*(Photo: Thinkstock)*

## 7. Delaware

Chance of litigation: 35%.

Key state laws driving increased employee charges: Anti-discrimination employment practices and pregnancy accommodations.





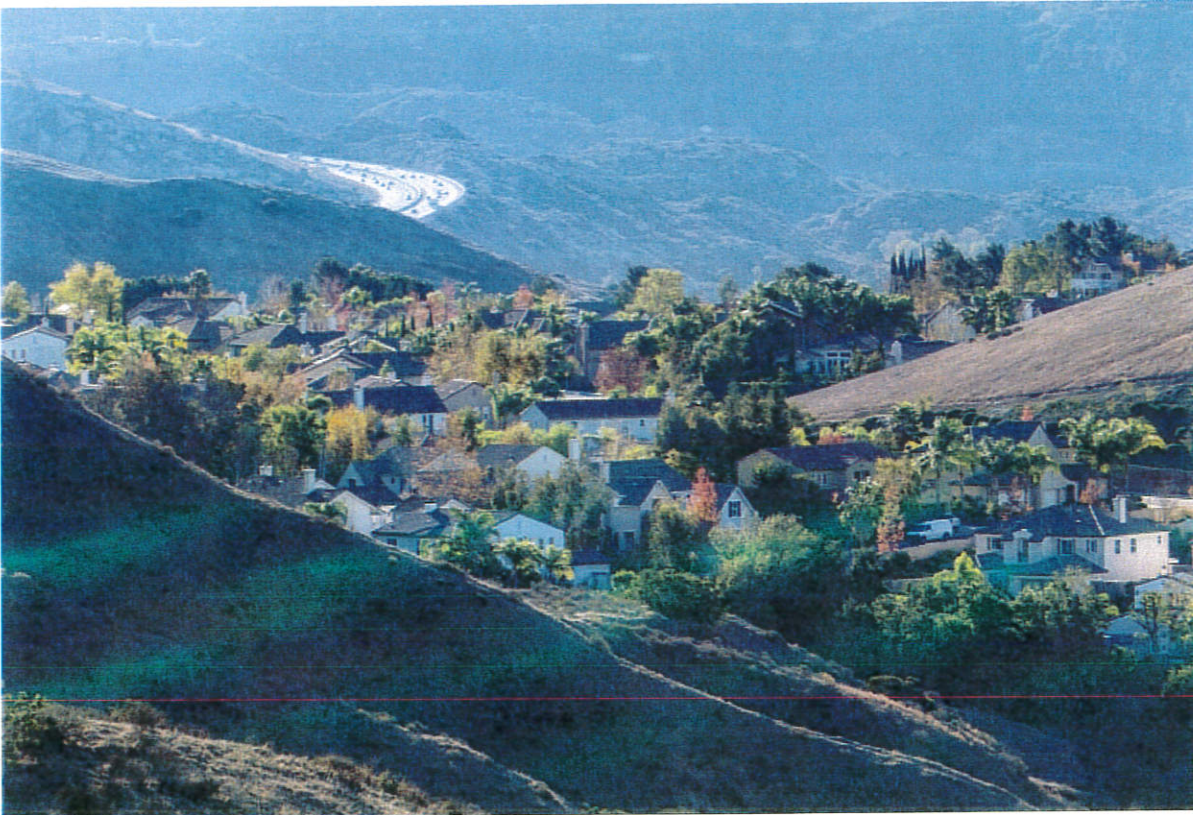


*(Photo: Shutterstock)*

## 6. Mississippi

Chance of litigation: 39%.

Key state laws driving increased employee charges: e-Verify.



*(Photo: Thinkstock)*

## 5. California

Chance of litigation: 40%.

Key state laws driving increased employee charges: Anti-discrimination employment practices.





*(Photo: Shutterstock)*

#### 4. Alabama

Chance of litigation: 41%.

Key state laws driving increased employee charges: e-Verify.







*(Photo: Thinkstock)*

### **3. Nevada**

Chance of litigation: 47%.

Key state laws driving increased employee charges: Anti-discrimination employment practices and credit checks.



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### **2. Washington, D.C.**

Chance of litigation: 65%.

Key state laws driving increased employee charges: Anti-discrimination employment practices, pregnancy accommodations and criminal background checks.



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**1. New Mexico**

Chance of litigation: 66%.

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Key state laws driving increased employee charges: Anti-discrimination employment practices.

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