



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4489

Introduced 1/31/2012, by Rep. Michael W. Tryon

SYNOPSIS AS INTRODUCED:

820 ILCS 115/11

from Ch. 48, par. 39m-11

Amends the Illinois Wage Payment and Collection Act. Provides that evidence presented to an Administrative Law Judge and verified as provided in the Code of Civil Procedure shall be admissible in proceedings to adjudicate claims filed for amounts of \$3,000 or less.

LRB097 19066 JLS 64305 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Wage Payment and Collection Act is
5 amended by changing Section 11 as follows:

6 (820 ILCS 115/11) (from Ch. 48, par. 39m-11)

7 Sec. 11. It shall be the duty of the Department of Labor to
8 inquire diligently for any violations of this Act, and to
9 institute the actions for penalties herein provided, and to
10 enforce generally the provisions of this Act.

11 An employee may file a complaint with the Department
12 alleging violations of the Act by submitting a signed,
13 completed wage claim application on the form provided by the
14 Department and by submitting copies of all supporting
15 documentation. Complaints shall be filed within one year after
16 the wages, final compensation, or wage supplements were due.

17 Applications shall be reviewed by the Department to
18 determine whether there is cause for investigation.

19 The Department shall have the following powers:

20 (a) To investigate and attempt equitably to adjust
21 controversies between employees and employers in respect
22 of wage claims arising under this Act and to that end the
23 Department through the Director of Labor or any other

1 person in the Department of Labor designated by him or her,
2 shall have the power to administer oaths, subpoena and
3 examine witnesses, to issue subpoenas duces tecum
4 requiring the production of such books, papers, records and
5 documents as may be evidence of any matter under inquiry
6 and to examine and inspect the same as may relate to the
7 question in dispute. Service of such subpoenas shall be
8 made by any sheriff or any person. Any court in this State,
9 upon the application of the Department may compel
10 attendance of witnesses, the production of books and
11 papers, and the giving of testimony before the Department
12 by attachment for contempt or in any other way as the
13 production of evidence may be compelled before such court.

14 (b) To take assignments of wage claims in the name of
15 the Director of Labor and his or her successors in office
16 and prosecute actions for the collection of wages for
17 persons financially unable to prosecute such claims when in
18 the judgment of the Department such claims are valid and
19 enforceable in the courts. No court costs or any fees for
20 necessary process and proceedings shall be payable in
21 advance by the Department for prosecuting such actions. In
22 the event there is a judgment rendered against the
23 defendant, the court shall assess as part of such judgment
24 the costs of such proceeding. Upon collection of such
25 judgments the Department shall pay from the proceeds of
26 such judgment such costs to such person who is by law

1 entitled to same. The Department may join in a single
2 proceeding any number of wage claims against the same
3 employer but the court shall have discretionary power to
4 order a severance or separate trial for hearings.

5 (c) To make complaint in any court of competent
6 jurisdiction of violations of this Act.

7 (d) In addition to the aforementioned powers, subject
8 to appropriation, the Department may establish an
9 administrative procedure to adjudicate claims or specific
10 categories of claims filed with the Department for \$3,000
11 or less per individual employee, exclusive of penalties,
12 costs and fines, including instances where an employer
13 fails to timely respond to a notice of claim issued by the
14 Department; and to issue final and binding administrative
15 decisions on such claims subject to the Administrative
16 Review Law. To establish such a procedure, the Director of
17 Labor or her or his authorized representative may
18 promulgate rules and regulations. The adoption, amendment
19 or rescission of rules and regulations for such a procedure
20 shall be in conformity with the requirements of the
21 Illinois Administrative Procedure Act.

22 The rules promulgated under paragraph (d) shall provide
23 that evidence, including evidence admissible under Section
24 10-40 of the Illinois Administrative Procedure Act, presented
25 to a Department Administrative Law Judge and verified in
26 accordance with Section 1-109 of the Code of Civil Procedure

1 shall be admissible.

2 Nothing herein shall be construed to prevent any employee
3 from making complaint or prosecuting his or her own claim for
4 wages. Any employee aggrieved by a violation of this Act or any
5 rule adopted under this Act may file suit in circuit court of
6 Illinois, in the county where the alleged violation occurred or
7 where any employee who is party to the action resides, without
8 regard to exhaustion of any alternative administrative
9 remedies provided in this Act. Actions may be brought by one or
10 more employees for and on behalf of themselves and other
11 employees similarly situated.

12 Nothing herein shall be construed to limit the authority of
13 the State's attorney of any county to prosecute actions for
14 violation of this Act or to enforce the provisions thereof
15 independently and without specific direction of the Department
16 of Labor.

17 (Source: P.A. 95-209, eff. 8-16-07; 96-1407, eff. 1-1-11.)