



Sen. Kimberly A. Lightford

**Filed: 2/6/2019**

10100SB0001sam001

LRB101 06174 JLS 55973 a

1 AMENDMENT TO SENATE BILL 1

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the Lifting Up  
5 Illinois Working Families Act.

6 Section 5. The Illinois Administrative Procedure Act is  
7 amended by changing Section 5-45 as follows:

8 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

9 Sec. 5-45. Emergency rulemaking.

10 (a) "Emergency" means the existence of any situation that  
11 any agency finds reasonably constitutes a threat to the public  
12 interest, safety, or welfare.

13 (b) If any agency finds that an emergency exists that  
14 requires adoption of a rule upon fewer days than is required by  
15 Section 5-40 and states in writing its reasons for that

1 finding, the agency may adopt an emergency rule without prior  
2 notice or hearing upon filing a notice of emergency rulemaking  
3 with the Secretary of State under Section 5-70. The notice  
4 shall include the text of the emergency rule and shall be  
5 published in the Illinois Register. Consent orders or other  
6 court orders adopting settlements negotiated by an agency may  
7 be adopted under this Section. Subject to applicable  
8 constitutional or statutory provisions, an emergency rule  
9 becomes effective immediately upon filing under Section 5-65 or  
10 at a stated date less than 10 days thereafter. The agency's  
11 finding and a statement of the specific reasons for the finding  
12 shall be filed with the rule. The agency shall take reasonable  
13 and appropriate measures to make emergency rules known to the  
14 persons who may be affected by them.

15 (c) An emergency rule may be effective for a period of not  
16 longer than 150 days, but the agency's authority to adopt an  
17 identical rule under Section 5-40 is not precluded. No  
18 emergency rule may be adopted more than once in any 24-month  
19 period, except that this limitation on the number of emergency  
20 rules that may be adopted in a 24-month period does not apply  
21 to (i) emergency rules that make additions to and deletions  
22 from the Drug Manual under Section 5-5.16 of the Illinois  
23 Public Aid Code or the generic drug formulary under Section  
24 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)  
25 emergency rules adopted by the Pollution Control Board before  
26 July 1, 1997 to implement portions of the Livestock Management

1 Facilities Act, (iii) emergency rules adopted by the Illinois  
2 Department of Public Health under subsections (a) through (i)  
3 of Section 2 of the Department of Public Health Act when  
4 necessary to protect the public's health, (iv) emergency rules  
5 adopted pursuant to subsection (n) of this Section, (v)  
6 emergency rules adopted pursuant to subsection (o) of this  
7 Section, or (vi) emergency rules adopted pursuant to subsection  
8 (c-5) of this Section. Two or more emergency rules having  
9 substantially the same purpose and effect shall be deemed to be  
10 a single rule for purposes of this Section.

11 (c-5) To facilitate the maintenance of the program of group  
12 health benefits provided to annuitants, survivors, and retired  
13 employees under the State Employees Group Insurance Act of  
14 1971, rules to alter the contributions to be paid by the State,  
15 annuitants, survivors, retired employees, or any combination  
16 of those entities, for that program of group health benefits,  
17 shall be adopted as emergency rules. The adoption of those  
18 rules shall be considered an emergency and necessary for the  
19 public interest, safety, and welfare.

20 (d) In order to provide for the expeditious and timely  
21 implementation of the State's fiscal year 1999 budget,  
22 emergency rules to implement any provision of Public Act 90-587  
23 or 90-588 or any other budget initiative for fiscal year 1999  
24 may be adopted in accordance with this Section by the agency  
25 charged with administering that provision or initiative,  
26 except that the 24-month limitation on the adoption of

1 emergency rules and the provisions of Sections 5-115 and 5-125  
2 do not apply to rules adopted under this subsection (d). The  
3 adoption of emergency rules authorized by this subsection (d)  
4 shall be deemed to be necessary for the public interest,  
5 safety, and welfare.

6 (e) In order to provide for the expeditious and timely  
7 implementation of the State's fiscal year 2000 budget,  
8 emergency rules to implement any provision of Public Act 91-24  
9 or any other budget initiative for fiscal year 2000 may be  
10 adopted in accordance with this Section by the agency charged  
11 with administering that provision or initiative, except that  
12 the 24-month limitation on the adoption of emergency rules and  
13 the provisions of Sections 5-115 and 5-125 do not apply to  
14 rules adopted under this subsection (e). The adoption of  
15 emergency rules authorized by this subsection (e) shall be  
16 deemed to be necessary for the public interest, safety, and  
17 welfare.

18 (f) In order to provide for the expeditious and timely  
19 implementation of the State's fiscal year 2001 budget,  
20 emergency rules to implement any provision of Public Act 91-712  
21 or any other budget initiative for fiscal year 2001 may be  
22 adopted in accordance with this Section by the agency charged  
23 with administering that provision or initiative, except that  
24 the 24-month limitation on the adoption of emergency rules and  
25 the provisions of Sections 5-115 and 5-125 do not apply to  
26 rules adopted under this subsection (f). The adoption of

1 emergency rules authorized by this subsection (f) shall be  
2 deemed to be necessary for the public interest, safety, and  
3 welfare.

4 (g) In order to provide for the expeditious and timely  
5 implementation of the State's fiscal year 2002 budget,  
6 emergency rules to implement any provision of Public Act 92-10  
7 or any other budget initiative for fiscal year 2002 may be  
8 adopted in accordance with this Section by the agency charged  
9 with administering that provision or initiative, except that  
10 the 24-month limitation on the adoption of emergency rules and  
11 the provisions of Sections 5-115 and 5-125 do not apply to  
12 rules adopted under this subsection (g). The adoption of  
13 emergency rules authorized by this subsection (g) shall be  
14 deemed to be necessary for the public interest, safety, and  
15 welfare.

16 (h) In order to provide for the expeditious and timely  
17 implementation of the State's fiscal year 2003 budget,  
18 emergency rules to implement any provision of Public Act 92-597  
19 or any other budget initiative for fiscal year 2003 may be  
20 adopted in accordance with this Section by the agency charged  
21 with administering that provision or initiative, except that  
22 the 24-month limitation on the adoption of emergency rules and  
23 the provisions of Sections 5-115 and 5-125 do not apply to  
24 rules adopted under this subsection (h). The adoption of  
25 emergency rules authorized by this subsection (h) shall be  
26 deemed to be necessary for the public interest, safety, and

1 welfare.

2 (i) In order to provide for the expeditious and timely  
3 implementation of the State's fiscal year 2004 budget,  
4 emergency rules to implement any provision of Public Act 93-20  
5 or any other budget initiative for fiscal year 2004 may be  
6 adopted in accordance with this Section by the agency charged  
7 with administering that provision or initiative, except that  
8 the 24-month limitation on the adoption of emergency rules and  
9 the provisions of Sections 5-115 and 5-125 do not apply to  
10 rules adopted under this subsection (i). The adoption of  
11 emergency rules authorized by this subsection (i) shall be  
12 deemed to be necessary for the public interest, safety, and  
13 welfare.

14 (j) In order to provide for the expeditious and timely  
15 implementation of the provisions of the State's fiscal year  
16 2005 budget as provided under the Fiscal Year 2005 Budget  
17 Implementation (Human Services) Act, emergency rules to  
18 implement any provision of the Fiscal Year 2005 Budget  
19 Implementation (Human Services) Act may be adopted in  
20 accordance with this Section by the agency charged with  
21 administering that provision, except that the 24-month  
22 limitation on the adoption of emergency rules and the  
23 provisions of Sections 5-115 and 5-125 do not apply to rules  
24 adopted under this subsection (j). The Department of Public Aid  
25 may also adopt rules under this subsection (j) necessary to  
26 administer the Illinois Public Aid Code and the Children's

1 Health Insurance Program Act. The adoption of emergency rules  
2 authorized by this subsection (j) shall be deemed to be  
3 necessary for the public interest, safety, and welfare.

4 (k) In order to provide for the expeditious and timely  
5 implementation of the provisions of the State's fiscal year  
6 2006 budget, emergency rules to implement any provision of  
7 Public Act 94-48 or any other budget initiative for fiscal year  
8 2006 may be adopted in accordance with this Section by the  
9 agency charged with administering that provision or  
10 initiative, except that the 24-month limitation on the adoption  
11 of emergency rules and the provisions of Sections 5-115 and  
12 5-125 do not apply to rules adopted under this subsection (k).  
13 The Department of Healthcare and Family Services may also adopt  
14 rules under this subsection (k) necessary to administer the  
15 Illinois Public Aid Code, the Senior Citizens and Persons with  
16 Disabilities Property Tax Relief Act, the Senior Citizens and  
17 Disabled Persons Prescription Drug Discount Program Act (now  
18 the Illinois Prescription Drug Discount Program Act), and the  
19 Children's Health Insurance Program Act. The adoption of  
20 emergency rules authorized by this subsection (k) shall be  
21 deemed to be necessary for the public interest, safety, and  
22 welfare.

23 (l) In order to provide for the expeditious and timely  
24 implementation of the provisions of the State's fiscal year  
25 2007 budget, the Department of Healthcare and Family Services  
26 may adopt emergency rules during fiscal year 2007, including

1 rules effective July 1, 2007, in accordance with this  
2 subsection to the extent necessary to administer the  
3 Department's responsibilities with respect to amendments to  
4 the State plans and Illinois waivers approved by the federal  
5 Centers for Medicare and Medicaid Services necessitated by the  
6 requirements of Title XIX and Title XXI of the federal Social  
7 Security Act. The adoption of emergency rules authorized by  
8 this subsection (l) shall be deemed to be necessary for the  
9 public interest, safety, and welfare.

10 (m) In order to provide for the expeditious and timely  
11 implementation of the provisions of the State's fiscal year  
12 2008 budget, the Department of Healthcare and Family Services  
13 may adopt emergency rules during fiscal year 2008, including  
14 rules effective July 1, 2008, in accordance with this  
15 subsection to the extent necessary to administer the  
16 Department's responsibilities with respect to amendments to  
17 the State plans and Illinois waivers approved by the federal  
18 Centers for Medicare and Medicaid Services necessitated by the  
19 requirements of Title XIX and Title XXI of the federal Social  
20 Security Act. The adoption of emergency rules authorized by  
21 this subsection (m) shall be deemed to be necessary for the  
22 public interest, safety, and welfare.

23 (n) In order to provide for the expeditious and timely  
24 implementation of the provisions of the State's fiscal year  
25 2010 budget, emergency rules to implement any provision of  
26 Public Act 96-45 or any other budget initiative authorized by



1 the 96th General Assembly for fiscal year 2010 may be adopted  
2 in accordance with this Section by the agency charged with  
3 administering that provision or initiative. The adoption of  
4 emergency rules authorized by this subsection (n) shall be  
5 deemed to be necessary for the public interest, safety, and  
6 welfare. The rulemaking authority granted in this subsection  
7 (n) shall apply only to rules promulgated during Fiscal Year  
8 2010.

9 (o) In order to provide for the expeditious and timely  
10 implementation of the provisions of the State's fiscal year  
11 2011 budget, emergency rules to implement any provision of  
12 Public Act 96-958 or any other budget initiative authorized by  
13 the 96th General Assembly for fiscal year 2011 may be adopted  
14 in accordance with this Section by the agency charged with  
15 administering that provision or initiative. The adoption of  
16 emergency rules authorized by this subsection (o) is deemed to  
17 be necessary for the public interest, safety, and welfare. The  
18 rulemaking authority granted in this subsection (o) applies  
19 only to rules promulgated on or after July 1, 2010 (the  
20 effective date of Public Act 96-958) through June 30, 2011.

21 (p) In order to provide for the expeditious and timely  
22 implementation of the provisions of Public Act 97-689,  
23 emergency rules to implement any provision of Public Act 97-689  
24 may be adopted in accordance with this subsection (p) by the  
25 agency charged with administering that provision or  
26 initiative. The 150-day limitation of the effective period of

1 emergency rules does not apply to rules adopted under this  
2 subsection (p), and the effective period may continue through  
3 June 30, 2013. The 24-month limitation on the adoption of  
4 emergency rules does not apply to rules adopted under this  
5 subsection (p). The adoption of emergency rules authorized by  
6 this subsection (p) is deemed to be necessary for the public  
7 interest, safety, and welfare.

8 (q) In order to provide for the expeditious and timely  
9 implementation of the provisions of Articles 7, 8, 9, 11, and  
10 12 of Public Act 98-104, emergency rules to implement any  
11 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104  
12 may be adopted in accordance with this subsection (q) by the  
13 agency charged with administering that provision or  
14 initiative. The 24-month limitation on the adoption of  
15 emergency rules does not apply to rules adopted under this  
16 subsection (q). The adoption of emergency rules authorized by  
17 this subsection (q) is deemed to be necessary for the public  
18 interest, safety, and welfare.

19 (r) In order to provide for the expeditious and timely  
20 implementation of the provisions of Public Act 98-651,  
21 emergency rules to implement Public Act 98-651 may be adopted  
22 in accordance with this subsection (r) by the Department of  
23 Healthcare and Family Services. The 24-month limitation on the  
24 adoption of emergency rules does not apply to rules adopted  
25 under this subsection (r). The adoption of emergency rules  
26 authorized by this subsection (r) is deemed to be necessary for

1 the public interest, safety, and welfare.

2 (s) In order to provide for the expeditious and timely  
3 implementation of the provisions of Sections 5-5b.1 and 5A-2 of  
4 the Illinois Public Aid Code, emergency rules to implement any  
5 provision of Section 5-5b.1 or Section 5A-2 of the Illinois  
6 Public Aid Code may be adopted in accordance with this  
7 subsection (s) by the Department of Healthcare and Family  
8 Services. The rulemaking authority granted in this subsection  
9 (s) shall apply only to those rules adopted prior to July 1,  
10 2015. Notwithstanding any other provision of this Section, any  
11 emergency rule adopted under this subsection (s) shall only  
12 apply to payments made for State fiscal year 2015. The adoption  
13 of emergency rules authorized by this subsection (s) is deemed  
14 to be necessary for the public interest, safety, and welfare.

15 (t) In order to provide for the expeditious and timely  
16 implementation of the provisions of Article II of Public Act  
17 99-6, emergency rules to implement the changes made by Article  
18 II of Public Act 99-6 to the Emergency Telephone System Act may  
19 be adopted in accordance with this subsection (t) by the  
20 Department of State Police. The rulemaking authority granted in  
21 this subsection (t) shall apply only to those rules adopted  
22 prior to July 1, 2016. The 24-month limitation on the adoption  
23 of emergency rules does not apply to rules adopted under this  
24 subsection (t). The adoption of emergency rules authorized by  
25 this subsection (t) is deemed to be necessary for the public  
26 interest, safety, and welfare.

1           (u) In order to provide for the expeditious and timely  
2 implementation of the provisions of the Burn Victims Relief  
3 Act, emergency rules to implement any provision of the Act may  
4 be adopted in accordance with this subsection (u) by the  
5 Department of Insurance. The rulemaking authority granted in  
6 this subsection (u) shall apply only to those rules adopted  
7 prior to December 31, 2015. The adoption of emergency rules  
8 authorized by this subsection (u) is deemed to be necessary for  
9 the public interest, safety, and welfare.

10          (v) In order to provide for the expeditious and timely  
11 implementation of the provisions of Public Act 99-516,  
12 emergency rules to implement Public Act 99-516 may be adopted  
13 in accordance with this subsection (v) by the Department of  
14 Healthcare and Family Services. The 24-month limitation on the  
15 adoption of emergency rules does not apply to rules adopted  
16 under this subsection (v). The adoption of emergency rules  
17 authorized by this subsection (v) is deemed to be necessary for  
18 the public interest, safety, and welfare.

19          (w) In order to provide for the expeditious and timely  
20 implementation of the provisions of Public Act 99-796,  
21 emergency rules to implement the changes made by Public Act  
22 99-796 may be adopted in accordance with this subsection (w) by  
23 the Adjutant General. The adoption of emergency rules  
24 authorized by this subsection (w) is deemed to be necessary for  
25 the public interest, safety, and welfare.

26          (x) In order to provide for the expeditious and timely

1 implementation of the provisions of Public Act 99-906,  
2 emergency rules to implement subsection (i) of Section 16-115D,  
3 subsection (g) of Section 16-128A, and subsection (a) of  
4 Section 16-128B of the Public Utilities Act may be adopted in  
5 accordance with this subsection (x) by the Illinois Commerce  
6 Commission. The rulemaking authority granted in this  
7 subsection (x) shall apply only to those rules adopted within  
8 180 days after June 1, 2017 (the effective date of Public Act  
9 99-906). The adoption of emergency rules authorized by this  
10 subsection (x) is deemed to be necessary for the public  
11 interest, safety, and welfare.

12 (y) In order to provide for the expeditious and timely  
13 implementation of the provisions of Public Act 100-23,  
14 emergency rules to implement the changes made by Public Act  
15 100-23 to Section 4.02 of the Illinois Act on the Aging,  
16 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,  
17 Section 55-30 of the Alcoholism and Other Drug Abuse and  
18 Dependency Act, and Sections 74 and 75 of the Mental Health and  
19 Developmental Disabilities Administrative Act may be adopted  
20 in accordance with this subsection (y) by the respective  
21 Department. The adoption of emergency rules authorized by this  
22 subsection (y) is deemed to be necessary for the public  
23 interest, safety, and welfare.

24 (z) In order to provide for the expeditious and timely  
25 implementation of the provisions of Public Act 100-554,  
26 emergency rules to implement the changes made by Public Act

1 100-554 to Section 4.7 of the Lobbyist Registration Act may be  
2 adopted in accordance with this subsection (z) by the Secretary  
3 of State. The adoption of emergency rules authorized by this  
4 subsection (z) is deemed to be necessary for the public  
5 interest, safety, and welfare.

6 (aa) In order to provide for the expeditious and timely  
7 initial implementation of the changes made to Articles 5, 5A,  
8 12, and 14 of the Illinois Public Aid Code under the provisions  
9 of Public Act 100-581, the Department of Healthcare and Family  
10 Services may adopt emergency rules in accordance with this  
11 subsection (aa). The 24-month limitation on the adoption of  
12 emergency rules does not apply to rules to initially implement  
13 the changes made to Articles 5, 5A, 12, and 14 of the Illinois  
14 Public Aid Code adopted under this subsection (aa). The  
15 adoption of emergency rules authorized by this subsection (aa)  
16 is deemed to be necessary for the public interest, safety, and  
17 welfare.

18 (bb) In order to provide for the expeditious and timely  
19 implementation of the provisions of Public Act 100-587,  
20 emergency rules to implement the changes made by Public Act  
21 100-587 to Section 4.02 of the Illinois Act on the Aging,  
22 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,  
23 subsection (b) of Section 55-30 of the Alcoholism and Other  
24 Drug Abuse and Dependency Act, Section 5-104 of the Specialized  
25 Mental Health Rehabilitation Act of 2013, and Section 75 and  
26 subsection (b) of Section 74 of the Mental Health and

1 Developmental Disabilities Administrative Act may be adopted  
2 in accordance with this subsection (bb) by the respective  
3 Department. The adoption of emergency rules authorized by this  
4 subsection (bb) is deemed to be necessary for the public  
5 interest, safety, and welfare.

6 (cc) In order to provide for the expeditious and timely  
7 implementation of the provisions of Public Act 100-587,  
8 emergency rules may be adopted in accordance with this  
9 subsection (cc) to implement the changes made by Public Act  
10 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois  
11 Pension Code by the Board created under Article 14 of the Code;  
12 Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by  
13 the Board created under Article 15 of the Code; and Sections  
14 16-190.5 and 16-190.6 of the Illinois Pension Code by the Board  
15 created under Article 16 of the Code. The adoption of emergency  
16 rules authorized by this subsection (cc) is deemed to be  
17 necessary for the public interest, safety, and welfare.

18 (dd) In order to provide for the expeditious and timely  
19 implementation of the provisions of Public Act 100-864,  
20 emergency rules to implement the changes made by Public Act  
21 100-864 to Section 3.35 of the Newborn Metabolic Screening Act  
22 may be adopted in accordance with this subsection (dd) by the  
23 Secretary of State. The adoption of emergency rules authorized  
24 by this subsection (dd) is deemed to be necessary for the  
25 public interest, safety, and welfare.

26 (ee) In order to provide for the expeditious and timely

1 implementation of the provisions of this amendatory Act of the  
2 100th General Assembly, emergency rules implementing the  
3 Illinois Underground Natural Gas Storage Safety Act may be  
4 adopted in accordance with this subsection by the Department of  
5 Natural Resources. The adoption of emergency rules authorized  
6 by this subsection is deemed to be necessary for the public  
7 interest, safety, and welfare.

8 (ff) In order to provide for the expeditious and timely  
9 implementation of the provisions of this amendatory Act of the  
10 101st General Assembly, emergency rules may be adopted by the  
11 Department of Labor in accordance with this subsection (ff) to  
12 implement the changes made by this amendatory Act of the 101st  
13 General Assembly to the Minimum Wage Law. The adoption of  
14 emergency rules authorized by this subsection (ff) is deemed to  
15 be necessary for the public interest, safety, and welfare.

16 (Source: P.A. 99-2, eff. 3-26-15; 99-6, eff. 1-1-16; 99-143,  
17 eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff. 6-30-16;  
18 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906, eff. 6-1-17;  
19 100-23, eff. 7-6-17; 100-554, eff. 11-16-17; 100-581, eff.  
20 3-12-18; 100-587, Article 95, Section 95-5, eff. 6-4-18;  
21 100-587, Article 110, Section 110-5, eff. 6-4-18; 100-864, eff.  
22 8-14-18; 100-1172, eff. 1-4-19.)

23 Section 10. The Illinois Income Tax Act is amended by  
24 changing Section 704A as follows:



1 (35 ILCS 5/704A)

2 Sec. 704A. Employer's return and payment of tax withheld.

3 (a) In general, every employer who deducts and withholds or  
4 is required to deduct and withhold tax under this Act on or  
5 after January 1, 2008 shall make those payments and returns as  
6 provided in this Section.

7 (b) Returns. Every employer shall, in the form and manner  
8 required by the Department, make returns with respect to taxes  
9 withheld or required to be withheld under this Article 7 for  
10 each quarter beginning on or after January 1, 2008, on or  
11 before the last day of the first month following the close of  
12 that quarter.

13 (c) Payments. With respect to amounts withheld or required  
14 to be withheld on or after January 1, 2008:

15 (1) Semi-weekly payments. For each calendar year, each  
16 employer who withheld or was required to withhold more than  
17 \$12,000 during the one-year period ending on June 30 of the  
18 immediately preceding calendar year, payment must be made:

19 (A) on or before each Friday of the calendar year,  
20 for taxes withheld or required to be withheld on the  
21 immediately preceding Saturday, Sunday, Monday, or  
22 Tuesday;

23 (B) on or before each Wednesday of the calendar  
24 year, for taxes withheld or required to be withheld on  
25 the immediately preceding Wednesday, Thursday, or  
26 Friday.

1           Beginning with calendar year 2011, payments made under  
2 this paragraph (1) of subsection (c) must be made by  
3 electronic funds transfer.

4           (2) Semi-weekly payments. Any employer who withholds  
5 or is required to withhold more than \$12,000 in any quarter  
6 of a calendar year is required to make payments on the  
7 dates set forth under item (1) of this subsection (c) for  
8 each remaining quarter of that calendar year and for the  
9 subsequent calendar year.

10           (3) Monthly payments. Each employer, other than an  
11 employer described in items (1) or (2) of this subsection,  
12 shall pay to the Department, on or before the 15th day of  
13 each month the taxes withheld or required to be withheld  
14 during the immediately preceding month.

15           (4) Payments with returns. Each employer shall pay to  
16 the Department, on or before the due date for each return  
17 required to be filed under this Section, any tax withheld  
18 or required to be withheld during the period for which the  
19 return is due and not previously paid to the Department.

20           (d) Regulatory authority. The Department may, by rule:

21           (1) Permit employers, in lieu of the requirements of  
22 subsections (b) and (c), to file annual returns due on or  
23 before January 31 of the year for taxes withheld or  
24 required to be withheld during the previous calendar year  
25 and, if the aggregate amounts required to be withheld by  
26 the employer under this Article 7 (other than amounts

1 required to be withheld under Section 709.5) do not exceed  
2 \$1,000 for the previous calendar year, to pay the taxes  
3 required to be shown on each such return no later than the  
4 due date for such return.

5 (2) Provide that any payment required to be made under  
6 subsection (c)(1) or (c)(2) is deemed to be timely to the  
7 extent paid by electronic funds transfer on or before the  
8 due date for deposit of federal income taxes withheld from,  
9 or federal employment taxes due with respect to, the wages  
10 from which the Illinois taxes were withheld.

11 (3) Designate one or more depositories to which payment  
12 of taxes required to be withheld under this Article 7 must  
13 be paid by some or all employers.

14 (4) Increase the threshold dollar amounts at which  
15 employers are required to make semi-weekly payments under  
16 subsection (c)(1) or (c)(2).

17 (e) Annual return and payment. Every employer who deducts  
18 and withholds or is required to deduct and withhold tax from a  
19 person engaged in domestic service employment, as that term is  
20 defined in Section 3510 of the Internal Revenue Code, may  
21 comply with the requirements of this Section with respect to  
22 such employees by filing an annual return and paying the taxes  
23 required to be deducted and withheld on or before the 15th day  
24 of the fourth month following the close of the employer's  
25 taxable year. The Department may allow the employer's return to  
26 be submitted with the employer's individual income tax return

1 or to be submitted with a return due from the employer under  
2 Section 1400.2 of the Unemployment Insurance Act.

3 (f) Magnetic media and electronic filing. With respect to  
4 taxes withheld in calendar years prior to 2017, any W-2 Form  
5 that, under the Internal Revenue Code and regulations  
6 promulgated thereunder, is required to be submitted to the  
7 Internal Revenue Service on magnetic media or electronically  
8 must also be submitted to the Department on magnetic media or  
9 electronically for Illinois purposes, if required by the  
10 Department.

11 With respect to taxes withheld in 2017 and subsequent  
12 calendar years, the Department may, by rule, require that any  
13 return (including any amended return) under this Section and  
14 any W-2 Form that is required to be submitted to the Department  
15 must be submitted on magnetic media or electronically.

16 The due date for submitting W-2 Forms shall be as  
17 prescribed by the Department by rule.

18 (g) For amounts deducted or withheld after December 31,  
19 2009, a taxpayer who makes an election under subsection (f) of  
20 Section 5-15 of the Economic Development for a Growing Economy  
21 Tax Credit Act for a taxable year shall be allowed a credit  
22 against payments due under this Section for amounts withheld  
23 during the first calendar year beginning after the end of that  
24 taxable year equal to the amount of the credit for the  
25 incremental income tax attributable to full-time employees of  
26 the taxpayer awarded to the taxpayer by the Department of

1 Commerce and Economic Opportunity under the Economic  
2 Development for a Growing Economy Tax Credit Act for the  
3 taxable year and credits not previously claimed and allowed to  
4 be carried forward under Section 211(4) of this Act as provided  
5 in subsection (f) of Section 5-15 of the Economic Development  
6 for a Growing Economy Tax Credit Act. The credit or credits may  
7 not reduce the taxpayer's obligation for any payment due under  
8 this Section to less than zero. If the amount of the credit or  
9 credits exceeds the total payments due under this Section with  
10 respect to amounts withheld during the calendar year, the  
11 excess may be carried forward and applied against the  
12 taxpayer's liability under this Section in the succeeding  
13 calendar years as allowed to be carried forward under paragraph  
14 (4) of Section 211 of this Act. The credit or credits shall be  
15 applied to the earliest year for which there is a tax  
16 liability. If there are credits from more than one taxable year  
17 that are available to offset a liability, the earlier credit  
18 shall be applied first. Each employer who deducts and withholds  
19 or is required to deduct and withhold tax under this Act and  
20 who retains income tax withholdings under subsection (f) of  
21 Section 5-15 of the Economic Development for a Growing Economy  
22 Tax Credit Act must make a return with respect to such taxes  
23 and retained amounts in the form and manner that the  
24 Department, by rule, requires and pay to the Department or to a  
25 depository designated by the Department those withheld taxes  
26 not retained by the taxpayer. For purposes of this subsection

1 (g), the term taxpayer shall include taxpayer and members of  
2 the taxpayer's unitary business group as defined under  
3 paragraph (27) of subsection (a) of Section 1501 of this Act.  
4 This Section is exempt from the provisions of Section 250 of  
5 this Act. No credit awarded under the Economic Development for  
6 a Growing Economy Tax Credit Act for agreements entered into on  
7 or after January 1, 2015 may be credited against payments due  
8 under this Section.

9 (h) An employer may claim a credit against payments due  
10 under this Section for amounts withheld during the first  
11 calendar year ending after the date on which a tax credit  
12 certificate was issued under Section 35 of the Small Business  
13 Job Creation Tax Credit Act. The credit shall be equal to the  
14 amount shown on the certificate, but may not reduce the  
15 taxpayer's obligation for any payment due under this Section to  
16 less than zero. If the amount of the credit exceeds the total  
17 payments due under this Section with respect to amounts  
18 withheld during the calendar year, the excess may be carried  
19 forward and applied against the taxpayer's liability under this  
20 Section in the 5 succeeding calendar years. The credit shall be  
21 applied to the earliest year for which there is a tax  
22 liability. If there are credits from more than one calendar  
23 year that are available to offset a liability, the earlier  
24 credit shall be applied first. This Section is exempt from the  
25 provisions of Section 250 of this Act.

26 (i) Each employer with 50 or fewer full-time equivalent

1 employees during the reporting period may claim a credit  
2 against the payments due under this Section for each qualified  
3 employee in an amount equal to the maximum credit allowable.  
4 The credit may be taken against payments due for reporting  
5 periods that begin on or after January 1, 2020, and end on or  
6 before December 31, 2027. An employer may not claim a credit  
7 for an employee who has worked fewer than 90 consecutive days  
8 immediately preceding the reporting period; however, such  
9 credits may accrue during that 90-day period and be claimed  
10 against payments under this Section for future reporting  
11 periods after the employee has worked for the employer at least  
12 90 consecutive days. In no event may the credit exceed the  
13 employer's liability for the reporting period. Each employer  
14 who deducts and withholds or is required to deduct and withhold  
15 tax under this Act and who retains income tax withholdings  
16 under this subsection must make a return with respect to such  
17 taxes and retained amounts in the form and manner that the  
18 Department, by rule, requires and pay to the Department or to a  
19 depository designated by the Department those withheld taxes  
20 not retained by the employer.

21 For each reporting period, the employer may not claim a  
22 credit or credits for more employees than the number of  
23 employees making less than the minimum or reduced wage for the  
24 current calendar year during the last reporting period of the  
25 preceding calendar year. Notwithstanding any other provision  
26 of this subsection, an employer shall not be eligible for

1 credits for a reporting period unless the average wage paid by  
2 the employer per employee for all employees making less than  
3 \$55,000 during the reporting period is greater than the average  
4 wage paid by the employer per employee for all employees making  
5 less than \$55,000 during the same reporting period of the prior  
6 calendar year.

7 For purposes of this subsection (i):

8 "Compensation paid in Illinois" has the meaning ascribed to  
9 that term under Section 304(a)(2)(B) of this Act.

10 "Employer" and "employee" have the meaning ascribed to  
11 those terms in the Minimum Wage Law, except that "employee"  
12 also includes employees who work for an employer with fewer  
13 than 4 employees. Employers that operate more than one  
14 establishment pursuant to a franchise agreement or that  
15 constitute members of a unitary business group shall aggregate  
16 their employees for purposes of determining eligibility for the  
17 credit.

18 "Full-time equivalent employees" means the ratio of the  
19 number of paid hours during the reporting period and the number  
20 of working hours in that period.

21 "Maximum credit" means the percentage listed below of the  
22 difference between the amount of compensation paid in Illinois  
23 to employees who are paid not more than the required minimum  
24 wage reduced by the amount of compensation paid in Illinois to  
25 employees who were paid less than the current required minimum  
26 wage during the reporting period prior to each increase in the



1 required minimum wage on January 1. If an employer pays an  
2 employee more than the required minimum wage and that employee  
3 previously earned less than the required minimum wage, the  
4 employer may include the portion that does not exceed the  
5 required minimum wage as compensation paid in Illinois to  
6 employees who are paid not more than the required minimum wage.

7 (1) 25% for reporting periods beginning on or after  
8 January 1, 2020 and ending on or before December 31, 2020;

9 (2) 21% for reporting periods beginning on or after  
10 January 1, 2021 and ending on or before December 31, 2021;

11 (3) 17% for reporting periods beginning on or after  
12 January 1, 2022 and ending on or before December 31, 2022;

13 (4) 13% for reporting periods beginning on or after  
14 January 1, 2023 and ending on or before December 31, 2023;

15 (5) 9% for reporting periods beginning on or after  
16 January 1, 2024 and ending on or before December 31, 2024;

17 (6) 5% for reporting periods beginning on or after  
18 January 1, 2025 and ending on or before December 31, 2025.

19 The amount computed under this subsection may continue to  
20 be claimed for reporting periods beginning on or after January  
21 1, 2026 and:

22 (A) ending on or before December 31, 2026 for employers  
23 with more than 5 employees; or

24 (B) ending on or before December 31, 2027 for employers  
25 with no more than 5 employees.

26 "Qualified employee" means an employee who is paid not more

1 than the required minimum wage and has an average wage paid per  
2 hour by the employer during the reporting period equal to or  
3 greater than his or her average wage paid per hour by the  
4 employer during each reporting period for the immediately  
5 preceding 12 months. A new qualified employee is deemed to have  
6 earned the required minimum wage in the preceding reporting  
7 period.

8 "Reporting period" means the quarter for which a return is  
9 required to be filed under subsection (b) of this Section.

10 (Source: P.A. 100-303, eff. 8-24-17; 100-511, eff. 9-18-17;  
11 100-863, eff. 8-14-18.)

12 Section 15. The Minimum Wage Law is amended by changing  
13 Sections 4, 7, 10, 11, and 12 as follows:

14 (820 ILCS 105/4) (from Ch. 48, par. 1004)

15 Sec. 4. (a)(1) Every employer shall pay to each of his  
16 employees in every occupation wages of not less than \$2.30 per  
17 hour or in the case of employees under 18 years of age wages of  
18 not less than \$1.95 per hour, except as provided in Sections 5  
19 and 6 of this Act, and on and after January 1, 1984, every  
20 employer shall pay to each of his employees in every occupation  
21 wages of not less than \$2.65 per hour or in the case of  
22 employees under 18 years of age wages of not less than \$2.25  
23 per hour, and on and after October 1, 1984 every employer shall  
24 pay to each of his employees in every occupation wages of not

1 less than \$3.00 per hour or in the case of employees under 18  
2 years of age wages of not less than \$2.55 per hour, and on or  
3 after July 1, 1985 every employer shall pay to each of his  
4 employees in every occupation wages of not less than \$3.35 per  
5 hour or in the case of employees under 18 years of age wages of  
6 not less than \$2.85 per hour, and from January 1, 2004 through  
7 December 31, 2004 every employer shall pay to each of his or  
8 her employees who is 18 years of age or older in every  
9 occupation wages of not less than \$5.50 per hour, and from  
10 January 1, 2005 through June 30, 2007 every employer shall pay  
11 to each of his or her employees who is 18 years of age or older  
12 in every occupation wages of not less than \$6.50 per hour, and  
13 from July 1, 2007 through June 30, 2008 every employer shall  
14 pay to each of his or her employees who is 18 years of age or  
15 older in every occupation wages of not less than \$7.50 per  
16 hour, and from July 1, 2008 through June 30, 2009 every  
17 employer shall pay to each of his or her employees who is 18  
18 years of age or older in every occupation wages of not less  
19 than \$7.75 per hour, and from July 1, 2009 through June 30,  
20 2010 every employer shall pay to each of his or her employees  
21 who is 18 years of age or older in every occupation wages of  
22 not less than \$8.00 per hour, and from ~~on and after~~ July 1,  
23 2010 through December 31, 2019 every employer shall pay to each  
24 of his or her employees who is 18 years of age or older in every  
25 occupation wages of not less than \$8.25 per hour, and from  
26 January 1, 2020 through June 30, 2020, every employer shall pay

1 to each of his or her employees who is 18 years of age or older  
2 in every occupation wages of not less than \$9.25 per hour, and  
3 from July 1, 2020 through December 31, 2020 every employer  
4 shall pay to each of his or her employees who is 18 years of age  
5 or older in every occupation wages of not less than \$10 per  
6 hour, and from January 1, 2021 through December 31, 2021 every  
7 employer shall pay to each of his or her employees who is 18  
8 years of age or older in every occupation wages of not less  
9 than \$11 per hour, and from January 1, 2022 through December  
10 31, 2022 every employer shall pay to each of his or her  
11 employees who is 18 years of age or older in every occupation  
12 wages of not less than \$12 per hour, and from January 1, 2023  
13 through December 31, 2023 every employer shall pay to each of  
14 his or her employees who is 18 years of age or older in every  
15 occupation wages of not less than \$13 per hour, and from  
16 January 1, 2024 through December 31, 2024, every employer shall  
17 pay to each of his or her employees who is 18 years of age or  
18 older in every occupation wages of not less than \$14 per hour;  
19 and on and after January 1, 2025, every employer shall pay to  
20 each of his or her employees who is 18 years of age or older in  
21 every occupation wages of not less than \$15 per hour.

22 (2) Unless an employee's wages are reduced under Section 6,  
23 then in lieu of the rate prescribed in item (1) of this  
24 subsection (a), an employer may pay an employee who is 18 years  
25 of age or older, during the first 90 consecutive calendar days  
26 after the employee is initially employed by the employer, a

1 wage that is not more than 50¢ less than the wage prescribed in  
2 item (1) of this subsection (a); however, an employer shall pay  
3 not less than the rate prescribed in item (1) of this  
4 subsection (a) to:

5 (A) a day or temporary laborer, as defined in Section 5  
6 of the Day and Temporary Labor Services Act, who is 18  
7 years of age or older; and

8 (B) an employee who is 18 years of age or older and  
9 whose employment is occasional or irregular and requires  
10 not more than 90 days to complete.

11 (3) At no time on or before December 31, 2019 shall the  
12 wages paid to any employee under 18 years of age be more than  
13 50¢ less than the wage required to be paid to employees who are  
14 at least 18 years of age under item (1) of this subsection (a).  
15 Beginning on January 1, 2020, every employer shall pay to each  
16 of his or her employees who is under 18 years of age that has  
17 worked more than 650 hours for the employer during any calendar  
18 year a wage not less than the wage required for employees who  
19 are 18 years of age or older under paragraph (1) of subsection  
20 (a) of Section 4 of this Act. Every employer shall pay to each  
21 of his or her employees who is under 18 years of age that has  
22 not worked more than 650 hours for the employer during any  
23 calendar year: (1) \$8 per hour from January 1, 2020 through  
24 December 31, 2020; (2) \$8.50 per hour from January 1, 2021  
25 through December 31, 2021; (3) \$9.25 per hour from January 1,  
26 2022 through December 31, 2022; (4) \$10.50 per hour from

1 January 1, 2023 through December 31, 2023; (5) \$12 per hour  
2 from January 1, 2024 through December 31, 2024; and (6) \$13 per  
3 hour on and after January 1, 2025.

4 (b) No employer shall discriminate between employees on the  
5 basis of sex or mental or physical disability, except as  
6 otherwise provided in this Act by paying wages to employees at  
7 a rate less than the rate at which he pays wages to employees  
8 for the same or substantially similar work on jobs the  
9 performance of which requires equal skill, effort, and  
10 responsibility, and which are performed under similar working  
11 conditions, except where such payment is made pursuant to (1) a  
12 seniority system; (2) a merit system; (3) a system which  
13 measures earnings by quantity or quality of production; or (4)  
14 a differential based on any other factor other than sex or  
15 mental or physical disability, except as otherwise provided in  
16 this Act.

17 (c) Every employer of an employee engaged in an occupation  
18 in which gratuities have customarily and usually constituted  
19 and have been recognized as part of the remuneration for hire  
20 purposes is entitled to an allowance for gratuities as part of  
21 the hourly wage rate provided in Section 4, subsection (a) in  
22 an amount not to exceed 40% of the applicable minimum wage  
23 rate. The Director shall require each employer desiring an  
24 allowance for gratuities to provide substantial evidence that  
25 the amount claimed, which may not exceed 40% of the applicable  
26 minimum wage rate, was received by the employee in the period

1 for which the claim of exemption is made, and no part thereof  
2 was returned to the employer.

3 (d) No camp counselor who resides on the premises of a  
4 seasonal camp of an organized not-for-profit corporation shall  
5 be subject to the adult minimum wage if the camp counselor (1)  
6 works 40 or more hours per week, and (2) receives a total  
7 weekly salary of not less than the adult minimum wage for a  
8 40-hour week. If the counselor works less than 40 hours per  
9 week, the counselor shall be paid the minimum hourly wage for  
10 each hour worked. Every employer of a camp counselor under this  
11 subsection is entitled to an allowance for meals and lodging as  
12 part of the hourly wage rate provided in Section 4, subsection  
13 (a), in an amount not to exceed 25% of the minimum wage rate.

14 (e) A camp counselor employed at a day camp is not subject  
15 to the adult minimum wage if the camp counselor is paid a  
16 stipend on a onetime or periodic basis and, if the camp  
17 counselor is a minor, the minor's parent, guardian or other  
18 custodian has consented in writing to the terms of payment  
19 before the commencement of such employment.

20 (Source: P.A. 99-143, eff. 7-27-15.)

21 (820 ILCS 105/7) (from Ch. 48, par. 1007)

22 Sec. 7. The Director or his authorized representatives have  
23 the authority to:

24 (a) Investigate and gather data regarding the wages, hours  
25 and other conditions and practices of employment in any

1 industry subject to this Act, and may enter and inspect such  
2 places and such records (and make such transcriptions thereof)  
3 at reasonable times during regular business hours, not  
4 including lunch time at a restaurant, question such employees,  
5 and investigate such facts, conditions, practices or matters as  
6 he may deem necessary or appropriate to determine whether any  
7 person has violated any provision of this Act, or which may aid  
8 in the enforcement of this Act.

9 (b) Require from any employer full and correct statements  
10 and reports in writing, including sworn statements, at such  
11 times as the Director may deem necessary, of the wages, hours,  
12 names, addresses, and other information pertaining to his  
13 employees as he may deem necessary for the enforcement of this  
14 Act.

15 (c) Require by subpoena the attendance and testimony of  
16 witnesses and the production of all books, records, and other  
17 evidence relative to a matter under investigation or hearing.  
18 The subpoena shall be signed and issued by the Director or his  
19 or her authorized representative. If a person fails to comply  
20 with any subpoena lawfully issued under this Section or a  
21 witness refuses to produce evidence or testify to any matter  
22 regarding which he or she may be lawfully interrogated, the  
23 court may, upon application of the Director or his or her  
24 authorized representative, compel obedience by proceedings for  
25 contempt.

26 (d) Make random audits of employers in any industry subject



1 to this Act to determine compliance with this Act.

2 (Source: P.A. 94-1025, eff. 7-14-06.)

3 (820 ILCS 105/10) (from Ch. 48, par. 1010)

4 Sec. 10. (a) The Director shall make and revise  
5 administrative regulations, including definitions of terms, as  
6 he deems appropriate to carry out the purposes of this Act, to  
7 prevent the circumvention or evasion thereof, and to safeguard  
8 the minimum wage established by the Act. Regulations governing  
9 employment of learners may be issued only after notice and  
10 opportunity for public hearing, as provided in subsection (c)  
11 of this Section.

12 (b) In order to prevent curtailment of opportunities for  
13 employment, avoid undue hardship, and safeguard the minimum  
14 wage rate under this Act, the Director may also issue  
15 regulations providing for the employment of workers with  
16 disabilities at wages lower than the wage rate applicable under  
17 this Act, under permits and for such periods of time as  
18 specified therein; and providing for the employment of learners  
19 at wages lower than the wage rate applicable under this Act.  
20 However, such regulation shall not permit lower wages for  
21 persons with disabilities on any basis that is unrelated to  
22 such person's ability resulting from his disability, and such  
23 regulation may be issued only after notice and opportunity for  
24 public hearing as provided in subsection (c) of this Section.

25 (c) Prior to the adoption, amendment or repeal of any rule

1 or regulation by the Director under this Act, except  
2 regulations which concern only the internal management of the  
3 Department of Labor and do not affect any public right provided  
4 by this Act, the Director shall give proper notice to persons  
5 in any industry or occupation that may be affected by the  
6 proposed rule or regulation, and hold a public hearing on his  
7 proposed action at which any such affected person, or his duly  
8 authorized representative, may attend and testify or present  
9 other evidence for or against such proposed rule or regulation.  
10 Rules and regulations adopted under this Section shall be filed  
11 with the Secretary of State in compliance with "An Act  
12 concerning administrative rules", as now or hereafter amended.  
13 Such adopted and filed rules and regulations shall become  
14 effective 10 days after copies thereof have been mailed by the  
15 Department to persons in industries affected thereby at their  
16 last known address.

17 (d) The commencement of proceedings by any person aggrieved  
18 by an administrative regulation issued under this Act does not,  
19 unless specifically ordered by the Court, operate as a stay of  
20 that administrative regulation against other persons. The  
21 Court shall not grant any stay of an administrative regulation  
22 unless the person complaining of such regulation files in the  
23 Court an undertaking with a surety or sureties satisfactory to  
24 the Court for the payment to the employees affected by the  
25 regulation, in the event such regulation is affirmed, of the  
26 amount by which the compensation such employees are entitled to

1 receive under the regulation exceeds the compensation they  
2 actually receive while such stay is in effect.

3 (e) The Department may adopt emergency rules in accordance  
4 with Section 5-45 of the Illinois Administrative Procedure Act  
5 to implement the changes made by this amendatory Act of the  
6 101st General Assembly.

7 (Source: P.A. 99-143, eff. 7-27-15.)

8 (820 ILCS 105/11) (from Ch. 48, par. 1011)

9 Sec. 11. (a) Any employer or his agent, or the officer or  
10 agent of any private employer who:

11 (1) hinders or delays the Director or his authorized  
12 representative in the performance of his duties in the  
13 enforcement of this Act; or

14 (2) refuses to admit the Director or his authorized  
15 representative to any place of employment; or

16 (3) fails to keep the records required under this Act  
17 or to furnish such records required or any information to  
18 be furnished under this Act to the Director or his  
19 authorized representative upon request; or

20 (4) fails to make and preserve any records as required  
21 hereunder; or

22 (5) falsifies any such record; or

23 (6) refuses to make such records available to the  
24 Director or his authorized representative; or

25 (7) refuses to furnish a sworn statement of such

1 records or any other information required for the proper  
2 enforcement of this Act; or

3 (8) fails to post a summary of this Act or a copy of  
4 any applicable regulation as required by Section 9 of this  
5 Act;

6 shall be guilty of a Class B misdemeanor; and each day of such  
7 failure to keep the records required under this Act or to  
8 furnish such records or information to the Director or his  
9 authorized representative or to fail to post information as  
10 required herein constitutes a separate offense. Any such  
11 employer who fails to keep payroll records as required by this  
12 Act shall be liable to the Department for a penalty of \$100 per  
13 impacted employee, payable to the Department's Wage Theft  
14 Enforcement Fund.

15 (b) Any employer or his agent, or the officer or agent of  
16 any private employer, who pays or agrees to pay to any employee  
17 wages at a rate less than the rate applicable under this Act or  
18 of any regulation issued under this Act is guilty of a Class B  
19 misdemeanor, and each week on any day of which such employee is  
20 paid less than the wage rate applicable under this Act  
21 constitutes a separate offense.

22 (c) Any employer or his agent, or the officer or agent of  
23 any private employer, who discharges or in any other manner  
24 discriminates against any employee because that employee has  
25 made a complaint to his employer, or to the Director or his  
26 authorized representative, that he has not been paid wages in

1 accordance with the provisions of this Act, or because that  
2 employee has caused to be instituted or is about to cause to be  
3 instituted any proceeding under or related to this Act, or  
4 because that employee has testified or is about to testify in  
5 an investigation or proceeding under this Act, is guilty of a  
6 Class B misdemeanor.

7 (d) It is the duty of the Department of Labor to inquire  
8 diligently for any violations of this Act, and to institute the  
9 action for penalties herein provided, and to enforce generally  
10 the provisions of this Act.

11 (Source: P.A. 86-799.)

12 (820 ILCS 105/12) (from Ch. 48, par. 1012)

13 Sec. 12. (a) If any employee is paid by his employer less  
14 than the wage to which he is entitled under the provisions of  
15 this Act, the employee may recover in a civil action treble the  
16 amount of any such underpayments together with costs and such  
17 reasonable attorney's fees as may be allowed by the Court, and  
18 damages of 5% ~~2%~~ of the amount of any such underpayments for  
19 each month following the date of payment during which such  
20 underpayments remain unpaid. Any agreement between the  
21 employee and the employer to work for less than such wage is no  
22 defense to such action. At the request of the employee or on  
23 motion of the Director of Labor, the Department of Labor may  
24 make an assignment of such wage claim in trust for the  
25 assigning employee and may bring any legal action necessary to

1 collect such claim, and the employer shall be required to pay  
2 the costs incurred in collecting such claim. Every such action  
3 shall be brought within 3 years from the date of the  
4 underpayment. Such employer shall be liable to the Department  
5 of Labor for up to 20% of the total employer's underpayment  
6 where the employer's conduct is proven by a preponderance of  
7 the evidence to be willful, repeated, or with reckless  
8 disregard of this Act or any rule adopted under this Act. Such  
9 employer shall be liable to the Department for an additional  
10 penalty of \$1,500, payable to the Department's Wage Theft  
11 Enforcement Fund. Such employer shall be additionally liable to  
12 the employee for damages in the amount of 5% ~~2%~~ of the amount  
13 of any such underpayments for each month following the date of  
14 payment during which such underpayments remain unpaid. These  
15 penalties and damages may be recovered in a civil action  
16 brought by the Director of Labor in any circuit court. In any  
17 such action, the Director of Labor shall be represented by the  
18 Attorney General.

19 If an employee collects damages of 5% ~~2%~~ of the amount of  
20 underpayments as a result of an action brought by the Director  
21 of Labor, the employee may not also collect those damages in a  
22 private action brought by the employee for the same violation.  
23 If an employee collects damages of 5% ~~2%~~ of the amount of  
24 underpayments in a private action brought by the employee, the  
25 employee may not also collect those damages as a result of an  
26 action brought by the Director of Labor for the same violation.

1 (b) If an employee has not collected damages under  
2 subsection (a) for the same violation, the Director is  
3 authorized to supervise the payment of the unpaid minimum wages  
4 and the unpaid overtime compensation owing to any employee or  
5 employees under Sections 4 and 4a of this Act and may bring any  
6 legal action necessary to recover the amount of the unpaid  
7 minimum wages and unpaid overtime compensation and an equal  
8 additional amount as damages, and the employer shall be  
9 required to pay the costs incurred in collecting such claim.  
10 Such employer shall be additionally liable to the Department of  
11 Labor for up to 20% of the total employer's underpayment where  
12 the employer's conduct is proven by a preponderance of the  
13 evidence to be willful, repeated, or with reckless disregard of  
14 this Act or any rule adopted under this Act. Such employer  
15 shall be liable to the Department of Labor for an additional  
16 penalty of \$1,500, payable to the Department's Wage Theft  
17 Enforcement Fund. The action shall be brought within 5 years  
18 from the date of the failure to pay the wages or compensation.  
19 Any sums thus recovered by the Director on behalf of an  
20 employee pursuant to this subsection shall be paid to the  
21 employee or employees affected. Any sums which, more than one  
22 year after being thus recovered, the Director is unable to pay  
23 to an employee shall be deposited into the General Revenue  
24 Fund.

25 (Source: P.A. 94-1025, eff. 7-14-06.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".