

1 AN ACT concerning employment.

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

4 Section 5. The Minimum Wage Law is amended by changing
5 Section 12 as follows:

6 (820 ILCS 105/12) (from Ch. 48, par. 1012)

7 Sec. 12. (a) If any employee is paid by his or her employer
8 less than the wage to which he or she is entitled under the
9 provisions of this Act, the employee may recover in a civil
10 action treble the amount of any such underpayments together
11 with costs and such reasonable attorney's fees as may be
12 allowed by the Court, and damages of 5% of the amount of any
13 such underpayments for each month following the date of
14 payment during which such underpayments remain unpaid. Any
15 agreement between the employee and the employer to work for
16 less than such wage is no defense to such action. At the
17 request of the employee or on motion of the Director of Labor,
18 the Department of Labor may make an assignment of such wage
19 claim in trust for the assigning employee and may bring any
20 legal action necessary to collect such claim, and the employer
21 shall be required to pay the costs incurred in collecting such
22 claim. Every such action shall be brought within 3 years from
23 the date of the underpayment. Such employer shall be liable to

1 the Department of Labor for a penalty in an amount of up to 20%
2 of the total employer's underpayment where the employer's
3 conduct is proven by a preponderance of the evidence to be
4 willful, repeated, or with reckless disregard of this Act or
5 any rule adopted under this Act. Such employer shall be liable
6 to the Department for an additional penalty of \$1,500. All
7 administrative penalties ordered under this Act shall be paid
8 by certified check, money order, or an electronic payment
9 system designated by the Department for such purposes and
10 shall be made 7 payable to the Department's Wage Theft
11 Enforcement Fund. Such employer shall be additionally liable
12 to the employee for damages in the amount of 5% 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% 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% 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

1 violation.

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

1 compensation. All disbursements authorized under this Section
2 shall be made by certified check, money order, or an
3 electronic payment system designated by the Department ~~paid to~~
4 ~~the employee or employees affected. Any sums which, more than~~
5 ~~one year after being thus recovered, the Director is unable to~~
6 ~~pay to an employee shall be deposited into the General Revenue~~
7 ~~Fund.~~

8 (c) The Department shall hold any moneys due to employees
9 that it is unable to locate in the Department of Labor Special
10 State Trust Fund for no less than 3 years after the moneys were
11 collected.

12 Beginning November 1, 2023, or as soon as is practical,
13 and each November 1 thereafter, the Department shall report
14 any moneys due to employees who cannot be located and that have
15 been held by the Department in the Department of Labor Special
16 State Trust Fund for 3 or more years and moneys due to
17 employees who are deceased to the State Treasurer as required
18 by the Revised Uniform Unclaimed Property Act. The Department
19 shall not be required to provide the notice required under
20 Section 15-501 of the Revised Uniform Unclaimed Property Act.

21 Beginning July 1, 2023, or as soon as is practical, and
22 each July 1 thereafter, the Department shall direct the State
23 Comptroller and State Treasurer to transfer from the
24 Department of Labor Special State Trust Fund the balance of
25 the moneys due to employees who cannot be located and that have
26 been held by the Department in the Department of Labor Special

1 State Trust Fund for 3 or more years and moneys due to
2 employees who are deceased as follows: (i) 15% to the Wage
3 Theft Enforcement Fund and (ii) 85% to the Unclaimed Property
4 Trust Fund.

5 The Department may use moneys in the Wage Theft
6 Enforcement Fund for the purposes described in Section 14 of
7 the Illinois Wage Payment and Collection Act.

8 (d) The Department may adopt rules to implement and
9 administer this Section.

10 (Source: P.A. 101-1, eff. 2-19-19.)

11 Section 10. The Illinois Wage Payment and Collection Act
12 is amended by changing Sections 11.5 and 14 as follows:

13 (820 ILCS 115/11.5)

14 Sec. 11.5. Departmental wage recovery; remittance to
15 aggrieved employee.

16 (a) Upon the recovery of unpaid wages, wage supplements,
17 or final compensation from an employer that has violated this
18 Act, ~~the Department shall conduct a good faith search to find~~
19 ~~the aggrieved employee. If, after conducting a good faith~~
20 ~~search for the aggrieved employee, the Department is unable to~~
21 ~~find the aggrieved employee,~~ the Department shall deposit the
22 amount recovered into the Department of Labor Special State
23 Trust Fund, from which the Department shall disburse the sums
24 owed to the employee or employees. The Department shall

1 conduct a good faith search to find all employees for whom it
2 has recovered unpaid wages, wage supplements, or final
3 compensation. All disbursements authorized under this Section
4 shall be made by certified check, money order, or an
5 electronic payment system designated by the Department.

6 (a-5) The Department shall hold any moneys due to
7 employees that it is unable to locate in the Department of
8 Labor Special State Trust Fund for no less than 3 years after
9 the moneys were collected.

10 Beginning November 1, 2023, or as soon as is practical,
11 and each November 1 thereafter, the Department shall report
12 any moneys due to employees who cannot be located and that have
13 been held by the Department in the Department of Labor Special
14 State Trust Fund for 3 or more years and moneys due to
15 employees who are deceased to the State Treasurer as required
16 by the Revised Uniform Unclaimed Property Act. The Department
17 shall not be required to provide the notice required under
18 Section 15-501 of the Revised Uniform Unclaimed Property Act.

19 Beginning July 1, 2023, or as soon as is practical, and
20 each July 1 thereafter, the Department shall direct the State
21 Comptroller and State Treasurer to transfer from the
22 Department of Labor Special State Trust Fund the balance of
23 the moneys due to employees who cannot be located and that have
24 been held by the Department in the Department of Labor Special
25 State Trust Fund for 3 or more years and moneys due to
26 employees who are deceased as follows: (i) 15% to the Wage

1 Theft Enforcement Fund and (ii) 85% to the Unclaimed Property
2 Trust Fund.

3 The Department may use moneys in the Wage Theft
4 Enforcement Fund for the purposes described in Section 14 of
5 the Illinois Wage Payment and Collection Act.

6 (b) An aggrieved employee may make a request to the
7 Department in order to recover unpaid wages, wage supplements,
8 or final compensation that has been deposited into the
9 Department of Labor Special State Trust Fund. The Department
10 shall not require the employee to present a Social Security
11 number or proof of United States citizenship. For the purpose
12 of paying claims under this Section from the Department of
13 Labor Special State Trust Fund to aggrieved employees, the
14 Comptroller shall assign a vendor payment number to the
15 Department. When an aggrieved employee makes a valid request
16 for payment to the Department, the Department shall use the
17 vendor payment number to process payment on behalf of the
18 aggrieved employee.

19 (c) The Department shall adopt rules for the
20 administration of this Section.

21 (Source: P.A. 99-762, eff. 1-1-17.)

22 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

23 Sec. 14. (a) Any employee not timely paid wages, final
24 compensation, or wage supplements by his or her employer as
25 required by this Act shall be entitled to recover through a

1 claim filed with the Department of Labor or in a civil action,
2 but not both, the amount of any such underpayments and damages
3 of 5% of the amount of any such underpayments for each month
4 following the date of payment during which such underpayments
5 remain unpaid. In a civil action, such employee shall also
6 recover costs and all reasonable attorney's fees.

7 (a-5) In addition to the remedies provided in subsections
8 (a), (b), and (c) of this Section, any employer or any agent of
9 an employer, who, being able to pay wages, final compensation,
10 or wage supplements and being under a duty to pay, wilfully
11 refuses to pay as provided in this Act, or falsely denies the
12 amount or validity thereof or that the same is due, with intent
13 to secure for himself or other person any underpayment of such
14 indebtedness or with intent to annoy, harass, oppress, hinder,
15 delay or defraud the person to whom such indebtedness is due,
16 upon conviction, is guilty of:

17 (1) for unpaid wages, final compensation or wage
18 supplements in the amount of \$5,000 or less, a Class B
19 misdemeanor; or

20 (2) for unpaid wages, final compensation or wage
21 supplements in the amount of more than \$5,000, a Class A
22 misdemeanor.

23 Each day during which any violation of this Act continues
24 shall constitute a separate and distinct offense.

25 Any employer or any agent of an employer who violates this
26 Section of the Act a subsequent time within 2 years of a prior

1 criminal conviction under this Section is guilty, upon
2 conviction, of a Class 4 felony.

3 (b) Any employer who has been demanded or ordered by the
4 Department or ordered by the court to pay wages, final
5 compensation, or wage supplements due an employee shall be
6 required to pay a non-waivable administrative fee to the
7 Department of Labor in the amount of \$250 if the amount ordered
8 by the Department as wages owed is \$3,000 or less; \$500 if the
9 amount ordered by the Department as wages owed is more than
10 \$3,000, but less than \$10,000; and \$1,000 if the amount
11 ordered by the Department as wages owed is \$10,000 or more. Any
12 employer who has been so demanded or ordered by the Department
13 or ordered by a court to pay such wages, final compensation, or
14 wage supplements and who fails to seek timely review of such a
15 demand or order as provided for under this Act and who fails to
16 comply within 15 calendar days after such demand or within 35
17 days of an administrative or court order is entered shall also
18 be liable to pay a penalty to the Department of Labor of 20% of
19 the amount found owing and a penalty to the employee of 1% per
20 calendar day of the amount found owing for each day of delay in
21 paying such wages to the employee. All moneys recovered as
22 fees and civil penalties under this Act, except those owing to
23 the affected employee, shall be deposited into the Wage Theft
24 Enforcement Fund, a special fund which is hereby created in
25 the State treasury. Moneys in the Fund may be used ~~only~~ for
26 enforcement of this Act and for outreach and educational

1 activities of the Department related to the recovery of unpaid
2 or underpaid compensation and the disbursement of moneys to
3 affected parties.

4 (b-5) Penalties and fees under this Section may be
5 assessed by the Department and recovered in a civil action
6 brought by the Department in any circuit court or in any
7 administrative adjudicative proceeding under this Act. In any
8 such civil action or administrative adjudicative proceeding
9 under this Act, the Department shall be represented by the
10 Attorney General.

11 (c) Any employer, or any agent of an employer, who
12 discharges or in any other manner discriminates against any
13 employee because that employee has made a complaint to his or
14 her employer, to the Director of Labor or his or her authorized
15 representative, in a public hearing, or to a community
16 organization that he or she has not been paid in accordance
17 with the provisions of this Act, or because that employee has
18 caused to be instituted any proceeding under or related to
19 this Act, or because that employee has testified or is about to
20 testify in an investigation or proceeding under this Act, is
21 guilty, upon conviction, of a Class C misdemeanor. An employee
22 who has been unlawfully retaliated against shall be entitled
23 to recover through a claim filed with the Department of Labor
24 or in a civil action, but not both, all legal and equitable
25 relief as may be appropriate. In a civil action, such employee
26 shall also recover costs and all reasonable attorney's fees.

1 (Source: P.A. 102-50, eff. 7-9-21.)

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