



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB0105

Introduced 1/24/2023, by Sen. Cristina Castro

#### SYNOPSIS AS INTRODUCED:

820 ILCS 115/4 from Ch. 48, par. 39m-4  
820 ILCS 115/4.2 new  
820 ILCS 115/14.5

Amends the Illinois Wage Payment and Collection Act. Provides that an employer may require an employee to receive wages either by direct deposit or by means of a payroll card if the employer satisfies specified requirements. In provisions concerning payroll cards: (i) provides that an employer shall not make receipt of wages by payroll card a condition of employment or a condition for the receipt of any benefit or other form of remuneration for any employee without the additional option of direct deposit, at the employee's election (rather than the employer must obtain the employee's voluntary written or electronic consent to receive the wages by payroll card); and (ii) the payroll card or payroll card account may not be linked to any form of credit, except that early payment of wages verified to have been already earned in the current pay period is permitted. Makes other changes.

LRB103 24853 SPS 51186 b

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 Illinois Wage Payment and Collection Act is  
5 amended by changing Sections 4 and 14.5 and by adding Section  
6 4.2 as follows:

7 (820 ILCS 115/4) (from Ch. 48, par. 39m-4)

8 Sec. 4. All wages earned by any employee during a  
9 semi-monthly or bi-weekly pay period shall be paid to such  
10 employee not later than 13 days after the end of the pay period  
11 in which such wages were earned. All wages earned by any  
12 employee during a weekly pay period shall be paid not later  
13 than 7 days after the end of the weekly pay period in which the  
14 wages were earned. All wages paid on a daily basis shall be  
15 paid insofar as possible on the same day as the wages were  
16 earned, or not later in any event than 24 hours after the day  
17 on which the wages were earned. Wages of executive,  
18 administrative and professional employees, as defined in the  
19 Federal Fair Labor Standards Act of 1938, may be paid on or  
20 before 21 calendar days after the period during which they are  
21 earned.

22 The terms of this Section shall not apply, if there exists  
23 a valid collective bargaining agreement which provides for a

1 different date or for different arrangements for the payment  
2 of wages.

3 Employers shall pay to workers on strike or layoff, no  
4 later than the next regular payday, all wages earned up to the  
5 time of such strike or layoff.

6 Any employee who is absent at the time fixed for payment,  
7 or who for any other reason is not paid at that time, shall be  
8 paid upon demand at any time within a period of 5 days after  
9 the time fixed for payment; and after the expiration of the 5  
10 day period, payment shall be made upon 5 days demand. Payment  
11 to the absent employee shall be made by mail if the employee so  
12 requests in writing.

13 All wages and final compensation shall be paid in lawful  
14 money of the United States, ~~by check, redeemable upon demand~~  
15 ~~and without discount at a bank or other financial institution~~  
16 ~~readily available to the employee,~~ by deposit of funds in an  
17 account in a bank or other financial institution designated by  
18 the employee, or by a payroll card that meets the requirements  
19 of Section 14.5. An employer may, but is not required to, offer  
20 the additional option of wage payment by check, redeemable  
21 upon demand and without discount at a bank or other financial  
22 institution readily available to the employee. No employer may  
23 designate a particular financial institution, bank, savings  
24 bank, savings and loan, or currency exchange for the exclusive  
25 payment or deposit of ~~a check for~~ wages. No financial  
26 institution, bank, savings bank, savings and loan, or currency

1 exchange shall refuse to honor a check for wages that  
2 exclusively designates, in violation of this Section, a  
3 particular bank, savings bank, savings and loan, or currency  
4 exchange as the exclusive place of payment or deposit except  
5 to the extent the bank, savings bank, savings and loan, or  
6 currency exchange is otherwise excused from honoring the check  
7 under Section 3-111 of the Uniform Commercial Code because the  
8 bank, savings bank, savings and loan, or currency exchange is  
9 not the drawee or the maker of the check.

10 (Source: P.A. 98-862, eff. 1-1-15.)

11 (820 ILCS 115/4.2 new)

12 Sec. 4.2. Requiring direct deposit or payroll card.

13 (a) An employer may require an employee to receive wages  
14 either by direct deposit or by means of a payroll card that  
15 meets the requirements of Section 14.5, if the employer does  
16 all of the following:

17 (1) Provides the employee with a form that allows the  
18 employee to elect to receive wages by direct deposit. The  
19 form must include a statement notifying the employee that  
20 the employee's failure to return the form within 3 days  
21 will, by default, result in the employee receiving wages  
22 by means of a payroll card.

23 (2) Provides the employee with an adequate way to  
24 obtain the employee's pay stub electronically or via a  
25 paper statement that can be printed at the employer

1       worksite if the employee elects to receive an electronic  
2       or paper statement by checking a box on the form described  
3       in this Section.

4       (b) The provisions of this Section shall not apply to  
5       employees covered by a valid collective bargaining agreement  
6       that provides for different arrangements for the payment of  
7       wages.

8           (820 ILCS 115/14.5)

9       Sec. 14.5. Payroll cards. An employer using a payroll card  
10      to pay an employee's wages shall meet the following  
11      requirements:

12           (1) The employer shall not make receipt of wages by  
13      payroll card a condition of employment or a condition for  
14      the receipt of any benefit or other form of remuneration  
15      for any employee without the additional option of direct  
16      deposit, at the employee's election.

17           (2) The employer shall not initiate payment of wages  
18      to the employee by electronic fund transfer to a payroll  
19      card account unless:

20           (A) the employer provides the employee with a  
21      clear and conspicuous written disclosure notifying the  
22      employee that payment by payroll card is voluntary,  
23      listing the other method or methods of payment offered  
24      by the employer in accordance with Section 4, and  
25      explaining the terms and conditions of the payroll

1 card account option, including:

2 (i) an itemized list of all fees that may be  
3 deducted from the employee's payroll card account  
4 by the employer or payroll card issuer;

5 (ii) a notice that third parties may assess  
6 transaction fees in addition to the fees assessed  
7 by the employee's payroll card issuer; and

8 (iii) an explanation of how the employee may  
9 obtain, at no cost, the employee's net wages,  
10 check the account balance, and request to receive  
11 paper or electronic transaction histories, as  
12 provided in item (3);

13 (B) the employer also offers the employee another  
14 method or methods of payment in compliance with  
15 Section 4; and

16 (C) (blank). ~~the employer obtains the employee's~~  
17 ~~voluntary written or electronic consent to receive the~~  
18 ~~wages by payroll card.~~

19 (3) A payroll card program offered by the employer  
20 shall provide the employee with:

21 (A) at least one method of withdrawing the  
22 employee's full net wages from the payroll card once  
23 per pay period, but not less than twice per month, at  
24 no cost to the employee, at a location readily  
25 available to the employee;

26 (B) at the employee's request, one transaction

1 history, which the employee may request to receive in  
2 paper or electronic form, each month that includes all  
3 deposits, withdrawals, deductions, or charges by any  
4 entity from or to the employee's payroll card account  
5 at no cost to the employee; and

6 (C) unlimited telephone access to obtain the  
7 payroll card account balance on the payroll card at  
8 any time without incurring a fee.

9 (4) An employer may not use a payroll card program  
10 that charges fees for point of sale transactions, the  
11 application, initiation, loading of wages by the employer,  
12 or participation in the payroll card program. Fees for  
13 account inactivity may be assessed following one year of  
14 inactivity. The payroll card program must offer the  
15 employee a declined transaction, at no cost to the  
16 employee, twice per month. Commercially reasonable fees,  
17 limited to cover the costs to process declined  
18 transactions, may be assessed on subsequent declined  
19 transactions within that particular month.

20 (5) The payroll card or payroll card account may not  
21 be linked to any form of credit including, but not limited  
22 to, overdraft fees or overdraft service fees, a loan  
23 against future pay, or a cash advance on future pay or work  
24 not yet performed, except that early payment of wages  
25 verified to have been already earned in the current pay  
26 period is permitted.

1           (6) An employee paid wages by payroll card may request  
2           to be paid wages by another method of payment provided by  
3           the employer in accordance with Sections ~~Section~~ 4 and  
4           4.2. Following the request, the employer shall, within 2  
5           pay periods, begin payment to the employee by the  
6           allowable method requested by the employee.

7           (7) A payroll card program offered by an employer  
8           shall provide the employee with protections from  
9           unauthorized use of the payroll card in accordance with  
10          State and federal law concerning electronic fund  
11          transfers.

12          (8) The employer's obligations under this Section  
13          shall cease 60 days after the employer-employee  
14          relationship has ended and the employee has been paid the  
15          employee's full and final wages.

16          (9) Within 30 days of the termination of the  
17          employer-employee relationship, the employer shall notify  
18          the employee that the terms and conditions of the account  
19          may change if the employee chooses to continue a  
20          relationship with the payroll card issuer.

21          (Source: P.A. 98-862, eff. 1-1-15.)