

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 2, 10, and 14 as follows:

6 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

7 Sec. 2. Definitions. For all employees, other than
8 separated employees, "wages" shall be defined as any
9 compensation owed an employee by an employer pursuant to an
10 employment contract or agreement between the 2 parties,
11 whether the amount is determined on a time, task, piece, or any
12 other basis of calculation. Payments to separated employees
13 shall be termed "final compensation" and shall be defined as
14 wages, salaries, earned commissions, earned bonuses, and the
15 monetary equivalent of earned vacation and earned holidays,
16 and any other compensation owed the employee by the employer
17 pursuant to an employment contract or agreement between the 2
18 parties. Where an employer is legally committed through a
19 collective bargaining agreement or otherwise to make
20 contributions to an employee benefit, trust or fund on the
21 basis of a certain amount per hour, day, week or other period
22 of time, the amount due from the employer to such employee
23 benefit, trust, or fund shall be defined as "wage

1 supplements", subject to the wage collection provisions of
2 this Act.

3 As used in this Act, the term "employer" shall include any
4 individual, partnership, association, corporation, limited
5 liability company, business trust, employment and labor
6 placement agencies where wage payments are made directly or
7 indirectly by the agency or business for work undertaken by
8 employees under hire to a third party pursuant to a contract
9 between the business or agency with the third party, or any
10 person or group of persons acting directly or indirectly in
11 the interest of an employer in relation to an employee, for
12 which one or more persons is gainfully employed.

13 As used in this Act, the term "employee" shall include any
14 individual permitted to work by an employer in an occupation,
15 but shall not include any individual:

16 (1) who has been and will continue to be free from
17 control and direction over the performance of his work,
18 both under his contract of service with his employer and
19 in fact; and

20 (2) who performs work which is either outside the
21 usual course of business or is performed outside all of
22 the places of business of the employer unless the employer
23 is in the business of contracting with third parties for
24 the placement of employees; and

25 (3) who is in an independently established trade,
26 occupation, profession or business.

1 "Pay stub" means an itemized statement or statements
2 reflecting an employee's hours worked, rate of pay, overtime
3 pay and overtime hours worked, gross wages earned, deductions
4 made from the employee's wages, and the total of wages and
5 deductions year to date.

6 The following terms apply to an employer's use of payroll
7 cards to pay wages to an employee under the requirements of
8 this Act:

9 "Payroll card" means a card provided to an employee by an
10 employer or other payroll card issuer as a means of accessing
11 the employee's payroll card account.

12 "Payroll card account" means an account that is directly
13 or indirectly established through an employer and to which
14 deposits of a participating employee's wages are made.

15 "Payroll card issuer" means a bank, financial institution,
16 or other entity that issues a payroll card to an employee under
17 an employer payroll card program.

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

19 (820 ILCS 115/10) (from Ch. 48, par. 39m-10)

20 Sec. 10.

21 (a) Employers shall notify employees, at the time of
22 hiring, of the rate of pay and of the time and place of
23 payment. Whenever possible, such notification shall be in
24 writing and shall be acknowledged by both parties. Employers
25 shall also notify employees of any changes in the

1 arrangements, specified above, prior to the time of change.

2 (b) Employers shall keep records of names and addresses of
3 all employees and of wages paid each payday, and shall furnish
4 each employee with a pay stub ~~an itemized statement of~~
5 ~~deductions made from his wages~~ for each pay period.

6 (c) An employer shall maintain a copy of an employee's pay
7 stub for a period of not less than 3 years after the date of
8 payment, regardless of whether the employee's employment ends
9 during this period, whether the pay stub is furnished
10 electronically or in paper form.

11 (d) In addition to furnishing a pay stub for each pay
12 period as required under subsection (b), an employer shall
13 furnish copies of pay stubs to current and former employees as
14 follows:

15 (1) An employer shall provide an employee with a copy
16 of the employee's pay stubs upon the employee's request.
17 The employer may require that the employee submit the
18 request in writing. The employer shall furnish the copy of
19 the pay stubs to the employee within 21 calendar days of
20 the employee's request. An employer is not required to
21 grant an employee's request for a copy of pay stubs more
22 than twice in a 12-month period.

23 (2) An employer shall provide a former employee with a
24 copy of the former employee's previous pay stubs upon the
25 former employee's request. The employer shall furnish the
26 copy of the pay stubs to the former employee within 21

1 calendar days of the former employee's request. An
2 employer is not required to grant a former employee's
3 request for a copy of pay stubs more than twice in a
4 12-month period or more than one year after the date of
5 separation. The employer shall provide the copy of the pay
6 stubs in either a physical or electronic format, as chosen
7 by the former employee, including a communication that is
8 transmitted through electronic mail, text message,
9 computer system, or is otherwise sent and stored
10 electronically and is capable of being downloaded or
11 permanently retained by the former employee.

12 (3) An employer who furnishes electronic pay stubs in
13 a manner that a former employee cannot access for at least
14 a full year after separation shall, upon an employee's
15 separation from employment, offer to provide the outgoing
16 employee with a record of all of the outgoing employee's
17 pay stubs from the year preceding the date of separation.
18 The offer shall be made to the outgoing employee by the end
19 of the outgoing employee's final pay period. An employer
20 shall record in writing the date on which this offer was
21 made to the outgoing employee and if and how the outgoing
22 employee responded.

23 (4) A request made by an employee or former employee
24 under this Section shall be made to a person responsible
25 for maintaining the employer's payroll, including the
26 employer's human resources department or payroll

1 department, the employee's supervisor or department
2 manager, or an individual designated in the employer's
3 written policy.

4 (e) Every employer shall post and keep posted at each
5 regular place of business in a position easily accessible to
6 all employees one or more notices indicating the regular
7 paydays and the place and time for payment of his employees,
8 and on forms supplied from time to time by the Department of
9 Labor containing a copy or summary of the provisions of this
10 Act.

11 (Source: P.A. 81-593.)

12 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

13 Sec. 14. Penalties.

14 (a) Any employee not timely paid wages, final
15 compensation, or wage supplements by his or her employer as
16 required by this Act shall be entitled to recover through a
17 claim filed with the Department of Labor or in a civil action,
18 but not both, the amount of any such underpayments and damages
19 of 5% of the amount of any such underpayments for each month
20 following the date of payment during which such underpayments
21 remain unpaid. In a civil action, such employee shall also
22 recover costs and all reasonable attorney's fees.

23 (a-5) In addition to the remedies provided in subsections
24 (a), (b), and (c) of this Section, any employer or any agent of
25 an employer, who, being able to pay wages, final compensation,

1 or wage supplements and being under a duty to pay, willfully
2 ~~willfully~~ refuses to pay as provided in this Act, or falsely
3 denies the amount or validity thereof or that the same is due,
4 with intent to secure for himself or other person any
5 underpayment of such indebtedness or with intent to annoy,
6 harass, oppress, hinder, delay or defraud the person to whom
7 such indebtedness is due, upon conviction, is guilty of:

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

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

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

16 Any employer or any agent of an employer who violates this
17 Section of the Act a subsequent time within 2 years of a prior
18 criminal conviction under this Section is guilty, upon
19 conviction, of a Class 4 felony.

20 (b) Any employer who has been demanded or ordered by the
21 Department or ordered by the court to pay wages, final
22 compensation, or wage supplements due an employee shall be
23 required to pay a non-waivable administrative fee to the
24 Department of Labor in the amount of \$250 if the amount ordered
25 by the Department as wages owed is \$3,000 or less; \$500 if the
26 amount ordered by the Department as wages owed is more than

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

21 (b-5) Penalties and fees under this Section may be
22 assessed by the Department and recovered in a civil action
23 brought by the Department in any circuit court or in any
24 administrative adjudicative proceeding under this Act. In any
25 such civil action or administrative adjudicative proceeding
26 under this Act, the Department shall be represented by the

1 Attorney General.

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

18 (d) Except as provided under subsections (a), (b), and
19 (c), an employer who fails to furnish an employee or former
20 employee with a pay stub as required by this Act or commits any
21 other violation of this Act shall be subject to a civil penalty
22 of up to \$500 per violation payable to the Department. In
23 determining the amount of the penalty under this subsection,
24 the Department shall consider the appropriateness of the
25 penalty to the size of the business of the employer charged and
26 the gravity of the violation.

1 (Source: P.A. 102-50, eff. 7-9-21; 103-182, eff. 6-30-23.)