

1 AN ACT concerning criminal law.

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

4 Section 2. The State Finance Act is amended by adding
5 Section 5.755 as follows:

6 (30 ILCS 105/5.755 new)

7 Sec. 5.755. The Wage Theft Enforcement Fund.

8 Section 5. The Code of Criminal Procedure of 1963 is
9 amended by changing Section 111-4 as follows:

10 (725 ILCS 5/111-4) (from Ch. 38, par. 111-4)

11 Sec. 111-4. Joinder of offenses and defendants.

12 (a) Two or more offenses may be charged in the same
13 indictment, information or complaint in a separate count for
14 each offense if the offenses charged, whether felonies or
15 misdemeanors or both, are based on the same act or on 2 or more
16 acts which are part of the same comprehensive transaction.

17 (b) Two or more defendants may be charged in the same
18 indictment, information or complaint if they are alleged to
19 have participated in the same act or in the same comprehensive
20 transaction out of which the offense or offenses arose. Such
21 defendants may be charged in one or more counts together or

1 separately and all of the defendants need not be charged in
2 each count.

3 (c) Two or more acts or transactions in violation of any
4 provision or provisions of Sections 8A-2, 8A-3, 8A-4, 8A-4A and
5 8A-5 of the Illinois Public Aid Code, Section 14 of the
6 Illinois Wage Payment and Collection Act, Sections 16-1, 16-2,
7 16-3, 16-5, 16-7, 16-8, 16-10, 16A-3, 16B-2, 16C-2, 17-1, 17-3,
8 17-6, 17-7, 17-8, 17-9 or 17-10 of the Criminal Code of 1961
9 and Section 118 of Division I of the Criminal Jurisprudence
10 Act, may be charged as a single offense in a single count of
11 the same indictment, information or complaint, if such acts or
12 transactions by one or more defendants are in furtherance of a
13 single intention and design or if the property, labor or
14 services obtained are of the same person or are of several
15 persons having a common interest in such property, labor or
16 services. In such a charge, the period between the dates of the
17 first and the final such acts or transactions may be alleged as
18 the date of the offense and, if any such act or transaction by
19 any defendant was committed in the county where the prosecution
20 was commenced, such county may be alleged as the county of the
21 offense.

22 (Source: P.A. 95-384, eff. 1-1-08; 96-354, eff. 8-13-09.)

23 Section 10. The Illinois Wage Payment and Collection Act is
24 amended by changing Sections 11, 13, and 14 as follows:

1 (820 ILCS 115/11) (from Ch. 48, par. 39m-11)

2 Sec. 11. It shall be the duty of the Department of Labor to
3 inquire diligently for any violations of this Act, and to
4 institute the actions for penalties herein provided, and to
5 enforce generally the provisions of this Act.

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

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

14 The Department shall have the following powers:

15 (a) To investigate and attempt equitably to adjust
16 controversies between employees and employers in respect
17 of wage claims arising under this Act and to that end the
18 Department through the Director of Labor or any other
19 person in the Department of Labor designated by him or her,
20 shall have the power to administer oaths, subpoena and
21 examine witnesses, to issue subpoenas duces tecum
22 requiring the production of such books, papers, records and
23 documents as may be evidence of any matter under inquiry
24 and to examine and inspect the same as may relate to the
25 question in dispute. Service of such subpoenas shall be
26 made by any sheriff or any person. Any court in this State,

1 upon the application of the Department may compel
2 attendance of witnesses, the production of books and
3 papers, and the giving of testimony before the Department
4 by attachment for contempt or in any other way as the
5 production of evidence may be compelled before such court.

6 (b) To take assignments of wage claims in the name of
7 the Director of Labor and his or her successors in office
8 and prosecute actions for the collection of wages for
9 persons financially unable to prosecute such claims when in
10 the judgment of the Department such claims are valid and
11 enforceable in the courts. No court costs or any fees for
12 necessary process and proceedings shall be payable in
13 advance by the Department for prosecuting such actions. In
14 the event there is a judgment rendered against the
15 defendant, the court shall assess as part of such judgment
16 the costs of such proceeding. Upon collection of such
17 judgments the Department shall pay from the proceeds of
18 such judgment such costs to such person who is by law
19 entitled to same. The Department may join in a single
20 proceeding any number of wage claims against the same
21 employer but the court shall have discretionary power to
22 order a severance or separate trial for hearings.

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

25 (d) In addition to the aforementioned powers, subject
26 to appropriation, the Department may establish an

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

14 Nothing herein shall be construed to prevent any employee
15 from making complaint or prosecuting his or her own claim for
16 wages. Any employee aggrieved by a violation of this Act or any
17 rule adopted under this Act may file suit in circuit court of
18 Illinois, in the county where the alleged violation occurred or
19 where any employee who is party to the action resides, without
20 regard to exhaustion of any alternative administrative
21 remedies provided in this Act. Actions may be brought by one or
22 more employees for and on behalf of themselves and other
23 employees similarly situated.

24 Nothing herein shall be construed to limit the authority of
25 the State's attorney of any county to prosecute actions for
26 violation of this Act or to enforce the provisions thereof

1 independently and without specific direction of the Department
2 of Labor.

3 (Source: P.A. 95-209, eff. 8-16-07.)

4 (820 ILCS 115/13) (from Ch. 48, par. 39m-13)

5 Sec. 13. In addition to an individual who is deemed to be
6 an employer pursuant to Section 2 of this Act, any ~~Any~~ officers
7 of a corporation or agents of an employer who knowingly permit
8 such employer to violate the provisions of this Act shall be
9 deemed to be the employers of the employees of the corporation.
10 (Source: P.A. 78-914.)

11 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

12 Sec. 14.

13 (a) Any employee not timely paid wages, final compensation,
14 or wage supplements by his or her employer as required by this
15 Act shall be entitled to recover through a claim filed with the
16 Department of Labor or in a civil action, but not both, the
17 amount of any such underpayments and damages of 2% of the
18 amount of any such underpayments for each month following the
19 date of payment during which such underpayments remain unpaid.
20 In a civil action, such employee shall also recover costs and
21 all reasonable attorney's fees.

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

1 compensation, or wage supplements and being under a duty to
2 pay, wilfully refuses to pay as provided in this Act, or
3 falsely denies the amount or validity thereof or that the same
4 is due, 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 ~~a Class C 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 ~~Director of Labor~~ or ordered by the court to pay
22 wages, final compensation, or wage supplements due an employee
23 shall be required to pay a non-waivable administrative fee of
24 \$250 to the Department of Labor. Any employer who has been so
25 demanded or ordered by the Department or ordered by a court to
26 pay such wages, final compensation, or wage supplements and who

1 fails to seek timely review of such a demand or order as
2 provided for under this Act and who fails to comply within 15
3 calendar days after such demand or within 35 days of an
4 administrative or court order is entered shall also be liable
5 to pay a penalty to the Department of Labor of 20% of the
6 amount found owing and a penalty to the employee of 1% per
7 calendar day of the amount found owing for each day of delay in
8 paying such wages to the employee. All moneys recovered as fees
9 and civil penalties under this Act, except those owing to the
10 affected employee, shall be deposited into the Wage Theft
11 Enforcement Fund, a special fund which is hereby created in the
12 State treasury. Moneys in the Fund may be used only for
13 enforcement of this Act. ~~and who shall fail to do so within 15~~
14 ~~days after such demand or order is entered shall be liable to~~
15 ~~pay a penalty of 1% per calendar day to the employee for each~~
16 ~~day of delay in paying such wages to the employee up to an~~
17 ~~amount equal to twice the sum of unpaid wages due the employee.~~
18 ~~Such employer shall also be liable to the Department of Labor~~
19 ~~for 20% of such unpaid wages.~~

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

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

18 (Source: P.A. 94-1025, eff. 7-14-06; 95-209, eff. 8-16-07.)