

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 and 4 and by adding Section 14.5  
6 as follows:

7 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

8 Sec. 2. For all employees, other than separated employees,  
9 "wages" shall be defined as any compensation owed an employee  
10 by an employer pursuant to an employment contract or agreement  
11 between the 2 parties, whether the amount is determined on a  
12 time, task, piece, or any other basis of calculation. Payments  
13 to separated employees shall be termed "final compensation" and  
14 shall be defined as wages, salaries, earned commissions, earned  
15 bonuses, and the monetary equivalent of earned vacation and  
16 earned holidays, and any other compensation owed the employee  
17 by the employer pursuant to an employment contract or agreement  
18 between the 2 parties. Where an employer is legally committed  
19 through a 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 supplements",

1 subject to the wage collection provisions of this Act.

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

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

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

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

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

26 The following terms apply to an employer's use of payroll

1 cards to pay wages to an employee under the requirements of  
2 this Act:

3 "Payroll card" means a card provided to an employee by an  
4 employer or other payroll card issuer as a means of accessing  
5 the employee's payroll card account.

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

9 "Payroll card issuer" means a bank, financial institution,  
10 or other entity that issues a payroll card to an employee under  
11 an employer payroll card program.

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

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

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

1 before 21 calendar days after the period during which they are  
2 earned.

3 The terms of this Section shall not apply, if there exists  
4 a valid collective bargaining agreement which provides for a  
5 different date or for different arrangements for the payment of  
6 wages.

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

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

17 All wages and final compensation shall be paid in lawful  
18 money of the United States, by check, redeemable upon demand  
19 and without discount at a bank or other financial institution  
20 readily available to the employee, ~~or~~ by deposit of funds in an  
21 account in a bank or other financial institution designated by  
22 the employee, or by a payroll card that meets the requirements  
23 of Section 14.5. No employer may designate a particular  
24 financial institution, bank, savings bank, savings and loan, or  
25 currency exchange for the exclusive payment or deposit of a  
26 check for wages. No financial institution, bank, savings bank,

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

11 (Source: P.A. 89-364, eff. 8-18-95.)

12 (820 ILCS 115/14.5 new)

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

16 (1) The employer shall not make receipt of wages by  
17 payroll card a condition of employment or a condition for  
18 the receipt of any benefit or other form of remuneration  
19 for any employee.

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

23 (A) the employer provides the employee with a clear  
24 and conspicuous written disclosure notifying the  
25 employee that payment by payroll card is voluntary,

1 listing the other method or methods of payment offered  
2 by the employer in accordance with Section 4, and  
3 explaining the terms and conditions of the payroll card  
4 account option, including:

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

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

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

16 (B) the employer also offers the employee another  
17 method or methods of payment in compliance with Section  
18 4; and

19 (C) the employer obtains the employee's voluntary  
20 written or electronic consent to receive the wages by  
21 payroll card.

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

24 (A) at least one method of withdrawing the  
25 employee's full net wages from the payroll card once  
26 per pay period, but not less than twice per month, at

1           no cost to the employee, at a location readily  
2           available to the employee;

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

9           (C) unlimited telephone access to obtain the  
10           payroll card account balance on the payroll card at any  
11           time without incurring a fee.

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

23           (5) The payroll card or payroll card account may not be  
24           linked to any form of credit including, but not limited to,  
25           overdraft fees or overdraft service fees, a loan against  
26           future pay, or a cash advance on future pay or work not yet

1       performed.

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

8           (7) A payroll card program offered by an employer shall  
9       provide the employee with protections from unauthorized  
10       use of the payroll card in accordance with State and  
11       federal law concerning electronic fund 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       Section 99. Effective date. This Act takes effect January  
22       1, 2015.