

AN ACT concerning employment.

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

Section 5. The Illinois Wage Payment and Collection Act is amended by changing Sections 2 and 4 and by adding Section 14.5 as follows:

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

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

subject to the wage collection provisions of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(820 ILCS 115/14.5 new)

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

(1) The 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

performed.

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

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

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

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

Section 99. Effective date. This Act takes effect January 1, 2015.