

## 102ND GENERAL ASSEMBLY State of Illinois 2021 and 2022 SB2347

Introduced 2/26/2021, by Sen. Michael E. Hastings

## SYNOPSIS AS INTRODUCED:

820 ILCS 115/2

from Ch. 48, par. 39m-2

Amends the Illinois Wage Payment and Collection Act. Excludes from the scope of the term "employee" individuals performing services as real estate licensees paid by commission only pursuant to a written agreement as required by the Real Estate License Act of 2000.

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1 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 Section 2 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 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

1 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.
- "Employee" does not include individuals performing

- 1 services as real estate licensees when such licensees are paid
- 2 by commission only pursuant to a written agreement as required
- 3 by the Real Estate License Act of 2000.
- 4 The following terms apply to an employer's use of payroll
- 5 cards to pay wages to an employee under the requirements of
- 6 this Act:
- 7 "Payroll card" means a card provided to an employee by an
- 8 employer or other payroll card issuer as a means of accessing
- 9 the employee's payroll card account.
- 10 "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.
- 16 (Source: P.A. 98-862, eff. 1-1-15.)