



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3227

Introduced 2/17/2023, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

765 ILCS 1026/15-201	
820 ILCS 105/12	from Ch. 48, par. 1012
820 ILCS 115/11.5	
820 ILCS 115/14	from Ch. 48, par. 39m-14

Amends the Minimum Wage Law and the Illinois Wage Payment and Collection Act. Provides that wages recovered by the Department of Labor shall be deposited into the Department of Labor Special State Trust Fund, from which the Department shall disburse the sums owed to the employee or employees. Provides that the Department shall conduct a good faith search to find all employees for whom it has recovered unpaid minimum wages or unpaid overtime compensation. Provides that beginning July 1, 2023, or as soon as is practical, and each July 1 thereafter, the Department may direct the State Comptroller and State Treasurer to transfer up to 15% of the balance of the moneys due to employees who cannot be located and that have been held by the Department in the Department of Labor Special State Trust Fund for 3 or more years from the Department of Labor Special State Trust Fund to the Wage Theft Enforcement Fund. Makes other changes. Amends the Revised Uniform Unclaimed Property Act to make conforming changes. Effective immediately.

LRB103 30108 SPS 56532 b

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 Revised Uniform Unclaimed Property Act is
5 amended by changing Section 15-201 of the Act as follows:

6 (765 ILCS 1026/15-201)

7 Sec. 15-201. When property presumed abandoned. Subject to
8 Section 15-210, the following property is presumed abandoned
9 if it is unclaimed by the apparent owner during the period
10 specified below:

11 (1) a traveler's check, 15 years after issuance;

12 (2) a money order, 5 years after issuance;

13 (3) any instrument on which a financial organization
14 or business association is directly liable, other than a
15 money order, 3 years after issuance;

16 (4) a state or municipal bond, bearer bond, or
17 original-issue-discount bond, 3 years after the earliest
18 of the date the bond matures or is called or the obligation
19 to pay the principal of the bond arises;

20 (5) a debt of a business association, 3 years after
21 the obligation to pay arises;

22 (6) financial organization deposits as follows:

23 (i) a demand deposit, 3 years after the date of the

1 last indication of interest in the property by the
2 apparent owner;

3 (ii) a savings deposit, 3 years after the date of
4 last indication of interest in the property by the
5 apparent owner;

6 (iii) a time deposit for which the owner has not
7 consented to automatic renewal of the time deposit, 3
8 years after the later of maturity or the date of the
9 last indication of interest in the property by the
10 apparent owner;

11 (iv) an automatically renewable time deposit for
12 which the owner consented to the automatic renewal in
13 a record on file with the holder, 3 years after the
14 date of last indication of interest in the property by
15 the apparent owner, following the completion of the
16 initial term of the time deposit and one automatic
17 renewal term of the time deposit;

18 (6.5) virtual currency, 5 years after the last
19 indication of interest in the property;

20 (7) money or a credit owed to a customer as a result of
21 a retail business transaction, other than in-store credit
22 for returned merchandise, 3 years after the obligation
23 arose;

24 (8) an amount owed by an insurance company on a life or
25 endowment insurance policy or an annuity contract that has
26 matured or terminated, 3 years after the obligation to pay

1 arose under the terms of the policy or contract or, if a
2 policy or contract for which an amount is owed on proof of
3 death has not matured by proof of the death of the insured
4 or annuitant, as follows:

5 (A) with respect to an amount owed on a life or
6 endowment insurance policy, the earlier of:

7 (i) 3 years after the death of the insured; or

8 (ii) 2 years after the insured has attained,
9 or would have attained if living, the limiting age
10 under the mortality table on which the reserve for
11 the policy is based; and

12 (B) with respect to an amount owed on an annuity
13 contract, 3 years after the death of the annuitant.

14 (9) funds on deposit or held in trust pursuant to the
15 Illinois Funeral or Burial Funds Act, the earliest of:

16 (A) 2 years after the date of death of the
17 beneficiary;

18 (B) one year after the date the beneficiary has
19 attained, or would have attained if living, the age of
20 105 where the holder does not know whether the
21 beneficiary is deceased;

22 (C) 40 years after the contract for prepayment was
23 executed, unless the apparent owner has indicated an
24 interest in the property more than 40 years after the
25 contract for prepayment was executed, in which case, 3
26 years after the last indication of interest in the

1 property by the apparent owner;

2 (10) property distributable by a business association
3 in the course of dissolution or distributions from the
4 termination of a retirement plan, one year after the
5 property becomes distributable;

6 (11) property held by a court, including property
7 received as proceeds of a class action, 3 years after the
8 property becomes distributable;

9 (12) property held by a government or governmental
10 subdivision, agency, or instrumentality, including
11 municipal bond interest and unredeemed principal under the
12 administration of a paying agent or indenture trustee, 3
13 years after the property becomes distributable;

14 (13) wages, commissions, bonuses, or reimbursements to
15 which an employee is entitled, or other compensation for
16 personal services, including amounts held on a payroll
17 card, one year after the amount becomes payable, except as
18 provided in the Minimum Wage Law and the Illinois Wage
19 Payment and Collection Act;

20 (14) a deposit or refund owed to a subscriber by a
21 utility, one year after the deposit or refund becomes
22 payable, except that any capital credits or patronage
23 capital retired, returned, refunded or tendered to a
24 member of an electric cooperative, as defined in Section
25 3.4 of the Electric Supplier Act, or a telephone or
26 telecommunications cooperative, as defined in Section

1 13-212 of the Public Utilities Act, that has remained
2 unclaimed by the person appearing on the records of the
3 entitled cooperative for more than 2 years, shall not be
4 subject to, or governed by, any other provisions of this
5 Act, but rather shall be used by the cooperative for the
6 benefit of the general membership of the cooperative; and

7 (15) property not specified in this Section or
8 Sections 15-202 through 15-208, the earlier of 3 years
9 after the owner first has a right to demand the property or
10 the obligation to pay or distribute the property arises.

11 Notwithstanding anything to the contrary in this Section
12 15-201, and subject to Section 15-210, a deceased owner cannot
13 indicate interest in his or her property. If the owner is
14 deceased and the abandonment period for the owner's property
15 specified in this Section 15-201 is greater than 2 years, then
16 the property, other than an amount owed by an insurance
17 company on a life or endowment insurance policy or an annuity
18 contract that has matured or terminated, shall instead be
19 presumed abandoned 2 years from the date of the owner's last
20 indication of interest in the property.

21 (Source: P.A. 101-552, eff. 1-1-20; 102-288, eff. 8-6-21.)

22 Section 10. The Minimum Wage Law is amended by changing
23 Section 12 as follows:

24 (820 ILCS 105/12) (from Ch. 48, par. 1012)

1 Sec. 12. (a) If any employee is paid by his or her employer
2 less than the wage to which he or she is entitled under the
3 provisions of this Act, the employee may recover in a civil
4 action treble the amount of any such underpayments together
5 with costs and such reasonable attorney's fees as may be
6 allowed by the Court, and damages of 5% of the amount of any
7 such underpayments for each month following the date of
8 payment during which such underpayments remain unpaid. Any
9 agreement between the employee and the employer to work for
10 less than such wage is no defense to such action. At the
11 request of the employee or on motion of the Director of Labor,
12 the Department of Labor may make an assignment of such wage
13 claim in trust for the assigning employee and may bring any
14 legal action necessary to collect such claim, and the employer
15 shall be required to pay the costs incurred in collecting such
16 claim. Every such action shall be brought within 3 years from
17 the date of the underpayment. Such employer shall be liable to
18 the Department of Labor for a penalty in an amount of up to 20%
19 of the total employer's underpayment where the employer's
20 conduct is proven by a preponderance of the evidence to be
21 willful, repeated, or with reckless disregard of this Act or
22 any rule adopted under this Act. Such employer shall be liable
23 to the Department for an additional penalty of \$1,500. All
24 administrative penalties ordered under this Act shall be paid
25 by certified check, money order, or an electronic payment
26 system designated by the Department for such purposes and

1 shall be made payable to the Department's Wage Theft
2 Enforcement Fund. Such employer shall be additionally liable
3 to the employee for damages in the amount of 5% of the amount
4 of any such underpayments for each month following the date of
5 payment during which such underpayments remain unpaid. These
6 penalties and damages may be recovered in a civil action
7 brought by the Director of Labor in any circuit court. In any
8 such action, the Director of Labor shall be represented by the
9 Attorney General.

10 If an employee collects damages of 5% of the amount of
11 underpayments as a result of an action brought by the Director
12 of Labor, the employee may not also collect those damages in a
13 private action brought by the employee for the same violation.
14 If an employee collects damages of 5% of the amount of
15 underpayments in a private action brought by the employee, the
16 employee may not also collect those damages as a result of an
17 action brought by the Director of Labor for the same
18 violation.

19 (b) If an employee has not collected damages under
20 subsection (a) for the same violation, the Director is
21 authorized to supervise the payment of the unpaid minimum
22 wages and the unpaid overtime compensation owing to any
23 employee or employees under Sections 4 and 4a of this Act and
24 may bring any legal action necessary to recover the amount of
25 the unpaid minimum wages and unpaid overtime compensation and
26 an equal additional amount as damages, and the employer shall

1 be required to pay the costs incurred in collecting such
2 claim. Such employer shall be additionally liable to the
3 Department of Labor for up to 20% of the total employer's
4 underpayment where the employer's conduct is proven by a
5 preponderance of the evidence to be willful, repeated, or with
6 reckless disregard of this Act or any rule adopted under this
7 Act. Such employer shall be liable to the Department of Labor
8 for an additional penalty of \$1,500, payable to the
9 Department's Wage Theft Enforcement Fund. The action shall be
10 brought within 5 years from the date of the failure to pay the
11 wages or compensation. Any sums thus recovered by the Director
12 on behalf of an employee pursuant to this subsection shall be
13 deposited into the Department of Labor Special State Trust
14 Fund, from which the Department shall disburse the sums owed
15 to the employee or employees. The Department shall conduct a
16 good faith search to find all employees for whom it has
17 recovered unpaid minimum wages or unpaid overtime
18 compensation. All disbursements authorized under this Section
19 shall be made by certified check, money order, or an
20 electronic payment system designated by the Department ~~paid to~~
21 ~~the employee or employees affected. Any sums which, more than~~
22 ~~one year after being thus recovered, the Director is unable to~~
23 ~~pay to an employee shall be deposited into the General Revenue~~
24 ~~Fund.~~

25 (c) The Department shall hold any moneys due to employees
26 that it is unable to locate in the Department of Labor Special

1 State Trust Fund for no less than 3 years after the moneys were
2 collected.

3 Beginning July 1, 2023, or as soon as is practical, and
4 each July 1 thereafter, the Department may direct the State
5 Comptroller and State Treasurer to transfer up to 15% of the
6 balance of the moneys due to employees who cannot be located
7 and that have been held by the Department in the Department of
8 Labor Special State Trust Fund for 3 or more years from the
9 Department of Labor Special State Trust Fund to the Wage Theft
10 Enforcement Fund. The Department may use moneys in the Wage
11 Theft Enforcement Fund for the purposes described in Section
12 14 of the Illinois Wage Payment and Collection Act.

13 (d) The Department may adopt rules to implement and
14 administer this Section.

15 (Source: P.A. 101-1, eff. 2-19-19.)

16 Section 15. The Illinois Wage Payment and Collection Act
17 is amended by changing Sections 11.5 and 14 as follows:

18 (820 ILCS 115/11.5)

19 Sec. 11.5. Departmental wage recovery; remittance to
20 aggrieved employee.

21 (a) Upon the recovery of unpaid wages, wage supplements,
22 or final compensation from an employer that has violated this
23 Act, ~~the Department shall conduct a good faith search to find~~
24 ~~the aggrieved employee. If, after conducting a good faith~~

1 ~~search for the aggrieved employee, the Department is unable to~~
2 ~~find the aggrieved employee,~~ the Department shall deposit the
3 amount recovered into the Department of Labor Special State
4 Trust Fund, from which the Department shall disburse the sums
5 owed to the employee or employees. The Department shall
6 conduct a good faith search to find all employees for whom it
7 has recovered unpaid wages, wage supplements, or final
8 compensation. All disbursements authorized under this Section
9 shall be made by certified check, money order, or an
10 electronic payment system designated by the Department.

11 (a-5) The Department shall hold any moneys due to
12 employees that it is unable to locate in the Department of
13 Labor Special State Trust Fund for no less than 3 years after
14 the moneys were collected.

15 Beginning July 1, 2023, or as soon as is practical, and
16 each July 1 thereafter, the Department may direct the State
17 Comptroller and State Treasurer to transfer up to 15% of the
18 balance of the moneys due to employees who cannot be located
19 and that have been held by the Department in the Department of
20 Labor Special State Trust Fund for 3 or more years from the
21 Department of Labor Special State Trust Fund to the Wage Theft
22 Enforcement Fund. The Department may use moneys in the Wage
23 Theft Enforcement Fund for the purposes described in Section
24 14 of the Illinois Wage Payment and Collection Act.

25 (b) An aggrieved employee may make a request to the
26 Department in order to recover unpaid wages, wage supplements,

1 or final compensation that has been deposited into the
2 Department of Labor Special State Trust Fund. The Department
3 shall not require the employee to present a Social Security
4 number or proof of United States citizenship. For the purpose
5 of paying claims under this Section from the Department of
6 Labor Special State Trust Fund to aggrieved employees, the
7 Comptroller shall assign a vendor payment number to the
8 Department. When an aggrieved employee makes a valid request
9 for payment to the Department, the Department shall use the
10 vendor payment number to process payment on behalf of the
11 aggrieved employee.

12 (c) The Department shall adopt rules for the
13 administration of this Section.

14 (Source: P.A. 99-762, eff. 1-1-17.)

15 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

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

25 (a-5) In addition to the remedies provided in subsections

1 (a), (b), and (c) of this Section, any employer or any agent of
2 an employer, who, being able to pay wages, final compensation,
3 or wage supplements and being under a duty to pay, wilfully
4 refuses to pay as provided in this Act, or falsely denies the
5 amount or validity thereof or that the same is due, with intent
6 to secure for himself or other person any underpayment of such
7 indebtedness or with intent to annoy, harass, oppress, hinder,
8 delay or defraud the person to whom such indebtedness is due,
9 upon conviction, is guilty of:

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

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

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

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

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

1 by the Department as wages owed is \$3,000 or less; \$500 if the
2 amount ordered by the Department as wages owed is more than
3 \$3,000, but less than \$10,000; and \$1,000 if the amount
4 ordered by the Department as wages owed is \$10,000 or more. Any
5 employer who has been so demanded or ordered by the Department
6 or ordered by a court to pay such wages, final compensation, or
7 wage supplements and who fails to seek timely review of such a
8 demand or order as provided for under this Act and who fails to
9 comply within 15 calendar days after such demand or within 35
10 days of an administrative or court order is entered shall also
11 be liable to pay a penalty to the Department of Labor of 20% of
12 the amount found owing and a penalty to the employee of 1% per
13 calendar day of the amount found owing for each day of delay in
14 paying such wages to the employee. All moneys recovered as
15 fees and civil penalties under this Act, except those owing to
16 the affected employee, shall be deposited into the Wage Theft
17 Enforcement Fund, a special fund which is hereby created in
18 the State treasury. Moneys in the Fund may be used ~~only~~ for
19 enforcement of this Act and for outreach and educational
20 activities of the Department related to the recovery of unpaid
21 or underpaid compensation and the disbursement of moneys to
22 affected parties.

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

1 such civil action or administrative adjudicative proceeding
2 under this Act, the Department shall be represented by the
3 Attorney General.

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

20 (Source: P.A. 102-50, eff. 7-9-21.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.