

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, 10, and 14 as follows:

6 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

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

1 supplements", subject to the wage collection provisions of
2 this Act.

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

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

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

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

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

1 "Pay stub" means an itemized statement or statements
2 reflecting an employee's hours worked, rate of pay, overtime
3 pay and overtime hours worked, gross wages earned, deductions
4 made from the employee's wages, and the total of wages and
5 deductions year to date.

6 The following terms apply to an employer's use of payroll
7 cards to pay wages to an employee under the requirements of
8 this Act:

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

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

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

18 (Source: P.A. 98-862, eff. 1-1-15.)

19 (820 ILCS 115/10) (from Ch. 48, par. 39m-10)

20 Sec. 10.

21 (a) Employers shall notify employees, at the time of
22 hiring, of the rate of pay and of the time and place of
23 payment. Whenever possible, such notification shall be in
24 writing and shall be acknowledged by both parties. Employers
25 shall also notify employees of any changes in the

1 arrangements, specified above, prior to the time of change.

2 (b) Employers shall keep records of names and addresses of
3 all employees and of wages paid each payday, and shall furnish
4 each employee with a pay stub ~~an itemized statement of~~
5 ~~deductions made from his wages~~ for each pay period.

6 (c) An employer shall maintain a copy of an employee's pay
7 stub for a period of not less than 3 years after the date of
8 payment, regardless of whether the employee's employment ends
9 during this period, whether the pay stub is furnished
10 electronically or in paper form.

11 (d) In addition to furnishing a pay stub for each pay
12 period as required under subsection (b), an employer shall
13 furnish copies of pay stubs to current and former employees as
14 follows:

15 (1) An employer shall provide an employee with a copy
16 of the employee's pay stubs upon the employee's request.
17 The employer may require that the employee submit the
18 request in writing. The employer shall furnish the copy of
19 the pay stubs to the employee by the end of the next pay
20 period following the employee's request. An employer is
21 not required to grant an employee's request for a copy of
22 pay stubs more than twice in a 12-month period.

23 (2) An employer shall provide a former employee with a
24 copy of the former employee's previous pay stubs upon the
25 former employee's request. The employer shall furnish the
26 copy of the pay stubs to the former employee by the end of

1 the following pay period following the former employee's
2 request. An employer is not required to grant a former
3 employee's request for a copy of pay stubs more than twice
4 in a 12-month period or more than one year after the date
5 of separation. The employer shall provide the copy of the
6 pay stubs in either a physical or electronic format, as
7 chosen by the former employee, including a communication
8 that is transmitted through electronic mail, text message,
9 computer system, or is otherwise sent and stored
10 electronically and is capable of being downloaded or
11 permanently retained by the former employee.

12 (3) An employer who furnishes electronic pay stubs in
13 a manner that a former employee cannot access for at least
14 a full year after separation shall, upon an employee's
15 separation from employment, offer to provide the outgoing
16 employee with a record of all of the outgoing employee's
17 pay stubs from the year preceding the date of separation.
18 The offer shall be made to the outgoing employee by the end
19 of the outgoing employee's final pay period. An employer
20 shall record in writing the date on which this offer was
21 made to the outgoing employee and if and how the outgoing
22 employee responded.

23 (e) Every employer shall post and keep posted at each
24 regular place of business in a position easily accessible to
25 all employees one or more notices indicating the regular
26 paydays and the place and time for payment of his employees,

1 and on forms supplied from time to time by the Department of
2 Labor containing a copy or summary of the provisions of this
3 Act.

4 (Source: P.A. 81-593.)

5 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

6 Sec. 14. Penalties.

7 (a) Any employee not timely paid wages, final
8 compensation, or wage supplements by his or her employer as
9 required by this Act shall be entitled to recover through a
10 claim filed with the Department of Labor or in a civil action,
11 but not both, the amount of any such underpayments and damages
12 of 5% of the amount of any such underpayments for each month
13 following the date of payment during which such underpayments
14 remain unpaid. In a civil action, such employee shall also
15 recover costs and all reasonable attorney's fees.

16 (a-5) In addition to the remedies provided in subsections
17 (a), (b), and (c) of this Section, any employer or any agent of
18 an employer, who, being able to pay wages, final compensation,
19 or wage supplements and being under a duty to pay, willfully
20 ~~wilfully~~ refuses to pay as provided in this Act, or falsely
21 denies the amount or validity thereof or that the same is due,
22 with intent to secure for himself or other person any
23 underpayment of such indebtedness or with intent to annoy,
24 harass, oppress, hinder, delay or defraud the person to whom
25 such indebtedness is due, upon conviction, is guilty of:

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

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

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

9 Any employer or any agent of an employer who violates this
10 Section of the Act a subsequent time within 2 years of a prior
11 criminal conviction under this Section is guilty, upon
12 conviction, of a Class 4 felony.

13 (b) Any employer who has been demanded or ordered by the
14 Department or ordered by the court to pay wages, final
15 compensation, or wage supplements due an employee shall be
16 required to pay a non-waivable administrative fee to the
17 Department of Labor in the amount of \$250 if the amount ordered
18 by the Department as wages owed is \$3,000 or less; \$500 if the
19 amount ordered by the Department as wages owed is more than
20 \$3,000, but less than \$10,000; and \$1,000 if the amount
21 ordered by the Department as wages owed is \$10,000 or more. Any
22 employer who has been so demanded or ordered by the Department
23 or ordered by a court to pay such wages, final compensation, or
24 wage supplements and who fails to seek timely review of such a
25 demand or order as provided for under this Act and who fails to
26 comply within 15 calendar days after such demand or within 35

1 days of an administrative or court order is entered shall also
2 be liable to pay a penalty to the Department of Labor of 20% of
3 the amount found owing and a penalty to the employee of 1% per
4 calendar day of the amount found owing for each day of delay in
5 paying such wages to the employee. All moneys recovered as
6 fees and civil penalties under this Act, except those owing to
7 the affected employee, shall be deposited into the Wage Theft
8 Enforcement Fund, a special fund which is hereby created in
9 the State treasury. Moneys in the Fund may be used for
10 enforcement of this Act and for outreach and educational
11 activities of the Department related to the recovery of unpaid
12 or underpaid compensation and the disbursement of moneys to
13 affected parties.

14 (b-5) Penalties and fees under this Section may be
15 assessed by the Department and recovered in a civil action
16 brought by the Department in any circuit court or in any
17 administrative adjudicative proceeding under this Act. In any
18 such civil action or administrative adjudicative proceeding
19 under this Act, the Department shall be represented by the
20 Attorney General.

21 (c) Any employer, or any agent of an employer, who
22 discharges or in any other manner discriminates against any
23 employee because that employee has made a complaint to his or
24 her employer, to the Director of Labor or his or her authorized
25 representative, in a public hearing, or to a community
26 organization that he or she has not been paid in accordance

1 with the provisions of this Act, or because that employee has
2 caused to be instituted any proceeding under or related to
3 this Act, or because that employee has testified or is about to
4 testify in an investigation or proceeding under this Act, is
5 guilty, upon conviction, of a Class C misdemeanor. An employee
6 who has been unlawfully retaliated against shall be entitled
7 to recover through a claim filed with the Department of Labor
8 or in a civil action, but not both, all legal and equitable
9 relief as may be appropriate. In a civil action, such employee
10 shall also recover costs and all reasonable attorney's fees.

11 (d) Except as provided under subsections (a), (b), and
12 (c), an employer who fails to furnish an employee or former
13 employee with a pay stub as required by this Act or commits any
14 other violation of this Act shall be subject to a civil penalty
15 of up to \$500 per violation payable to the Department. In
16 determining the amount of the penalty under this subsection,
17 the Department shall consider the appropriateness of the
18 penalty to the size of the business of the employer charged and
19 the gravity of the violation.

20 (Source: P.A. 102-50, eff. 7-9-21; 103-182, eff. 6-30-23.)