

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 14 as follows:

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

7 Sec. 2. For all employees, other than separated employees,
8 "wages" shall be defined as any compensation owed an employee
9 by an employer pursuant to an employment contract or agreement
10 between the 2 parties, whether the amount is determined on a
11 time, task, piece, or any other basis of calculation. Payments
12 to separated employees shall be termed "final compensation" and
13 shall be defined as wages, salaries, earned commissions, earned
14 bonuses, and the monetary equivalent of earned vacation and
15 earned holidays, and any other compensation owed the employee
16 by the employer pursuant to an employment contract or agreement
17 between the 2 parties. Where an employer is legally committed
18 through a collective bargaining agreement or otherwise to make
19 contributions to an employee benefit, trust or fund on the
20 basis of a certain amount per hour, day, week or other period
21 of time, the amount due from the employer to such employee
22 benefit, trust, or fund shall be defined as "wage supplements",
23 subject to the wage collection provisions of this Act.

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

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

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

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

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

25 For purposes of this Act, the term "employee" does not
26 include a licensee under the Real Estate License Act of 2000

1 when performing licensed activities.

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

3 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

4 Sec. 14. (a) Any employer or any agent of an employer, who,
5 being able to pay wages, final compensation, or wage
6 supplements and being under a duty to pay, wilfully refuses to
7 pay as provided in this Act, or falsely denies the amount or
8 validity thereof or that the same is due, with intent to secure
9 for himself or other person any underpayment of such
10 indebtedness or with intent to annoy, harass, oppress, hinder,
11 delay or defraud the person to whom such indebtedness is due,
12 upon conviction, is guilty of a Class C misdemeanor. Each day
13 during which any violation of this Act continues shall
14 constitute a separate and distinct offense.

15 (a-5) If an employer fails to include all commissions
16 earned by a separated employee in the final compensation paid
17 to the separated employee within the time limit set forth in
18 Section 5, the employer shall, in addition to any other
19 penalties, pay the employee an amount equal to 3 times the
20 amount of the commissions that were not paid, as well as the
21 employee's court costs, attorney's fees, and any other
22 associated costs incurred in successfully pursuing a legal
23 action against the employer.

24 (b) Any employer who has been demanded by the Director of
25 Labor or ordered by the court to pay wages due an employee and

1 who shall fail to do so within 15 days after such demand or
2 order is entered shall be liable to pay a penalty of 1% per
3 calendar day to the employee for each day of delay in paying
4 such wages to the employee up to an amount equal to twice the
5 sum of unpaid wages due the employee. Such employer shall also
6 be liable to the Department of Labor for 20% of such unpaid
7 wages.

8 (b-5) Penalties under this Section may be recovered in a
9 civil action brought by the Director in any circuit court. In
10 this litigation, the Director of Labor shall be represented by
11 the Attorney General.

12 (c) Any employer, or any agent of an employer, who
13 knowingly discharges or in any other manner knowingly
14 discriminates against any employee because that employee has
15 made a complaint to his employer, or to the Director of Labor
16 or his authorized representative, that he or she has not been
17 paid in accordance with the provisions of this Act, or because
18 that employee has caused to be instituted any proceeding under
19 or related to this Act, or because that employee has testified
20 or is about to testify in an investigation or proceeding under
21 this Act, is guilty, upon conviction, of a Class C misdemeanor.
22 (Source: P.A. 94-1025, eff. 7-14-06; 95-209, eff. 8-16-07.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.