

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 11 and 14 and by adding Section
6 11.3 as follows:

7 (820 ILCS 115/11) (from Ch. 48, par. 39m-11)

8 Sec. 11. It shall be the duty of the Department of Labor to
9 inquire diligently for any violations of this Act, and to
10 institute the actions for penalties herein provided, and to
11 enforce generally the provisions of this Act.

12 An employee may file a complaint with the Department
13 alleging violations of the Act by submitting a signed,
14 completed wage claim application on the form provided by the
15 Department and by submitting copies of all supporting
16 documentation. Complaints shall be filed within one year after
17 the wages, final compensation, or wage supplements were due.

18 Applications shall be reviewed by the Department to
19 determine whether there is cause for investigation.

20 The Department shall have the following powers:

21 (a) To investigate and attempt equitably to adjust
22 controversies between employees and employers in respect
23 of wage claims arising under this Act and to that end the

1 Department through the Director of Labor or any other
2 person in the Department of Labor designated by him or her,
3 shall have the power to administer oaths, subpoena and
4 examine witnesses, to issue subpoenas duces tecum
5 requiring the production of such books, papers, records and
6 documents as may be evidence of any matter under inquiry
7 and to examine and inspect the same as may relate to the
8 question in dispute. Service of such subpoenas shall be
9 made by any sheriff or any person. Any court in this State,
10 upon the application of the Department may compel
11 attendance of witnesses, the production of books and
12 papers, and the giving of testimony before the Department
13 by attachment for contempt or in any other way as the
14 production of evidence may be compelled before such court.

15 (b) To take assignments of wage claims in the name of
16 the Director of Labor and his or her successors in office
17 and prosecute actions for the collection of wages for
18 persons financially unable to prosecute such claims when in
19 the judgment of the Department such claims are valid and
20 enforceable in the courts. No court costs or any fees for
21 necessary process and proceedings shall be payable in
22 advance by the Department for prosecuting such actions. In
23 the event there is a judgment rendered against the
24 defendant, the court shall assess as part of such judgment
25 the costs of such proceeding. Upon collection of such
26 judgments the Department shall pay from the proceeds of

1 such judgment such costs to such person who is by law
2 entitled to same. The Department may join in a single
3 proceeding any number of wage claims against the same
4 employer but the court shall have discretionary power to
5 order a severance or separate trial for hearings.

6 (c) To make complaint in any court of competent
7 jurisdiction of violations of this Act.

8 (d) In addition to the aforementioned powers, subject
9 to appropriation, the Department shall ~~may~~ establish an
10 administrative procedure to adjudicate claims and to issue
11 final and binding administrative decisions on such claims
12 subject to the Administrative Review Law within 30 days of
13 the claim. Any claim brought under this Section shall be
14 adjudicated within 30 days after it is filed unless
15 otherwise agreed by the parties. To establish such a
16 procedure, the Director of Labor or her or his authorized
17 representative may promulgate rules and regulations. The
18 adoption, amendment or rescission of rules and regulations
19 for such a procedure shall be in conformity with the
20 requirements of the Illinois Administrative Procedure Act.

21 Nothing herein shall be construed to prevent any employee
22 from making complaint or prosecuting his or her own claim for
23 wages. Any employee aggrieved by a violation of this Act or any
24 rule adopted under this Act may file suit in circuit court of
25 Illinois, in the county where the alleged violation occurred or
26 where any employee who is party to the action resides, without

1 regard to exhaustion of any alternative administrative
2 remedies provided in this Act. Actions may be brought by one or
3 more employees for and on behalf of themselves and other
4 employees similarly situated.

5 Nothing herein shall be construed to limit the authority of
6 the State's attorney of any county to prosecute actions for
7 violation of this Act or to enforce the provisions thereof
8 independently and without specific direction of the Department
9 of Labor.

10 (Source: P.A. 98-527, eff. 1-1-14.)

11 (820 ILCS 115/11.3 new)

12 Sec. 11.3. Wage claim escrow. If, pursuant to Section 11,
13 the Department of Labor determines there is cause for
14 investigation, the Department shall request that no more than
15 10% of the disputed wage claim be submitted by the employer to
16 the Department and placed in an escrow account administered by
17 the Department. Upon receiving the moneys, the Department shall
18 provide written verification of the escrow amount received to
19 both the employer and the claimant.

20 These moneys shall be held in escrow until the Department
21 adjudicates the claim, but no longer than 45 days. If, upon the
22 final and binding administrative decision or by the default of
23 an employer for failing to respond to the complaint, the
24 Department finds the employer is guilty of wage theft, the
25 Department shall release the moneys to the claimant, and the

1 employer shall be liable for the remainder of the claim as
2 adjudicated by the Department. If, upon the final and binding
3 administrative decision, the Department finds the employer is
4 not guilty of wage theft, the Department shall release the
5 moneys to the employer.

6 The Department shall adopt rules for the administration of
7 this Section.

8 (820 ILCS 115/14) (from Ch. 48, par. 39m-14)

9 Sec. 14. (a) Any employee not timely paid wages, final
10 compensation, or wage supplements by his or her employer as
11 required by this Act shall be entitled to recover through a
12 claim filed with the Department of Labor or in a civil action,
13 but not both, the amount of any such underpayments and damages
14 of 2% of the amount of any such underpayments for each month
15 following the date of payment during which such underpayments
16 remain unpaid. In a civil action, such employee shall also
17 recover costs and all reasonable attorney's fees.

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

1 delay or defraud the person to whom such indebtedness is due,
2 upon conviction, is guilty of:

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

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

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

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

15 (b) Any employer who has been demanded or ordered by the
16 Department or ordered by the court to pay wages, final
17 compensation, or wage supplements due an employee shall be
18 required to pay a non-waivable administrative fee to the
19 Department of Labor in the amount of \$500 ~~\$250~~ if the amount
20 ordered by the Department as wages owed is \$3,000 or less;
21 \$1,000 ~~\$500~~ if the amount ordered by the Department as wages
22 owed is more than \$3,000, but less than \$10,000; and \$2,000
23 ~~\$1,000~~ if the amount ordered by the Department as wages owed is
24 \$10,000 or more. Any employer who has been so demanded or
25 ordered by the Department or ordered by a court to pay such
26 wages, final compensation, or wage supplements and who fails to

1 seek timely review of such a demand or order as provided for
2 under this Act and who fails to comply within 15 calendar days
3 after such demand or within 35 days of an administrative or
4 court order is entered may be subject to a judgment lien placed
5 on the employer's real estate pursuant to Section 12-101 of the
6 Code of Civil Procedure, may be subject to a citation or
7 supplementary proceeding to discover assets pursuant to
8 Section 2-1402 of the Code of Civil Procedure, and shall also
9 be liable to pay a penalty to the Department of Labor of 20% of
10 the amount found owing and a penalty to the employee of 1% per
11 calendar day of the amount found owing for each day of delay in
12 paying such wages to the employee. All moneys recovered as fees
13 and civil penalties under this Act, except those owing to the
14 affected employee, shall be deposited into the Wage Theft
15 Enforcement Fund, a special fund which is hereby created in the
16 State treasury. Moneys in the Fund may be used only for
17 enforcement of this Act.

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

25 (c) Any employer, or any agent of an employer, who
26 discharges or in any other manner discriminates against any

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

15 (Source: P.A. 98-527, eff. 1-1-14.)