

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 Unemployment Insurance Act is amended by  
5 changing Sections 1400 and 1402 and by adding Section 1400.2 as  
6 follows:

7 (820 ILCS 405/1400) (from Ch. 48, par. 550)

8 Sec. 1400. Payment of contributions. On and after July 1,  
9 1937, contributions shall accrue and become payable by each  
10 employer for each calendar year in which he is subject to this  
11 Act, with respect to wages payable for employment occurring  
12 during the six months' period beginning July 1, 1937, and the  
13 calendar years 1938, 1939, and 1940. For the year 1941 and for  
14 each calendar year thereafter, contributions shall accrue and  
15 become payable by each employer upon the wages paid with  
16 respect to employment after December 31, 1940. Except as  
17 otherwise provided in Section 1400.2, such ~~Such~~ contributions  
18 shall become due and shall be paid quarterly on or before the  
19 last day of the month next following the calendar quarter for  
20 which such contributions have accrued; except that any employer  
21 who is delinquent in filing a contribution report or in paying  
22 his contributions for any calendar quarter may, at the  
23 discretion of the Director, be required to report and to pay  
24 contributions on a calendar month basis. Such contributions  
25 shall not be deducted, in whole or in part, from the wages of  
26 individuals in such employer's employ. If the Director shall  
27 find that the collection of any contributions will be  
28 jeopardized by delay, he may declare the same to be immediately  
29 due and payable.

30 In the payment of any contributions, interest, or  
31 penalties, a fractional part of a cent shall be disregarded  
32 unless it amounts to one-half cent or more, in which case it

1 shall be increased to one cent.

2 The Director may by regulation provide that if, at any  
3 time, a total amount of less than \$2 is payable with respect to  
4 a quarter, including any contributions, payments in lieu of  
5 contributions, interest or penalties, such amount may be  
6 disregarded. Any amounts disregarded under this paragraph are  
7 deemed to have been paid for all other purposes of this Act.  
8 Nothing in this paragraph is intended to relieve any employer  
9 from filing any reports required by this Act or by any rules or  
10 regulations adopted by the Director pursuant to this Act.

11 Except with respect to the provisions concerning amounts  
12 that may be disregarded pursuant to regulation, this Section  
13 does not apply to any nonprofit organization or any  
14 governmental entity referred to in subsection B of Section 1405  
15 for any period with respect to which it does not incur  
16 liability for the payment of contributions by reason of having  
17 elected to make payments in lieu of contributions, or to any  
18 political subdivision or municipal corporation for any period  
19 with respect to which it is not subject to payments in lieu of  
20 contributions under the provisions of paragraph 1 of Section  
21 302C by reason of having elected to make payments in lieu of  
22 contributions under paragraph 2 of that Section, or to the  
23 State of Illinois or any of its instrumentalities.

24 (Source: P.A. 90-554, eff. 12-12-97.)

25 (820 ILCS 405/1400.2 new)

26 Sec. 1400.2. Annual reporting and paying; household  
27 workers. This Section applies to an employer who solely employs  
28 one or more household workers with respect to whom the employer  
29 files federal unemployment taxes as part of his or her federal  
30 income tax return, or could file federal unemployment taxes as  
31 part of his or her federal income tax return if the worker or  
32 workers were providing services in employment for purposes of  
33 the federal unemployment tax. For purposes of this Section,  
34 "household worker" has the meaning ascribed to it for purposes  
35 of Section 3510 of the federal Internal Revenue Code. If an

1 employer to whom this Section applies notifies the Director, in  
2 writing, that he or she wishes to pay his or her contributions  
3 for each quarter and submit his or her wage and contribution  
4 reports for each quarter on an annual basis, then the due date  
5 for filing the reports and paying the contributions shall be  
6 April 15 of the calendar year immediately following the close  
7 of the quarters to which the reports and contributions apply,  
8 except that the Director may, by rule, establish a different  
9 due date for good cause.

10 (820 ILCS 405/1402) (from Ch. 48, par. 552)

11 Sec. 1402. Penalties. A. If any employer fails, within the  
12 time prescribed in this Act as amended and in effect on October  
13 5, 1980, and the regulations of the Director, to file a report  
14 of wages paid to each of his workers, or to file a sufficient  
15 report of such wages after having been notified by the Director  
16 to do so, for any period which begins prior to January 1, 1982,  
17 he shall pay to the Director as a penalty a sum determined in  
18 accordance with the provisions of this Act as amended and in  
19 effect on October 5, 1980.

20 B. Except as otherwise provided in this Section, any  
21 employer who fails to file a report of wages paid to each of  
22 his workers for any period which begins on or after January 1,  
23 1982, within the time prescribed by the provisions of this Act  
24 and the regulations of the Director, or, if the Director  
25 pursuant to such regulations extends the time for filing the  
26 report, fails to file it within the extended time, shall, in  
27 addition to any sum otherwise payable by him under the  
28 provisions of this Act, pay to the Director as a penalty a sum  
29 equal to the lesser of (1) \$5 for each \$10,000 or fraction  
30 thereof of the total wages for insured work paid by him during  
31 the period or (2) \$2,500, for each month or part thereof of  
32 such failure to file the report. With respect to an employer  
33 who has elected to file reports of wages on an annual basis  
34 pursuant to Section 1400.2, in assessing penalties for the  
35 failure to submit all reports by the due date established

1 pursuant to that Section, the 30-day period immediately  
2 following the due date shall be considered as one month.

3 If the Director deems an employer's report of wages paid to  
4 each of his workers for any period which begins on or after  
5 January 1, 1982, insufficient, he shall notify the employer to  
6 file a sufficient report. If the employer fails to file such  
7 sufficient report within 30 days after the mailing of the  
8 notice to him, he shall, in addition to any sum otherwise  
9 payable by him under the provisions of this Act, pay to the  
10 Director as a penalty a sum determined in accordance with the  
11 provisions of the first paragraph of this subsection, for each  
12 month or part thereof of such failure to file such sufficient  
13 report after the date of the notice.

14 For wages paid in calendar years prior to 1988, the penalty  
15 or penalties which accrue under the two foregoing paragraphs  
16 with respect to a report for any period shall not be less than  
17 \$100, and shall not exceed the lesser of (1) \$10 for each  
18 \$10,000 or fraction thereof of the total wages for insured work  
19 paid during the period or (2) \$5,000. For wages paid in  
20 calendar years after 1987, the penalty or penalties which  
21 accrue under the 2 foregoing paragraphs with respect to a  
22 report for any period shall not be less than \$50, and shall not  
23 exceed the lesser of (1) \$10 for each \$10,000 or fraction of  
24 the total wages for insured work paid during the period or (2)  
25 \$5,000. With respect to an employer who has elected to file  
26 reports of wages on an annual basis pursuant to Section 1400.2,  
27 for purposes of calculating the minimum penalty prescribed by  
28 this Section for failure to file the reports on a timely basis,  
29 a calendar year shall constitute a single period. For reports  
30 of wages paid after 1986, the Director shall not, however,  
31 impose a penalty pursuant to either of the two foregoing  
32 paragraphs on any employer who can prove within 30 working days  
33 after the mailing of a notice of his failure to file such a  
34 report, that (1) the failure to file the report is his first  
35 such failure during the previous 20 consecutive calendar  
36 quarters, and (2) the amount of the total contributions due for

1 the calendar quarter of such report is less than \$500.

2 Any employer who wilfully fails to pay any contribution or  
3 part thereof, based upon wages paid prior to 1987, when  
4 required by the provisions of this Act and the regulations of  
5 the Director, with intent to defraud the Director, shall in  
6 addition to such contribution or part thereof pay to the  
7 Director a penalty equal to 50 percent of the amount of such  
8 contribution or part thereof, as the case may be, provided that  
9 the penalty shall not be less than \$200.

10 Any employer who willfully fails to pay any contribution or  
11 part thereof, based upon wages paid in 1987 and in each  
12 calendar year thereafter, when required by the provisions of  
13 this Act and the regulations of the Director, with intent to  
14 defraud the Director, shall in addition to such contribution or  
15 part thereof pay to the Director a penalty equal to 60% of the  
16 amount of such contribution or part thereof, as the case may  
17 be, provided that the penalty shall not be less than \$400.

18 However, all or part of any penalty may be waived by the  
19 Director for good cause shown.

20 (Source: P.A. 85-956.)

21 Section 99. Effective date. This Act takes effect January  
22 1, 2006.