92\_SB0982 LRB9206667WHcs

- 1 AN ACT concerning wages.
- 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 amended by changing Sections 1, 2, and 9 as follows:
- 6 (820 ILCS 115/1) (from Ch. 48, par. 39m-1)
- 7 Sec. 1. This Act applies to all employers, labor
- 8 organizations, and employees in this State, including
- 9 employees of units of local government and school districts,
- 10 but excepting employees of the State or Federal governments.
- 11 (Source: P.A. 84-883.)
- 12 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)
- 13 Sec. 2. For all employees, other than separated
- 14 employees, "wages" shall be defined as any compensation owed
- 15 an employee by an employer pursuant to an employment contract
- or agreement between the 2 parties, whether the amount is
- 17 determined on a time, task, piece, or any other basis of
- 18 calculation. Payments to separated employees shall be termed
- 19 "final compensation" and shall be defined as wages, salaries,
- 20 earned commissions, earned bonuses, and the monetary
- 21 equivalent of earned vacation and earned holidays, and any
- 22 other compensation owed the employee by the employer pursuant
- 23 to an employment contract or agreement between the 2 parties.
- 24 Where an employer is legally committed through a collective
- 25 bargaining agreement or otherwise to make contributions to an
- 26 employee benefit, trust or fund on the basis of a certain
- amount per hour, day, week or other period of time, the
- amount due from the employer to such employee benefit, trust,
- or fund shall be defined as "wage supplements", subject to
- 30 the wage collection provisions of this Act.

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

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

- (1) who has been and will continue to be free from control and direction over the performance of his work, both under his contract of service with his employer and in fact; and
- (2) who performs work which is either outside the usual course of business or is performed outside all of the places of business of the employer unless the employer is in the business of contracting with third parties for the placement of employees; and
- (3) who is in an independently established trade, occupation, profession or business.

As used in this Act, "labor organization" means any association or organization of employees, and any agency, employee representation committee, or plan in which employees participate that exists, in whole or in part, to advocate on behalf of employees about grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

- 31 (820 ILCS 115/9) (from Ch. 48, par. 39m-9)
- 32 Sec. 9. Except as hereinafter provided, deductions by 33 employers from wages or final compensation are prohibited

1 unless such deductions are (1) required by law; (2) to the 2 benefit of the employee; (3) in response to a valid wage assignment or wage deduction order; (4) made with the express 3 4 written consent of the employee, given freely at the time the 5 deduction is made; (5) made by a municipality with a 6 population of 500,000 or more, a community college district 7 in a city with a population of 500,000 or more, a housing in a municipality with a population of 500,000 or 8 9 more, the Chicago Park District, the Metropolitan Transit Authority, or the Chicago School Reform Board of Trustees to 10 11 pay a debt owed by the employee to a municipality with a population of 500,000 or more; provided, however, that the 12 amount deducted from any one salary or wage 13 payment shall not exceed 25% of the net amount of the payment; or (6) made 14 by a housing authority in a municipality with a population of 15 16 500,000 or more or a municipality with a population of 500,000 or more to pay a debt owed by the employee to a 17 18 housing authority in a municipality with a population of 19 500,000 or more; provided, however, that the amount deducted from any one salary or wage payment shall not exceed 25% of 20 2.1 the net amount of the payment. Before the municipality with a population of 500,000 or more, the Chicago Park District, the 22 23 Metropolitan Transit Authority, a housing authority in a municipality with a population of 500,000 or more, or 24 25 Chicago School Reform Board of Trustees deducts any amount from any salary or wage of an employee to pay a debt owed to 26 a municipality with a population of 500,000 or more under 27 this Section, the municipality shall certify that 28 29 employee has been afforded an opportunity for a hearing to 30 dispute the debt that is due and owing the municipality. housing authority in a municipality with a 31 Before 32 population of 500,000 or more or a municipality with population of 500,000 or more deducts any amount from any 33 34 salary or wage of an employee to pay a debt owed to a housing

1 authority in a municipality with a population of 500,000 or 2 more under this Section, the housing authority shall certify that the employee has been afforded an opportunity for a 3 4 hearing to dispute the debt that is due and owing the housing 5 authority. For purposes of this Section, "net amount" means 6 that part of the salary or wage payment remaining after the 7 deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed 8 to the municipality or housing authority for services, work, 9 or goods, after the period granted for payment has expired, 10 11 or (ii) a specified sum of money owed to the municipality or housing authority pursuant to a court order or order of an 12 administrative hearing officer after the exhaustion of, 13 or exhaust, judicial review. 14 failure to Where t.he 15 legitimacy of any deduction from wages is in dispute, 16 amount in question may be withheld if the employer notifies the Department of Labor on the date the payment is due 17 writing of the amount that is being withheld and stating the 18 reasons for which the payment is withheld. Upon 19 the Department of Labor shall conduct 20 notification an 21 investigation and render a judgment as promptly as possible, 22 and shall complete such investigation within 30 days of 23 receipt of the notification by the employer that wages have been withheld. The employer shall pay the wages due upon 24 25 order of the Department of Labor within 15 calendar days of issuance of a judgment on the dispute. 26 The Department shall establish rules to protect the 27

The Department shall establish rules to protect the interests of both parties in cases of disputed deductions from wages. Such rules shall include reasonable limitations on the amount of deductions beyond those required by law which may be made during any pay period by any employer.

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In case of a dispute over wages, the employer shall pay, without condition and within the time set by this Act, all wages or parts thereof, conceded by him to be due, leaving to

- 1 the employee all remedies to which he may otherwise be
- 2 entitled as to any balance claimed. The acceptance by an
- 3 employee of a disputed paycheck shall not constitute a
- 4 release as to the balance of his claim and any release or
- 5 restrictive endorsement required by an employer as a
- 6 condition to payment shall be a violation of this Act and
- 7 shall be void.
- 8 An employer is prohibited from deducting from wages or
- 9 <u>final compensation, including funds collected by an employer</u>
- 10 for a labor organization, any amounts for political purposes,
- 11 <u>unless</u> the employer is provided written permission from the
- 12 <u>employee expressly allowing the employer to deduct the</u>
- amounts from his or her wages or final compensation.
- 14 (Source: P.A. 90-22, eff. 6-20-97; 91-443, eff. 8-6-99.)