EMPLOYMENT
(820 ILCS 115/) Illinois Wage Payment and Collection Act.

(820 ILCS 115/1) (from Ch. 48, par. 39m-1)
Sec. 1. This Act applies to all employers and employees in this State, including employees of units of local government and school districts, but excepting employees of the State or Federal governments.
(Source: P.A. 84-883.)

(820 ILCS 115/2) (from Ch. 48, par. 39m-2)
Sec. 2. For all employees, other than separated employees, "wages" shall be defined as any compensation owed an employee by an employer pursuant to an employment contract or agreement between the 2 parties, whether the amount is determined on a time, task, piece, or any other basis of calculation. Payments to separated employees shall be termed "final compensation" and shall be defined as wages, salaries, earned commissions, earned bonuses, and the monetary equivalent of earned vacation and earned holidays, and any other compensation owed the employee by the employer pursuant to an employment contract or agreement between the 2 parties. Where an employer is legally committed through a collective bargaining agreement or otherwise to make contributions to an 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 the wage collection provisions of this Act.

As used in this Act, the term "employer" shall include any individual, partnership, association, corporation, limited liability company, business trust, employment and labor placement agencies where wage payments are made directly or indirectly by the agency or business for work undertaken by employees under hire to a third party pursuant to a contract between the business or agency with the third party, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, for which one or more 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.
(Source: P.A. 94-1025, eff. 7-14-06.)

(820 ILCS 115/3) (from Ch. 48, par. 39m-3)
Sec. 3. Every employer shall be required, at least semi-monthly, to pay every employee all wages earned during the semi-monthly pay period. Wages of executive, administrative and professional employees, as defined in the Federal Fair Labor Standards Act of 1939, may be paid once a month. Commissions may be paid once a month. At the request of a person employed by an employment or labor placement agency which, in the ordinary course of business, makes daily wage payments to employees, the agency shall hold the daily wages and make either weekly or semi-monthly payments. Upon the written request of the employee, the wage shall be paid in a single check representing the wages earned during the period, either weekly or semi-monthly, designated by the employee in accordance with Section 4 of this Act. Employment and labor placement agencies that
make daily wage payments shall provide written notification to all daily wage payment employees of the right to request weekly or semi-monthly checks. The employer may provide this notice by conspicuously posting the notice at the location where the wages are received by the daily wage employees.  
(Source: P.A. 89-364, eff. 8-18-95.)

(820 ILCS 115/4) (from Ch. 48, par. 39m-4)

Sec. 4. All wages earned by any employee during a semi-monthly or bi-weekly pay period shall be paid to such employee not later than 13 days after the end of the pay period in which such wages were earned. All wages earned by any employee during a weekly pay period shall be paid not later than 7 days after the end of the weekly pay period in which the wages were earned. All wages paid on a daily basis shall be paid insofar as possible on the same day as the wages were earned, or not later in any event than 24 hours after the day on which the wages were earned. Wages of executive, administrative and professional employees, as defined in the Federal Fair Labor Standards Act of 1938, may be paid on or before 21 calendar days after the period during which they are earned.

The terms of this Section shall not apply, if there exists a valid collective bargaining agreement which provides for a different date or for different arrangements for the payment of wages.

Employers shall pay to workers on strike or layoff, no later than the next regular payday, all wages earned up to the time of such strike or layoff.

Any employee who is absent at the time fixed for payment, or who for any other reason is not paid at that time, shall be paid upon demand at any time within a period of 5 days after the time fixed for payment; and after the expiration of the 5 day period, payment shall be made upon 5 days demand. Payment to the absent employee shall be made by mail if the employee so requests in writing.

All wages and final compensation shall be paid in lawful money of the United States, by check, redeemable upon demand and without discount at a bank or other financial institution readily available to the employee, or by deposit of funds in an account in a bank or other financial institution designated by the employee.

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(Source: P.A. 89-364, eff. 8-18-95.)

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

Sec. 5. Every employer shall pay the final compensation of separated employees in full, at the time of separation, if possible, but in no case later than the next regularly scheduled payday for such employee. Where such employee requests in writing that his final compensation be paid by check and mailed to him, the employer shall comply with this request.

Unless otherwise provided in a collective bargaining agreement, whenever a contract of employment or employment policy provides for paid vacations, and an employee resigns or is terminated without having taken all vacation time earned in accordance with such contract of employment or employment policy, the monetary equivalent of all earned vacation shall be paid to him or her as part of his or her final compensation at his or her final rate of pay and no employment contract or employment policy shall provide for forfeiture of earned vacation time upon separation.  
(Source: P.A. 83-199.)

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

Sec. 6. The Director of the Department of Labor, or any other person in the Department designated by him, shall be authorized to assist any employee and act on his behalf in the collection
of wages or final compensation due him, provided, however, that the Director, or his designee, may
assist a class of employees and act in their behalf in a class action; or with respect to all employees
of the class with respect to whom payments are due.
(Source: P.A. 81-593.)

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(820 ILCS 115/9) (from Ch. 48, par. 39m-9)

Sec. 9. Except as hereinafter provided, deductions by employers from wages or final
compensation are prohibited unless such deductions are (1) required by law; (2) to the benefit of the
employee; (3) in response to a valid wage assignment or wage deduction order; (4) made with the
express written consent of the employee, given freely at the time the deduction is made; (5) made by
a municipality with a population of 500,000 or more, a county with a population of 3,000,000 or
more, a community college district in a city with a population of 500,000 or more, a housing
authority in a municipality with a population of 500,000 or more, [or certain other public entities] ...
[such an entity] .... provided, however, that the amount deducted from any one salary or wage
payment shall not exceed 25% of the net amount of the payment.... [other conditions omitted]
(Source: P.A. 91-443, eff. 8-6-99; 92-109, eff. 7-20-01.)

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

Sec. 10. Employers shall notify employees, at the time of hiring, of the rate of pay and of the time
and place of payment. Whenever possible, such notification shall be in writing and shall be
acknowledged by both parties. Employers shall also notify employees of any changes in the
arrangements, specified above, prior to the time of change. Employers shall keep records of names
and addresses of all employees and of wages paid each payday, and shall furnish each employee
with an itemized statement of deductions made from his wages for each pay period. Every employer
shall post and keep posted at each regular place of business in a position easily accessible to all
employees one or more notices indicating the regular paydays and the place and time for payment of
his employees, and on forms supplied from time to time by the Department of Labor containing a
copy or summary of the provisions of this Act.
(Source: P.A. 81-593.)

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

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

The department shall have the following powers:
(a) To investigate and attempt equitably to adjust controversies between employees and
employers in respect of wage claims arising under this Act and to that end the department through
the Director of Labor or any other person in the Department of Labor designated by him or her, shall
have the power to administer oaths, subpoena and examine witnesses, to issue subpoenas duces
tecum requiring the production of such books, papers, records and documents as may be evidence of
any matter under inquiry and to examine and inspect the same as may relate to the question in
dispute. Service of such subpoenas shall be made by any sheriff or any person. Any court in this
State, upon the application of the department may compel attendance of witnesses, the production of
books and papers, and the giving of testimony before the department by attachment for contempt or
in any other way as the production of evidence may be compelled before such court.
(b) To take assignments of wage claims in the name of the Director of Labor and his or her successors in office and prosecute actions for the collection of wages for persons financially unable to prosecute such claims when in the judgment of the department such claims are valid and enforceable in the courts. No court costs or any fees for necessary process and proceedings shall be payable in advance by the department for prosecuting such actions. In the event there is a judgment rendered against the defendant, the court shall assess as part of such judgment the costs of such proceeding. Upon collection of such judgments the department shall pay from the proceeds of such judgment such costs to such person who is by law entitled to same. The department may join in a single proceeding any number of wage claims against the same employer but the court shall have discretionary power to order a severance or separate trial for hearings.

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

Nothing herein shall be construed to prevent any employee from making complaint or prosecuting his or her own claim for wages.

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

(Source: P.A. 83-1362.)

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

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

(b) Any employer who has been demanded by the Director of Labor or ordered by the court to pay wages due an employee and who shall fail to do so within 15 days after such demand or order is entered shall be liable to pay a penalty of 1% per calendar day to the employee for each day of delay in paying such wages to the employee up to an amount equal to twice the sum of unpaid wages due the employee.

(c) Any employer, or any agent of an employer, who knowingly discharges or in any other manner knowingly discriminates against any employee because that employee has made a complaint to his employer, or to the Director of Labor or his authorized representative, that he or she has not been paid in accordance with the provisions of this Act, or because that employee has caused to be instituted any proceeding under or related to this Act, or because that employee has testified or is about to testify in an investigation or proceeding under this Act, is guilty, upon conviction, of a Class C misdemeanor.

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

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