

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 1. This Act may be referred to as the Lifting Up
5 Illinois Working Families Act.

6 Section 5. The Illinois Administrative Procedure Act is
7 amended by changing Section 5-45 as follows:

8 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

9 Sec. 5-45. Emergency rulemaking.

10 (a) "Emergency" means the existence of any situation that
11 any agency finds reasonably constitutes a threat to the public
12 interest, safety, or welfare.

13 (b) If any agency finds that an emergency exists that
14 requires adoption of a rule upon fewer days than is required by
15 Section 5-40 and states in writing its reasons for that
16 finding, the agency may adopt an emergency rule without prior
17 notice or hearing upon filing a notice of emergency rulemaking
18 with the Secretary of State under Section 5-70. The notice
19 shall include the text of the emergency rule and shall be
20 published in the Illinois Register. Consent orders or other
21 court orders adopting settlements negotiated by an agency may
22 be adopted under this Section. Subject to applicable

1 constitutional or statutory provisions, an emergency rule
2 becomes effective immediately upon filing under Section 5-65 or
3 at a stated date less than 10 days thereafter. The agency's
4 finding and a statement of the specific reasons for the finding
5 shall be filed with the rule. The agency shall take reasonable
6 and appropriate measures to make emergency rules known to the
7 persons who may be affected by them.

8 (c) An emergency rule may be effective for a period of not
9 longer than 150 days, but the agency's authority to adopt an
10 identical rule under Section 5-40 is not precluded. No
11 emergency rule may be adopted more than once in any 24-month
12 period, except that this limitation on the number of emergency
13 rules that may be adopted in a 24-month period does not apply
14 to (i) emergency rules that make additions to and deletions
15 from the Drug Manual under Section 5-5.16 of the Illinois
16 Public Aid Code or the generic drug formulary under Section
17 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
18 emergency rules adopted by the Pollution Control Board before
19 July 1, 1997 to implement portions of the Livestock Management
20 Facilities Act, (iii) emergency rules adopted by the Illinois
21 Department of Public Health under subsections (a) through (i)
22 of Section 2 of the Department of Public Health Act when
23 necessary to protect the public's health, (iv) emergency rules
24 adopted pursuant to subsection (n) of this Section, (v)
25 emergency rules adopted pursuant to subsection (o) of this
26 Section, or (vi) emergency rules adopted pursuant to subsection

1 (c-5) of this Section. Two or more emergency rules having
2 substantially the same purpose and effect shall be deemed to be
3 a single rule for purposes of this Section.

4 (c-5) To facilitate the maintenance of the program of group
5 health benefits provided to annuitants, survivors, and retired
6 employees under the State Employees Group Insurance Act of
7 1971, rules to alter the contributions to be paid by the State,
8 annuitants, survivors, retired employees, or any combination
9 of those entities, for that program of group health benefits,
10 shall be adopted as emergency rules. The adoption of those
11 rules shall be considered an emergency and necessary for the
12 public interest, safety, and welfare.

13 (d) In order to provide for the expeditious and timely
14 implementation of the State's fiscal year 1999 budget,
15 emergency rules to implement any provision of Public Act 90-587
16 or 90-588 or any other budget initiative for fiscal year 1999
17 may be adopted in accordance with this Section by the agency
18 charged with administering that provision or initiative,
19 except that the 24-month limitation on the adoption of
20 emergency rules and the provisions of Sections 5-115 and 5-125
21 do not apply to rules adopted under this subsection (d). The
22 adoption of emergency rules authorized by this subsection (d)
23 shall be deemed to be necessary for the public interest,
24 safety, and welfare.

25 (e) In order to provide for the expeditious and timely
26 implementation of the State's fiscal year 2000 budget,

1 emergency rules to implement any provision of Public Act 91-24
2 or any other budget initiative for fiscal year 2000 may be
3 adopted in accordance with this Section by the agency charged
4 with administering that provision or initiative, except that
5 the 24-month limitation on the adoption of emergency rules and
6 the provisions of Sections 5-115 and 5-125 do not apply to
7 rules adopted under this subsection (e). The adoption of
8 emergency rules authorized by this subsection (e) shall be
9 deemed to be necessary for the public interest, safety, and
10 welfare.

11 (f) In order to provide for the expeditious and timely
12 implementation of the State's fiscal year 2001 budget,
13 emergency rules to implement any provision of Public Act 91-712
14 or any other budget initiative for fiscal year 2001 may be
15 adopted in accordance with this Section by the agency charged
16 with administering that provision or initiative, except that
17 the 24-month limitation on the adoption of emergency rules and
18 the provisions of Sections 5-115 and 5-125 do not apply to
19 rules adopted under this subsection (f). The adoption of
20 emergency rules authorized by this subsection (f) shall be
21 deemed to be necessary for the public interest, safety, and
22 welfare.

23 (g) In order to provide for the expeditious and timely
24 implementation of the State's fiscal year 2002 budget,
25 emergency rules to implement any provision of Public Act 92-10
26 or any other budget initiative for fiscal year 2002 may be

1 adopted in accordance with this Section by the agency charged
2 with administering that provision or initiative, except that
3 the 24-month limitation on the adoption of emergency rules and
4 the provisions of Sections 5-115 and 5-125 do not apply to
5 rules adopted under this subsection (g). The adoption of
6 emergency rules authorized by this subsection (g) shall be
7 deemed to be necessary for the public interest, safety, and
8 welfare.

9 (h) In order to provide for the expeditious and timely
10 implementation of the State's fiscal year 2003 budget,
11 emergency rules to implement any provision of Public Act 92-597
12 or any other budget initiative for fiscal year 2003 may be
13 adopted in accordance with this Section by the agency charged
14 with administering that provision or initiative, except that
15 the 24-month limitation on the adoption of emergency rules and
16 the provisions of Sections 5-115 and 5-125 do not apply to
17 rules adopted under this subsection (h). The adoption of
18 emergency rules authorized by this subsection (h) shall be
19 deemed to be necessary for the public interest, safety, and
20 welfare.

21 (i) In order to provide for the expeditious and timely
22 implementation of the State's fiscal year 2004 budget,
23 emergency rules to implement any provision of Public Act 93-20
24 or any other budget initiative for fiscal year 2004 may be
25 adopted in accordance with this Section by the agency charged
26 with administering that provision or initiative, except that

1 the 24-month limitation on the adoption of emergency rules and
2 the provisions of Sections 5-115 and 5-125 do not apply to
3 rules adopted under this subsection (i). The adoption of
4 emergency rules authorized by this subsection (i) shall be
5 deemed to be necessary for the public interest, safety, and
6 welfare.

7 (j) In order to provide for the expeditious and timely
8 implementation of the provisions of the State's fiscal year
9 2005 budget as provided under the Fiscal Year 2005 Budget
10 Implementation (Human Services) Act, emergency rules to
11 implement any provision of the Fiscal Year 2005 Budget
12 Implementation (Human Services) Act may be adopted in
13 accordance with this Section by the agency charged with
14 administering that provision, except that the 24-month
15 limitation on the adoption of emergency rules and the
16 provisions of Sections 5-115 and 5-125 do not apply to rules
17 adopted under this subsection (j). The Department of Public Aid
18 may also adopt rules under this subsection (j) necessary to
19 administer the Illinois Public Aid Code and the Children's
20 Health Insurance Program Act. The adoption of emergency rules
21 authorized by this subsection (j) shall be deemed to be
22 necessary for the public interest, safety, and welfare.

23 (k) In order to provide for the expeditious and timely
24 implementation of the provisions of the State's fiscal year
25 2006 budget, emergency rules to implement any provision of
26 Public Act 94-48 or any other budget initiative for fiscal year

1 2006 may be adopted in accordance with this Section by the
2 agency charged with administering that provision or
3 initiative, except that the 24-month limitation on the adoption
4 of emergency rules and the provisions of Sections 5-115 and
5 5-125 do not apply to rules adopted under this subsection (k).
6 The Department of Healthcare and Family Services may also adopt
7 rules under this subsection (k) necessary to administer the
8 Illinois Public Aid Code, the Senior Citizens and Persons with
9 Disabilities Property Tax Relief Act, the Senior Citizens and
10 Disabled Persons Prescription Drug Discount Program Act (now
11 the Illinois Prescription Drug Discount Program Act), and the
12 Children's Health Insurance Program Act. The adoption of
13 emergency rules authorized by this subsection (k) shall be
14 deemed to be necessary for the public interest, safety, and
15 welfare.

16 (1) In order to provide for the expeditious and timely
17 implementation of the provisions of the State's fiscal year
18 2007 budget, the Department of Healthcare and Family Services
19 may adopt emergency rules during fiscal year 2007, including
20 rules effective July 1, 2007, in accordance with this
21 subsection to the extent necessary to administer the
22 Department's responsibilities with respect to amendments to
23 the State plans and Illinois waivers approved by the federal
24 Centers for Medicare and Medicaid Services necessitated by the
25 requirements of Title XIX and Title XXI of the federal Social
26 Security Act. The adoption of emergency rules authorized by

1 this subsection (l) shall be deemed to be necessary for the
2 public interest, safety, and welfare.

3 (m) In order to provide for the expeditious and timely
4 implementation of the provisions of the State's fiscal year
5 2008 budget, the Department of Healthcare and Family Services
6 may adopt emergency rules during fiscal year 2008, including
7 rules effective July 1, 2008, in accordance with this
8 subsection to the extent necessary to administer the
9 Department's responsibilities with respect to amendments to
10 the State plans and Illinois waivers approved by the federal
11 Centers for Medicare and Medicaid Services necessitated by the
12 requirements of Title XIX and Title XXI of the federal Social
13 Security Act. The adoption of emergency rules authorized by
14 this subsection (m) shall be deemed to be necessary for the
15 public interest, safety, and welfare.

16 (n) In order to provide for the expeditious and timely
17 implementation of the provisions of the State's fiscal year
18 2010 budget, emergency rules to implement any provision of
19 Public Act 96-45 or any other budget initiative authorized by
20 the 96th General Assembly for fiscal year 2010 may be adopted
21 in accordance with this Section by the agency charged with
22 administering that provision or initiative. The adoption of
23 emergency rules authorized by this subsection (n) shall be
24 deemed to be necessary for the public interest, safety, and
25 welfare. The rulemaking authority granted in this subsection
26 (n) shall apply only to rules promulgated during Fiscal Year

1 2010.

2 (o) In order to provide for the expeditious and timely
3 implementation of the provisions of the State's fiscal year
4 2011 budget, emergency rules to implement any provision of
5 Public Act 96-958 or any other budget initiative authorized by
6 the 96th General Assembly for fiscal year 2011 may be adopted
7 in accordance with this Section by the agency charged with
8 administering that provision or initiative. The adoption of
9 emergency rules authorized by this subsection (o) is deemed to
10 be necessary for the public interest, safety, and welfare. The
11 rulemaking authority granted in this subsection (o) applies
12 only to rules promulgated on or after July 1, 2010 (the
13 effective date of Public Act 96-958) through June 30, 2011.

14 (p) In order to provide for the expeditious and timely
15 implementation of the provisions of Public Act 97-689,
16 emergency rules to implement any provision of Public Act 97-689
17 may be adopted in accordance with this subsection (p) by the
18 agency charged with administering that provision or
19 initiative. The 150-day limitation of the effective period of
20 emergency rules does not apply to rules adopted under this
21 subsection (p), and the effective period may continue through
22 June 30, 2013. The 24-month limitation on the adoption of
23 emergency rules does not apply to rules adopted under this
24 subsection (p). The adoption of emergency rules authorized by
25 this subsection (p) is deemed to be necessary for the public
26 interest, safety, and welfare.

1 (q) In order to provide for the expeditious and timely
2 implementation of the provisions of Articles 7, 8, 9, 11, and
3 12 of Public Act 98-104, emergency rules to implement any
4 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
5 may be adopted in accordance with this subsection (q) by the
6 agency charged with administering that provision or
7 initiative. The 24-month limitation on the adoption of
8 emergency rules does not apply to rules adopted under this
9 subsection (q). The adoption of emergency rules authorized by
10 this subsection (q) is deemed to be necessary for the public
11 interest, safety, and welfare.

12 (r) In order to provide for the expeditious and timely
13 implementation of the provisions of Public Act 98-651,
14 emergency rules to implement Public Act 98-651 may be adopted
15 in accordance with this subsection (r) by the Department of
16 Healthcare and Family Services. The 24-month limitation on the
17 adoption of emergency rules does not apply to rules adopted
18 under this subsection (r). The adoption of emergency rules
19 authorized by this subsection (r) is deemed to be necessary for
20 the public interest, safety, and welfare.

21 (s) In order to provide for the expeditious and timely
22 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
23 the Illinois Public Aid Code, emergency rules to implement any
24 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
25 Public Aid Code may be adopted in accordance with this
26 subsection (s) by the Department of Healthcare and Family

1 Services. The rulemaking authority granted in this subsection
2 (s) shall apply only to those rules adopted prior to July 1,
3 2015. Notwithstanding any other provision of this Section, any
4 emergency rule adopted under this subsection (s) shall only
5 apply to payments made for State fiscal year 2015. The adoption
6 of emergency rules authorized by this subsection (s) is deemed
7 to be necessary for the public interest, safety, and welfare.

8 (t) In order to provide for the expeditious and timely
9 implementation of the provisions of Article II of Public Act
10 99-6, emergency rules to implement the changes made by Article
11 II of Public Act 99-6 to the Emergency Telephone System Act may
12 be adopted in accordance with this subsection (t) by the
13 Department of State Police. The rulemaking authority granted in
14 this subsection (t) shall apply only to those rules adopted
15 prior to July 1, 2016. The 24-month limitation on the adoption
16 of emergency rules does not apply to rules adopted under this
17 subsection (t). The adoption of emergency rules authorized by
18 this subsection (t) is deemed to be necessary for the public
19 interest, safety, and welfare.

20 (u) In order to provide for the expeditious and timely
21 implementation of the provisions of the Burn Victims Relief
22 Act, emergency rules to implement any provision of the Act may
23 be adopted in accordance with this subsection (u) by the
24 Department of Insurance. The rulemaking authority granted in
25 this subsection (u) shall apply only to those rules adopted
26 prior to December 31, 2015. The adoption of emergency rules

1 authorized by this subsection (u) is deemed to be necessary for
2 the public interest, safety, and welfare.

3 (v) In order to provide for the expeditious and timely
4 implementation of the provisions of Public Act 99-516,
5 emergency rules to implement Public Act 99-516 may be adopted
6 in accordance with this subsection (v) by the Department of
7 Healthcare and Family Services. The 24-month limitation on the
8 adoption of emergency rules does not apply to rules adopted
9 under this subsection (v). The adoption of emergency rules
10 authorized by this subsection (v) is deemed to be necessary for
11 the public interest, safety, and welfare.

12 (w) In order to provide for the expeditious and timely
13 implementation of the provisions of Public Act 99-796,
14 emergency rules to implement the changes made by Public Act
15 99-796 may be adopted in accordance with this subsection (w) by
16 the Adjutant General. The adoption of emergency rules
17 authorized by this subsection (w) is deemed to be necessary for
18 the public interest, safety, and welfare.

19 (x) In order to provide for the expeditious and timely
20 implementation of the provisions of Public Act 99-906,
21 emergency rules to implement subsection (i) of Section 16-115D,
22 subsection (g) of Section 16-128A, and subsection (a) of
23 Section 16-128B of the Public Utilities Act may be adopted in
24 accordance with this subsection (x) by the Illinois Commerce
25 Commission. The rulemaking authority granted in this
26 subsection (x) shall apply only to those rules adopted within

1 180 days after June 1, 2017 (the effective date of Public Act
2 99-906). The adoption of emergency rules authorized by this
3 subsection (x) is deemed to be necessary for the public
4 interest, safety, and welfare.

5 (y) In order to provide for the expeditious and timely
6 implementation of the provisions of Public Act 100-23,
7 emergency rules to implement the changes made by Public Act
8 100-23 to Section 4.02 of the Illinois Act on the Aging,
9 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
10 Section 55-30 of the Alcoholism and Other Drug Abuse and
11 Dependency Act, and Sections 74 and 75 of the Mental Health and
12 Developmental Disabilities Administrative Act may be adopted
13 in accordance with this subsection (y) by the respective
14 Department. The adoption of emergency rules authorized by this
15 subsection (y) is deemed to be necessary for the public
16 interest, safety, and welfare.

17 (z) In order to provide for the expeditious and timely
18 implementation of the provisions of Public Act 100-554,
19 emergency rules to implement the changes made by Public Act
20 100-554 to Section 4.7 of the Lobbyist Registration Act may be
21 adopted in accordance with this subsection (z) by the Secretary
22 of State. The adoption of emergency rules authorized by this
23 subsection (z) is deemed to be necessary for the public
24 interest, safety, and welfare.

25 (aa) In order to provide for the expeditious and timely
26 initial implementation of the changes made to Articles 5, 5A,

1 12, and 14 of the Illinois Public Aid Code under the provisions
2 of Public Act 100-581, the Department of Healthcare and Family
3 Services may adopt emergency rules in accordance with this
4 subsection (aa). The 24-month limitation on the adoption of
5 emergency rules does not apply to rules to initially implement
6 the changes made to Articles 5, 5A, 12, and 14 of the Illinois
7 Public Aid Code adopted under this subsection (aa). The
8 adoption of emergency rules authorized by this subsection (aa)
9 is deemed to be necessary for the public interest, safety, and
10 welfare.

11 (bb) In order to provide for the expeditious and timely
12 implementation of the provisions of Public Act 100-587,
13 emergency rules to implement the changes made by Public Act
14 100-587 to Section 4.02 of the Illinois Act on the Aging,
15 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
16 subsection (b) of Section 55-30 of the Alcoholism and Other
17 Drug Abuse and Dependency Act, Section 5-104 of the Specialized
18 Mental Health Rehabilitation Act of 2013, and Section 75 and
19 subsection (b) of Section 74 of the Mental Health and
20 Developmental Disabilities Administrative Act may be adopted
21 in accordance with this subsection (bb) by the respective
22 Department. The adoption of emergency rules authorized by this
23 subsection (bb) is deemed to be necessary for the public
24 interest, safety, and welfare.

25 (cc) In order to provide for the expeditious and timely
26 implementation of the provisions of Public Act 100-587,

1 emergency rules may be adopted in accordance with this
2 subsection (cc) to implement the changes made by Public Act
3 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois
4 Pension Code by the Board created under Article 14 of the Code;
5 Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by
6 the Board created under Article 15 of the Code; and Sections
7 16-190.5 and 16-190.6 of the Illinois Pension Code by the Board
8 created under Article 16 of the Code. The adoption of emergency
9 rules authorized by this subsection (cc) is deemed to be
10 necessary for the public interest, safety, and welfare.

11 (dd) In order to provide for the expeditious and timely
12 implementation of the provisions of Public Act 100-864,
13 emergency rules to implement the changes made by Public Act
14 100-864 to Section 3.35 of the Newborn Metabolic Screening Act
15 may be adopted in accordance with this subsection (dd) by the
16 Secretary of State. The adoption of emergency rules authorized
17 by this subsection (dd) is deemed to be necessary for the
18 public interest, safety, and welfare.

19 (ee) In order to provide for the expeditious and timely
20 implementation of the provisions of this amendatory Act of the
21 100th General Assembly, emergency rules implementing the
22 Illinois Underground Natural Gas Storage Safety Act may be
23 adopted in accordance with this subsection by the Department of
24 Natural Resources. The adoption of emergency rules authorized
25 by this subsection is deemed to be necessary for the public
26 interest, safety, and welfare.

1 (ff) In order to provide for the expeditious and timely
2 implementation of the provisions of this amendatory Act of the
3 101st General Assembly, emergency rules may be adopted by the
4 Department of Labor in accordance with this subsection (ff) to
5 implement the changes made by this amendatory Act of the 101st
6 General Assembly to the Minimum Wage Law. The adoption of
7 emergency rules authorized by this subsection (ff) is deemed to
8 be necessary for the public interest, safety, and welfare.

9 (Source: P.A. 99-2, eff. 3-26-15; 99-6, eff. 1-1-16; 99-143,
10 eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff. 6-30-16;
11 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906, eff. 6-1-17;
12 100-23, eff. 7-6-17; 100-554, eff. 11-16-17; 100-581, eff.
13 3-12-18; 100-587, Article 95, Section 95-5, eff. 6-4-18;
14 100-587, Article 110, Section 110-5, eff. 6-4-18; 100-864, eff.
15 8-14-18; 100-1172, eff. 1-4-19.)

16 Section 10. The Illinois Income Tax Act is amended by
17 changing Section 704A as follows:

18 (35 ILCS 5/704A)

19 Sec. 704A. Employer's return and payment of tax withheld.

20 (a) In general, every employer who deducts and withholds or
21 is required to deduct and withhold tax under this Act on or
22 after January 1, 2008 shall make those payments and returns as
23 provided in this Section.

24 (b) Returns. Every employer shall, in the form and manner

1 required by the Department, make returns with respect to taxes
2 withheld or required to be withheld under this Article 7 for
3 each quarter beginning on or after January 1, 2008, on or
4 before the last day of the first month following the close of
5 that quarter.

6 (c) Payments. With respect to amounts withheld or required
7 to be withheld on or after January 1, 2008:

8 (1) Semi-weekly payments. For each calendar year, each
9 employer who withheld or was required to withhold more than
10 \$12,000 during the one-year period ending on June 30 of the
11 immediately preceding calendar year, payment must be made:

12 (A) on or before each Friday of the calendar year,
13 for taxes withheld or required to be withheld on the
14 immediately preceding Saturday, Sunday, Monday, or
15 Tuesday;

16 (B) on or before each Wednesday of the calendar
17 year, for taxes withheld or required to be withheld on
18 the immediately preceding Wednesday, Thursday, or
19 Friday.

20 Beginning with calendar year 2011, payments made under
21 this paragraph (1) of subsection (c) must be made by
22 electronic funds transfer.

23 (2) Semi-weekly payments. Any employer who withholds
24 or is required to withhold more than \$12,000 in any quarter
25 of a calendar year is required to make payments on the
26 dates set forth under item (1) of this subsection (c) for

1 each remaining quarter of that calendar year and for the
2 subsequent calendar year.

3 (3) Monthly payments. Each employer, other than an
4 employer described in items (1) or (2) of this subsection,
5 shall pay to the Department, on or before the 15th day of
6 each month the taxes withheld or required to be withheld
7 during the immediately preceding month.

8 (4) Payments with returns. Each employer shall pay to
9 the Department, on or before the due date for each return
10 required to be filed under this Section, any tax withheld
11 or required to be withheld during the period for which the
12 return is due and not previously paid to the Department.

13 (d) Regulatory authority. The Department may, by rule:

14 (1) Permit employers, in lieu of the requirements of
15 subsections (b) and (c), to file annual returns due on or
16 before January 31 of the year for taxes withheld or
17 required to be withheld during the previous calendar year
18 and, if the aggregate amounts required to be withheld by
19 the employer under this Article 7 (other than amounts
20 required to be withheld under Section 709.5) do not exceed
21 \$1,000 for the previous calendar year, to pay the taxes
22 required to be shown on each such return no later than the
23 due date for such return.

24 (2) Provide that any payment required to be made under
25 subsection (c)(1) or (c)(2) is deemed to be timely to the
26 extent paid by electronic funds transfer on or before the

1 due date for deposit of federal income taxes withheld from,
2 or federal employment taxes due with respect to, the wages
3 from which the Illinois taxes were withheld.

4 (3) Designate one or more depositories to which payment
5 of taxes required to be withheld under this Article 7 must
6 be paid by some or all employers.

7 (4) Increase the threshold dollar amounts at which
8 employers are required to make semi-weekly payments under
9 subsection (c) (1) or (c) (2).

10 (e) Annual return and payment. Every employer who deducts
11 and withholds or is required to deduct and withhold tax from a
12 person engaged in domestic service employment, as that term is
13 defined in Section 3510 of the Internal Revenue Code, may
14 comply with the requirements of this Section with respect to
15 such employees by filing an annual return and paying the taxes
16 required to be deducted and withheld on or before the 15th day
17 of the fourth month following the close of the employer's
18 taxable year. The Department may allow the employer's return to
19 be submitted with the employer's individual income tax return
20 or to be submitted with a return due from the employer under
21 Section 1400.2 of the Unemployment Insurance Act.

22 (f) Magnetic media and electronic filing. With respect to
23 taxes withheld in calendar years prior to 2017, any W-2 Form
24 that, under the Internal Revenue Code and regulations
25 promulgated thereunder, is required to be submitted to the
26 Internal Revenue Service on magnetic media or electronically

1 must also be submitted to the Department on magnetic media or
2 electronically for Illinois purposes, if required by the
3 Department.

4 With respect to taxes withheld in 2017 and subsequent
5 calendar years, the Department may, by rule, require that any
6 return (including any amended return) under this Section and
7 any W-2 Form that is required to be submitted to the Department
8 must be submitted on magnetic media or electronically.

9 The due date for submitting W-2 Forms shall be as
10 prescribed by the Department by rule.

11 (g) For amounts deducted or withheld after December 31,
12 2009, a taxpayer who makes an election under subsection (f) of
13 Section 5-15 of the Economic Development for a Growing Economy
14 Tax Credit Act for a taxable year shall be allowed a credit
15 against payments due under this Section for amounts withheld
16 during the first calendar year beginning after the end of that
17 taxable year equal to the amount of the credit for the
18 incremental income tax attributable to full-time employees of
19 the taxpayer awarded to the taxpayer by the Department of
20 Commerce and Economic Opportunity under the Economic
21 Development for a Growing Economy Tax Credit Act for the
22 taxable year and credits not previously claimed and allowed to
23 be carried forward under Section 211(4) of this Act as provided
24 in subsection (f) of Section 5-15 of the Economic Development
25 for a Growing Economy Tax Credit Act. The credit or credits may
26 not reduce the taxpayer's obligation for any payment due under

1 this Section to less than zero. If the amount of the credit or
2 credits exceeds the total payments due under this Section with
3 respect to amounts withheld during the calendar year, the
4 excess may be carried forward and applied against the
5 taxpayer's liability under this Section in the succeeding
6 calendar years as allowed to be carried forward under paragraph
7 (4) of Section 211 of this Act. The credit or credits shall be
8 applied to the earliest year for which there is a tax
9 liability. If there are credits from more than one taxable year
10 that are available to offset a liability, the earlier credit
11 shall be applied first. Each employer who deducts and withholds
12 or is required to deduct and withhold tax under this Act and
13 who retains income tax withholdings under subsection (f) of
14 Section 5-15 of the Economic Development for a Growing Economy
15 Tax Credit Act must make a return with respect to such taxes
16 and retained amounts in the form and manner that the
17 Department, by rule, requires and pay to the Department or to a
18 depository designated by the Department those withheld taxes
19 not retained by the taxpayer. For purposes of this subsection
20 (g), the term taxpayer shall include taxpayer and members of
21 the taxpayer's unitary business group as defined under
22 paragraph (27) of subsection (a) of Section 1501 of this Act.
23 This Section is exempt from the provisions of Section 250 of
24 this Act. No credit awarded under the Economic Development for
25 a Growing Economy Tax Credit Act for agreements entered into on
26 or after January 1, 2015 may be credited against payments due

1 under this Section.

2 (h) An employer may claim a credit against payments due
3 under this Section for amounts withheld during the first
4 calendar year ending after the date on which a tax credit
5 certificate was issued under Section 35 of the Small Business
6 Job Creation Tax Credit Act. The credit shall be equal to the
7 amount shown on the certificate, but may not reduce the
8 taxpayer's obligation for any payment due under this Section to
9 less than zero. If the amount of the credit exceeds the total
10 payments due under this Section with respect to amounts
11 withheld during the calendar year, the excess may be carried
12 forward and applied against the taxpayer's liability under this
13 Section in the 5 succeeding calendar years. The credit shall be
14 applied to the earliest year for which there is a tax
15 liability. If there are credits from more than one calendar
16 year that are available to offset a liability, the earlier
17 credit shall be applied first. This Section is exempt from the
18 provisions of Section 250 of this Act.

19 (i) Each employer with 50 or fewer full-time equivalent
20 employees during the reporting period may claim a credit
21 against the payments due under this Section for each qualified
22 employee in an amount equal to the maximum credit allowable.
23 The credit may be taken against payments due for reporting
24 periods that begin on or after January 1, 2020, and end on or
25 before December 31, 2027. An employer may not claim a credit
26 for an employee who has worked fewer than 90 consecutive days

1 immediately preceding the reporting period; however, such
2 credits may accrue during that 90-day period and be claimed
3 against payments under this Section for future reporting
4 periods after the employee has worked for the employer at least
5 90 consecutive days. In no event may the credit exceed the
6 employer's liability for the reporting period. Each employer
7 who deducts and withholds or is required to deduct and withhold
8 tax under this Act and who retains income tax withholdings
9 under this subsection must make a return with respect to such
10 taxes and retained amounts in the form and manner that the
11 Department, by rule, requires and pay to the Department or to a
12 depository designated by the Department those withheld taxes
13 not retained by the employer.

14 For each reporting period, the employer may not claim a
15 credit or credits for more employees than the number of
16 employees making less than the minimum or reduced wage for the
17 current calendar year during the last reporting period of the
18 preceding calendar year. Notwithstanding any other provision
19 of this subsection, an employer shall not be eligible for
20 credits for a reporting period unless the average wage paid by
21 the employer per employee for all employees making less than
22 \$55,000 during the reporting period is greater than the average
23 wage paid by the employer per employee for all employees making
24 less than \$55,000 during the same reporting period of the prior
25 calendar year.

26 For purposes of this subsection (i):

1 "Compensation paid in Illinois" has the meaning ascribed to
2 that term under Section 304(a)(2)(B) of this Act.

3 "Employer" and "employee" have the meaning ascribed to
4 those terms in the Minimum Wage Law, except that "employee"
5 also includes employees who work for an employer with fewer
6 than 4 employees. Employers that operate more than one
7 establishment pursuant to a franchise agreement or that
8 constitute members of a unitary business group shall aggregate
9 their employees for purposes of determining eligibility for the
10 credit.

11 "Full-time equivalent employees" means the ratio of the
12 number of paid hours during the reporting period and the number
13 of working hours in that period.

14 "Maximum credit" means the percentage listed below of the
15 difference between the amount of compensation paid in Illinois
16 to employees who are paid not more than the required minimum
17 wage reduced by the amount of compensation paid in Illinois to
18 employees who were paid less than the current required minimum
19 wage during the reporting period prior to each increase in the
20 required minimum wage on January 1. If an employer pays an
21 employee more than the required minimum wage and that employee
22 previously earned less than the required minimum wage, the
23 employer may include the portion that does not exceed the
24 required minimum wage as compensation paid in Illinois to
25 employees who are paid not more than the required minimum wage.

26 (1) 25% for reporting periods beginning on or after

1 January 1, 2020 and ending on or before December 31, 2020;

2 (2) 21% for reporting periods beginning on or after
3 January 1, 2021 and ending on or before December 31, 2021;

4 (3) 17% for reporting periods beginning on or after
5 January 1, 2022 and ending on or before December 31, 2022;

6 (4) 13% for reporting periods beginning on or after
7 January 1, 2023 and ending on or before December 31, 2023;

8 (5) 9% for reporting periods beginning on or after
9 January 1, 2024 and ending on or before December 31, 2024;

10 (6) 5% for reporting periods beginning on or after
11 January 1, 2025 and ending on or before December 31, 2025.

12 The amount computed under this subsection may continue to
13 be claimed for reporting periods beginning on or after January
14 1, 2026 and:

15 (A) ending on or before December 31, 2026 for employers
16 with more than 5 employees; or

17 (B) ending on or before December 31, 2027 for employers
18 with no more than 5 employees.

19 "Qualified employee" means an employee who is paid not more
20 than the required minimum wage and has an average wage paid per
21 hour by the employer during the reporting period equal to or
22 greater than his or her average wage paid per hour by the
23 employer during each reporting period for the immediately
24 preceding 12 months. A new qualified employee is deemed to have
25 earned the required minimum wage in the preceding reporting
26 period.

1 "Reporting period" means the quarter for which a return is
2 required to be filed under subsection (b) of this Section.

3 (Source: P.A. 100-303, eff. 8-24-17; 100-511, eff. 9-18-17;
4 100-863, eff. 8-14-18.)

5 Section 15. The Minimum Wage Law is amended by changing
6 Sections 4, 7, 10, 11, and 12 as follows:

7 (820 ILCS 105/4) (from Ch. 48, par. 1004)

8 Sec. 4. (a)(1) Every employer shall pay to each of his
9 employees in every occupation wages of not less than \$2.30 per
10 hour or in the case of employees under 18 years of age wages of
11 not less than \$1.95 per hour, except as provided in Sections 5
12 and 6 of this Act, and on and after January 1, 1984, every
13 employer shall pay to each of his employees in every occupation
14 wages of not less than \$2.65 per hour or in the case of
15 employees under 18 years of age wages of not less than \$2.25
16 per hour, and on and after October 1, 1984 every employer shall
17 pay to each of his employees in every occupation wages of not
18 less than \$3.00 per hour or in the case of employees under 18
19 years of age wages of not less than \$2.55 per hour, and on or
20 after July 1, 1985 every employer shall pay to each of his
21 employees in every occupation wages of not less than \$3.35 per
22 hour or in the case of employees under 18 years of age wages of
23 not less than \$2.85 per hour, and from January 1, 2004 through
24 December 31, 2004 every employer shall pay to each of his or

1 her employees who is 18 years of age or older in every
2 occupation wages of not less than \$5.50 per hour, and from
3 January 1, 2005 through June 30, 2007 every employer shall pay
4 to each of his or her employees who is 18 years of age or older
5 in every occupation wages of not less than \$6.50 per hour, and
6 from July 1, 2007 through June 30, 2008 every employer shall
7 pay to each of his or her employees who is 18 years of age or
8 older in every occupation wages of not less than \$7.50 per
9 hour, and from July 1, 2008 through June 30, 2009 every
10 employer shall pay to each of his or her employees who is 18
11 years of age or older in every occupation wages of not less
12 than \$7.75 per hour, and from July 1, 2009 through June 30,
13 2010 every employer shall pay to each of his or her employees
14 who is 18 years of age or older in every occupation wages of
15 not less than \$8.00 per hour, and from ~~on and after~~ July 1,
16 2010 through December 31, 2019 every employer shall pay to each
17 of his or her employees who is 18 years of age or older in every
18 occupation wages of not less than \$8.25 per hour, and from
19 January 1, 2020 through June 30, 2020, every employer shall pay
20 to each of his or her employees who is 18 years of age or older
21 in every occupation wages of not less than \$9.25 per hour, and
22 from July 1, 2020 through December 31, 2020 every employer
23 shall pay to each of his or her employees who is 18 years of age
24 or older in every occupation wages of not less than \$10 per
25 hour, and from January 1, 2021 through December 31, 2021 every
26 employer shall pay to each of his or her employees who is 18

1 years of age or older in every occupation wages of not less
2 than \$11 per hour, and from January 1, 2022 through December
3 31, 2022 every employer shall pay to each of his or her
4 employees who is 18 years of age or older in every occupation
5 wages of not less than \$12 per hour, and from January 1, 2023
6 through December 31, 2023 every employer shall pay to each of
7 his or her employees who is 18 years of age or older in every
8 occupation wages of not less than \$13 per hour, and from
9 January 1, 2024 through December 31, 2024, every employer shall
10 pay to each of his or her employees who is 18 years of age or
11 older in every occupation wages of not less than \$14 per hour;
12 and on and after January 1, 2025, every employer shall pay to
13 each of his or her employees who is 18 years of age or older in
14 every occupation wages of not less than \$15 per hour.

15 (2) Unless an employee's wages are reduced under Section 6,
16 then in lieu of the rate prescribed in item (1) of this
17 subsection (a), an employer may pay an employee who is 18 years
18 of age or older, during the first 90 consecutive calendar days
19 after the employee is initially employed by the employer, a
20 wage that is not more than 50¢ less than the wage prescribed in
21 item (1) of this subsection (a); however, an employer shall pay
22 not less than the rate prescribed in item (1) of this
23 subsection (a) to:

24 (A) a day or temporary laborer, as defined in Section 5
25 of the Day and Temporary Labor Services Act, who is 18
26 years of age or older; and

1 (B) an employee who is 18 years of age or older and
2 whose employment is occasional or irregular and requires
3 not more than 90 days to complete.

4 (3) At no time on or before December 31, 2019 shall the
5 wages paid to any employee under 18 years of age be more than
6 50¢ less than the wage required to be paid to employees who are
7 at least 18 years of age under item (1) of this subsection (a).
8 Beginning on January 1, 2020, every employer shall pay to each
9 of his or her employees who is under 18 years of age that has
10 worked more than 650 hours for the employer during any calendar
11 year a wage not less than the wage required for employees who
12 are 18 years of age or older under paragraph (1) of subsection
13 (a) of Section 4 of this Act. Every employer shall pay to each
14 of his or her employees who is under 18 years of age that has
15 not worked more than 650 hours for the employer during any
16 calendar year: (1) \$8 per hour from January 1, 2020 through
17 December 31, 2020; (2) \$8.50 per hour from January 1, 2021
18 through December 31, 2021; (3) \$9.25 per hour from January 1,
19 2022 through December 31, 2022; (4) \$10.50 per hour from
20 January 1, 2023 through December 31, 2023; (5) \$12 per hour
21 from January 1, 2024 through December 31, 2024; and (6) \$13 per
22 hour on and after January 1, 2025.

23 (b) No employer shall discriminate between employees on the
24 basis of sex or mental or physical disability, except as
25 otherwise provided in this Act by paying wages to employees at
26 a rate less than the rate at which he pays wages to employees

1 for the same or substantially similar work on jobs the
2 performance of which requires equal skill, effort, and
3 responsibility, and which are performed under similar working
4 conditions, except where such payment is made pursuant to (1) a
5 seniority system; (2) a merit system; (3) a system which
6 measures earnings by quantity or quality of production; or (4)
7 a differential based on any other factor other than sex or
8 mental or physical disability, except as otherwise provided in
9 this Act.

10 (c) Every employer of an employee engaged in an occupation
11 in which gratuities have customarily and usually constituted
12 and have been recognized as part of the remuneration for hire
13 purposes is entitled to an allowance for gratuities as part of
14 the hourly wage rate provided in Section 4, subsection (a) in
15 an amount not to exceed 40% of the applicable minimum wage
16 rate. The Director shall require each employer desiring an
17 allowance for gratuities to provide substantial evidence that
18 the amount claimed, which may not exceed 40% of the applicable
19 minimum wage rate, was received by the employee in the period
20 for which the claim of exemption is made, and no part thereof
21 was returned to the employer.

22 (d) No camp counselor who resides on the premises of a
23 seasonal camp of an organized not-for-profit corporation shall
24 be subject to the adult minimum wage if the camp counselor (1)
25 works 40 or more hours per week, and (2) receives a total
26 weekly salary of not less than the adult minimum wage for a

1 40-hour week. If the counselor works less than 40 hours per
2 week, the counselor shall be paid the minimum hourly wage for
3 each hour worked. Every employer of a camp counselor under this
4 subsection is entitled to an allowance for meals and lodging as
5 part of the hourly wage rate provided in Section 4, subsection
6 (a), in an amount not to exceed 25% of the minimum wage rate.

7 (e) A camp counselor employed at a day camp is not subject
8 to the adult minimum wage if the camp counselor is paid a
9 stipend on a onetime or periodic basis and, if the camp
10 counselor is a minor, the minor's parent, guardian or other
11 custodian has consented in writing to the terms of payment
12 before the commencement of such employment.

13 (Source: P.A. 99-143, eff. 7-27-15.)

14 (820 ILCS 105/7) (from Ch. 48, par. 1007)

15 Sec. 7. The Director or his authorized representatives have
16 the authority to:

17 (a) Investigate and gather data regarding the wages, hours
18 and other conditions and practices of employment in any
19 industry subject to this Act, and may enter and inspect such
20 places and such records (and make such transcriptions thereof)
21 at reasonable times during regular business hours, not
22 including lunch time at a restaurant, question such employees,
23 and investigate such facts, conditions, practices or matters as
24 he may deem necessary or appropriate to determine whether any
25 person has violated any provision of this Act, or which may aid

1 in the enforcement of this Act.

2 (b) Require from any employer full and correct statements
3 and reports in writing, including sworn statements, at such
4 times as the Director may deem necessary, of the wages, hours,
5 names, addresses, and other information pertaining to his
6 employees as he may deem necessary for the enforcement of this
7 Act.

8 (c) Require by subpoena the attendance and testimony of
9 witnesses and the production of all books, records, and other
10 evidence relative to a matter under investigation or hearing.
11 The subpoena shall be signed and issued by the Director or his
12 or her authorized representative. If a person fails to comply
13 with any subpoena lawfully issued under this Section or a
14 witness refuses to produce evidence or testify to any matter
15 regarding which he or she may be lawfully interrogated, the
16 court may, upon application of the Director or his or her
17 authorized representative, compel obedience by proceedings for
18 contempt.

19 (d) Make random audits of employers in any industry subject
20 to this Act to determine compliance with this Act.

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

22 (820 ILCS 105/10) (from Ch. 48, par. 1010)

23 Sec. 10. (a) The Director shall make and revise
24 administrative regulations, including definitions of terms, as
25 he deems appropriate to carry out the purposes of this Act, to

1 prevent the circumvention or evasion thereof, and to safeguard
2 the minimum wage established by the Act. Regulations governing
3 employment of learners may be issued only after notice and
4 opportunity for public hearing, as provided in subsection (c)
5 of this Section.

6 (b) In order to prevent curtailment of opportunities for
7 employment, avoid undue hardship, and safeguard the minimum
8 wage rate under this Act, the Director may also issue
9 regulations providing for the employment of workers with
10 disabilities at wages lower than the wage rate applicable under
11 this Act, under permits and for such periods of time as
12 specified therein; and providing for the employment of learners
13 at wages lower than the wage rate applicable under this Act.
14 However, such regulation shall not permit lower wages for
15 persons with disabilities on any basis that is unrelated to
16 such person's ability resulting from his disability, and such
17 regulation may be issued only after notice and opportunity for
18 public hearing as provided in subsection (c) of this Section.

19 (c) Prior to the adoption, amendment or repeal of any rule
20 or regulation by the Director under this Act, except
21 regulations which concern only the internal management of the
22 Department of Labor and do not affect any public right provided
23 by this Act, the Director shall give proper notice to persons
24 in any industry or occupation that may be affected by the
25 proposed rule or regulation, and hold a public hearing on his
26 proposed action at which any such affected person, or his duly

1 authorized representative, may attend and testify or present
2 other evidence for or against such proposed rule or regulation.
3 Rules and regulations adopted under this Section shall be filed
4 with the Secretary of State in compliance with "An Act
5 concerning administrative rules", as now or hereafter amended.
6 Such adopted and filed rules and regulations shall become
7 effective 10 days after copies thereof have been mailed by the
8 Department to persons in industries affected thereby at their
9 last known address.

10 (d) The commencement of proceedings by any person aggrieved
11 by an administrative regulation issued under this Act does not,
12 unless specifically ordered by the Court, operate as a stay of
13 that administrative regulation against other persons. The
14 Court shall not grant any stay of an administrative regulation
15 unless the person complaining of such regulation files in the
16 Court an undertaking with a surety or sureties satisfactory to
17 the Court for the payment to the employees affected by the
18 regulation, in the event such regulation is affirmed, of the
19 amount by which the compensation such employees are entitled to
20 receive under the regulation exceeds the compensation they
21 actually receive while such stay is in effect.

22 (e) The Department may adopt emergency rules in accordance
23 with Section 5-45 of the Illinois Administrative Procedure Act
24 to implement the changes made by this amendatory Act of the
25 101st General Assembly.

26 (Source: P.A. 99-143, eff. 7-27-15.)

1 (820 ILCS 105/11) (from Ch. 48, par. 1011)

2 Sec. 11. (a) Any employer or his agent, or the officer or
3 agent of any private employer who:

4 (1) hinders or delays the Director or his authorized
5 representative in the performance of his duties in the
6 enforcement of this Act; or

7 (2) refuses to admit the Director or his authorized
8 representative to any place of employment; or

9 (3) fails to keep the records required under this Act
10 or to furnish such records required or any information to
11 be furnished under this Act to the Director or his
12 authorized representative upon request; or

13 (4) fails to make and preserve any records as required
14 hereunder; or

15 (5) falsifies any such record; or

16 (6) refuses to make such records available to the
17 Director or his authorized representative; or

18 (7) refuses to furnish a sworn statement of such
19 records or any other information required for the proper
20 enforcement of this Act; or

21 (8) fails to post a summary of this Act or a copy of
22 any applicable regulation as required by Section 9 of this
23 Act;

24 shall be guilty of a Class B misdemeanor; and each day of such
25 failure to keep the records required under this Act or to

1 furnish such records or information to the Director or his
2 authorized representative or to fail to post information as
3 required herein constitutes a separate offense. Any such
4 employer who fails to keep payroll records as required by this
5 Act shall be liable to the Department for a penalty of \$100 per
6 impacted employee, payable to the Department's Wage Theft
7 Enforcement Fund.

8 (b) Any employer or his agent, or the officer or agent of
9 any private employer, who pays or agrees to pay to any employee
10 wages at a rate less than the rate applicable under this Act or
11 of any regulation issued under this Act is guilty of a Class B
12 misdemeanor, and each week on any day of which such employee is
13 paid less than the wage rate applicable under this Act
14 constitutes a separate offense.

15 (c) Any employer or his agent, or the officer or agent of
16 any private employer, who discharges or in any other manner
17 discriminates against any employee because that employee has
18 made a complaint to his employer, or to the Director or his
19 authorized representative, that he has not been paid wages in
20 accordance with the provisions of this Act, or because that
21 employee has caused to be instituted or is about to cause to be
22 instituted any proceeding under or related to this Act, or
23 because that employee has testified or is about to testify in
24 an investigation or proceeding under this Act, is guilty of a
25 Class B misdemeanor.

26 (d) It is the duty of the Department of Labor to inquire

1 diligently for any violations of this Act, and to institute the
2 action for penalties herein provided, and to enforce generally
3 the provisions of this Act.

4 (Source: P.A. 86-799.)

5 (820 ILCS 105/12) (from Ch. 48, par. 1012)

6 Sec. 12. (a) If any employee is paid by his employer less
7 than the wage to which he is entitled under the provisions of
8 this Act, the employee may recover in a civil action treble the
9 amount of any such underpayments together with costs and such
10 reasonable attorney's fees as may be allowed by the Court, and
11 damages of 5% ~~2%~~ of the amount of any such underpayments for
12 each month following the date of payment during which such
13 underpayments remain unpaid. Any agreement between the
14 employee and the employer to work for less than such wage is no
15 defense to such action. At the request of the employee or on
16 motion of the Director of Labor, the Department of Labor may
17 make an assignment of such wage claim in trust for the
18 assigning employee and may bring any legal action necessary to
19 collect such claim, and the employer shall be required to pay
20 the costs incurred in collecting such claim. Every such action
21 shall be brought within 3 years from the date of the
22 underpayment. Such employer shall be liable to the Department
23 of Labor for up to 20% of the total employer's underpayment
24 where the employer's conduct is proven by a preponderance of
25 the evidence to be willful, repeated, or with reckless

1 disregard of this Act or any rule adopted under this Act. Such
2 employer shall be liable to the Department for an additional
3 penalty of \$1,500, payable to the Department's Wage Theft
4 Enforcement Fund. Such employer shall be additionally liable to
5 the employee for damages in the amount of 5% ~~2%~~ of the amount
6 of any such underpayments for each month following the date of
7 payment during which such underpayments remain unpaid. These
8 penalties and damages may be recovered in a civil action
9 brought by the Director of Labor in any circuit court. In any
10 such action, the Director of Labor shall be represented by the
11 Attorney General.

12 If an employee collects damages of 5% ~~2%~~ of the amount of
13 underpayments as a result of an action brought by the Director
14 of Labor, the employee may not also collect those damages in a
15 private action brought by the employee for the same violation.
16 If an employee collects damages of 5% ~~2%~~ of the amount of
17 underpayments in a private action brought by the employee, the
18 employee may not also collect those damages as a result of an
19 action brought by the Director of Labor for the same violation.

20 (b) If an employee has not collected damages under
21 subsection (a) for the same violation, the Director is
22 authorized to supervise the payment of the unpaid minimum wages
23 and the unpaid overtime compensation owing to any employee or
24 employees under Sections 4 and 4a of this Act and may bring any
25 legal action necessary to recover the amount of the unpaid
26 minimum wages and unpaid overtime compensation and an equal

1 additional amount as damages, and the employer shall be
2 required to pay the costs incurred in collecting such claim.
3 Such employer shall be additionally liable to the Department of
4 Labor for up to 20% of the total employer's underpayment where
5 the employer's conduct is proven by a preponderance of the
6 evidence to be willful, repeated, or with reckless disregard of
7 this Act or any rule adopted under this Act. Such employer
8 shall be liable to the Department of Labor for an additional
9 penalty of \$1,500, payable to the Department's Wage Theft
10 Enforcement Fund. The action shall be brought within 5 years
11 from the date of the failure to pay the wages or compensation.
12 Any sums thus recovered by the Director on behalf of an
13 employee pursuant to this subsection shall be paid to the
14 employee or employees affected. Any sums which, more than one
15 year after being thus recovered, the Director is unable to pay
16 to an employee shall be deposited into the General Revenue
17 Fund.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.