

### Illinois Law Increases Penalties for Violations of Wage Payment Act

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On July 30, 2010, Illinois Governor Pat Quinn signed into law a bill that increases criminal penalties for employers who illegally withhold wages and expands procedural mechanisms for employees to pursue unpaid wages. Senate Bill 3568 takes effect January 1, 2011 and amends the Illinois Wage Payment and Collection Act (the “Act”).

Under the new law, employees may file suits for unpaid wages directly in Illinois circuit court without first exhausting administrative remedies. Prevailing employees may recover their legal costs and attorneys’ fees and are entitled to two percent interest from the date that the wages were due. The law also permits an employee to file a class action suit on behalf of himself and similarly situated employees. Further, the law empowers the Illinois Department of Labor to establish an administrative procedure to directly adjudicate claims of less than \$3,000, rather than referring those claims to the Illinois Attorney General. As a result, an employee with a claim of less than \$3,000 may choose whether to pursue the claim in circuit court or through the Department of Labor administrative procedure.

S.B. 3568 also increases civil and criminal penalties against employers who commit wage violations. An employer found to have violated the Act within two years of a prior criminal conviction under the Act may receive a felony conviction. An employer who retaliates against an employee for complaining about unpaid wages in a public hearing or to a community organization may be found guilty of a misdemeanor. Further, an employee who has been unlawfully retaliated against may recover damages through a claim filed with the Department of Labor or through a civil suit.

These changes, particularly the small claims administrative procedure and the class action mechanism, are likely to result in an increase in unpaid wage claims brought against Illinois employers.

If you have questions regarding this legislation, please contact one of the Labor & Employment Relations Practice Group partners listed below.

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