

## Stop Wage Theft, Support the Illinois Wage Lien Act (HB4324) sponsored by IL State Representative Emanuel "Chris" Welch (7th District)

### Families deserve economic security

#### *Wage theft is rampant across Illinois*

Wage theft occurs when employers fail to pay workers the wages they are legally owed. It can take many forms, including but not limited to:

- > Minimum wage violations – Failing to pay workers the legal minimum wage
- > Overtime violations – Failing to pay eligible workers time-and-a-half when they work over 40 hours in a work week
- > Off-the-clock violations – Failing to pay workers for work performed before or after their shifts or during meal breaks
- > Earned wage violations – Failing to pay workers their complete earned wages, including accrued vacation, earned bonuses or commissions, and other tactics

#### An economic epidemic

Wage theft is systemic and affects all workers, but it is concentrated in industries and sectors that disproportionately employ Black and Latino workers. Each year, at least a quarter million Illinois workers have \$675 million stolen from them by their employers in minimum wage violations alone.<sup>1</sup> For each worker, that is approximately \$53 stolen out of an average of \$258 earned weekly, or 20% of their week's pay. And that is just minimum wage violations – the tip of the iceberg.<sup>2</sup>

#### The impacts of wage theft

Wage theft is not merely an inconvenience – it is completely devastating to workers. Workers who are victims of wage theft are mostly individuals living in or on the edge of poverty.<sup>3</sup> Stolen wages means falling behind on rent or utility bills, or going without food and medicine. Surveyed workers in Illinois have reported being made homeless and hungry due to wage theft.<sup>4</sup>

Wage theft is also bad for business. Wage theft takes money out of local economies and gives abusive employers market advantages, making it difficult to impossible for employers that comply with the law to compete. This puts downward pressure on wages for all workers.

### We need a new enforcement system

Employers that commit wage theft know that they are unlikely to face any real consequences. Fewer than one in four workers in Illinois recoup stolen wages within a year. Even when workers win their cases, they may not get the money they are owed. Only one in ten cases sent to collections results in a successful recovery.<sup>5</sup>

## Stop Wage Theft, Support the Illinois Wage Lien Act (HB4324) sponsored by IL State Representative Emanuel “Chris” Welch (7th District)

### Illinois needs the Wage Lien Act

Workers affected by wage theft are calling on the Illinois State Legislature to pass the Illinois Wage Lien Act (HB4324). The bill creates a tool, called a wage lien, that will enable workers to successfully recover stolen wages from their employers.

Many states have wage lien laws in some form. States that have enacted laws like the Illinois Wage Lien Act include Alaska, Indiana, Ohio, Maryland, Tennessee, Washington, and Wisconsin.<sup>6</sup>

#### Why we need it

When workers experience wage theft, they have to file a claim with a court or government agency and wait for them to determine they are owed the wages. If a hearing or trial is required, the legal process can take well over a year.<sup>7</sup> Abusive employers take advantage of this time to transfer their money and property to family members or third parties, close their business, or file for bankruptcy to avoid paying the wages a judge determines they owe.<sup>8</sup>

#### How it works

A wage lien places a temporary claim on an employer’s property until the employer pays the wages owed to the worker. This has no impact on the employer’s ability to use the property, unless the employer tries to sell or transfer it or the employer files for bankruptcy, in which case the lien protects the worker’s interest in the property.<sup>9</sup>

The Illinois Wage Lien Act would enable workers to record their lien as soon as they experience wage theft. This kind of wage lien has been proven effective at significantly increasing workers’ ability to recover stolen wages in other states. For example, Wisconsin successfully recovered payment in 80% of the cases that, without the lien, would have likely resulted in no payment.<sup>10</sup>

### Supporters of the Illinois Wage Lien Act

AFSCME Local 31, Arise Chicago, Centro de Trabajadores Unidos, Chicago Community & Workers Rights, Chicago Federation of Labor, Chicago Workers Collaborative, Latino Union, IL AFL-CIO, IL Office of Attorney General, IL Trial Lawyers Association, National Economic & Social Rights Initiative, Raise the Floor Alliance, Restaurant Opportunities Center Chicago, Sargent Shriver National Center on Poverty Law, Warehouse Workers for Justice, Workers Center for Racial Justice

#### Citations

- 1 Cooper, David & Teresa Kroeger, *Employers Steal Billions from Workers’ Paychecks Each Year*, Economic Policy Institute (2017) (analyzing Current Population Survey data between 2013-2015).
- 2 There is no data available on the prevalence of all forms of wage theft. The most comprehensive data is from a 2009 survey with over 1,000 low-wage workers in the Chicago metro, which found two-thirds had experienced at least one form of wage theft in the prior week. Theodore, Nik, et al., *Unregulated Work in Chicago: The Breakdown of Workplace Protections in the Low-Wage Labor Market*, Center for Urban Economic Development, University of Chicago at Illinois (2010).
- 3 If all workers experiencing minimum wage violations were paid the legal minimum wage for all of their hours worked, 31% of those workers living in poverty would move above the poverty line. Cooper, *supra* note 1.

- 4 Lesniewski, Jacob, *Impact of Wage Theft*, Dominican University (2017).
- 5 Sanchez, Melissa & Matt Kiefer, *Wage Theft Victims Have Little Chance of Recouping Pay in Illinois*, *Chicago Reporter*, Aug. 9, 2017 (reviewing complaint records at the Illinois Department of Labor).
- 6 Cho, Eunice Hyunhye, et al., *Hollow Victories: The Crisis in Collecting Unpaid Wages for California’s Workers*, National Employment Law Project (2013) (citing state laws).
- 7 Sanchez, *supra* note 5.
- 8 *Id.*; see also Cho, *supra* note 6.
- 9 Employers can also get a surety bond or insurance to cover payment of wages, penalties, and other compensation claimed by employees.
- 10 Cho, *supra* note 6.