

1 A bill to be entitled
2 An act relating to employers and employees; amending
3 s. 34.01, F.S.; providing jurisdiction of county
4 courts over wage theft civil actions; creating s.
5 448.115, F.S.; providing a definition for the term
6 "wage theft"; creating a civil cause of action for
7 wage theft; providing a procedure for filing of a
8 civil action for wage theft; providing jurisdiction;
9 requiring a claimant to notify the employer of the
10 employee's intention to initiate a civil action;
11 allotting the employer a specific time to resolve the
12 action; providing a statute of limitations; requiring
13 a claimant to prove wage theft by a preponderance of
14 the evidence; prohibiting certain damages; authorizing
15 a county, municipality, or political subdivision to
16 establish a process by which a claim may be filed;
17 prohibiting a local government from adopting or
18 maintaining in effect a law, ordinance, or rule for
19 the purpose of addressing unpaid wage claims;
20 prohibiting the preemption of certain local ordinances
21 governing wage theft; providing that any regulation,
22 ordinance, or other provision for recovery of unpaid
23 wages by counties, municipalities, or political
24 subdivisions is prohibited and preempted to the state;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:
28

29 Section 1. Subsection (1) of section 34.01, Florida
 30 Statutes, is amended to read:

31 34.01 Jurisdiction of county court.—

32 (1) County courts shall have original jurisdiction:

33 (a) In all misdemeanor cases not cognizable by the circuit
 34 courts.~~;~~

35 (b) Of all violations of municipal and county ordinances.~~;~~

36 (c) Of all actions at law in which the matter in
 37 controversy does not exceed the sum of \$15,000, exclusive of
 38 interest, costs, and attorney's fees, except those within the
 39 exclusive jurisdiction of the circuit courts.~~;~~ ~~and~~

40 (d) Of disputes occurring in the homeowners' associations
 41 as described in s. 720.311(2)(a), which shall be concurrent with
 42 jurisdiction of the circuit courts.

43 (e) Of actions for the collection of compensation under s.
 44 448.115, notwithstanding the amount in controversy prescribed in
 45 paragraph (c).

46 Section 2. Section 448.115, Florida Statutes, is created
 47 to read:

48 448.115 Civil action for wage theft; notice; civil
 49 penalty; preemption.—

50 (1)(a) As used in this section, the term "wage theft"
 51 means an illegal or improper underpayment or nonpayment of an
 52 individual employee's wage, salary, commission, or other similar
 53 form of compensation within a reasonable time from the date on
 54 which the employee performed the work to be compensated.

55 (b) A wage theft occurs when an employer fails to pay a
 56 portion of wages, salary, commissions, or other similar form of

57 compensation due to an employee within a reasonable time from
58 the date on which the employee performed the work, according to
59 the already applicable rate and the pay schedule of the employer
60 established by policy or practice. In the absence of an
61 established pay schedule, a reasonable time from the date on
62 which the employee performed the work is 2 weeks.

63 (2) (a) If an employer commits wage theft as defined in
64 paragraph (1) (a), an aggrieved employee may initiate a civil
65 action as provided in this section.

66 (b) County courts shall have original and exclusive
67 jurisdiction in all actions involving wage theft, as provided in
68 s. 34.01(1) (e).

69 (c) The action shall:

70 1. Be brought in the county court in the county where the
71 employee performed the work; and

72 2. Be governed by the Florida Small Claims Rules.

73 (3) (a) Before bringing an action, the claimant must notify
74 the employer who is alleged to have engaged in wage theft of an
75 intent to initiate a civil action in writing.

76 (b) The notice must identify the amount that the claimant
77 alleges is owed, the actual or estimated work dates and hours
78 for which compensation is sought, and the total amount of
79 compensation unpaid through the date of the notice.

80 (c) The employer has 15 days after the date of service of
81 the notice to pay the total amount of unpaid compensation or
82 otherwise resolve the action to the satisfaction of the
83 claimant.

84 (4) The action must be filed within 1 year after the last

85 date that the alleged unpaid work was performed by the employee.

86 (5) The claimant must prove wage theft by a preponderance
87 of the evidence. A prevailing claimant is entitled to damages
88 limited to the actual compensation due and owing. The court may
89 only award economic damages expressly authorized in this
90 subsection and may not award noneconomic or punitive damages.

91 (6) (a) A county, municipality, or political subdivision
92 may establish an administrative, nonjudicial process under which
93 an assertion of unpaid compensation may be submitted by, or on
94 behalf of, an employee in order to assist in the collection of
95 compensation owed to the employee. Any such process, at a
96 minimum, shall afford the parties involved an opportunity to
97 negotiate a resolution regarding the compensation in question.
98 The county, municipality, or political subdivision may, as part
99 of the process, assist the employee in completing an application
100 for a determination of civil indigent status under s. 57.082 and
101 may pay the filing fee under s. 34.041 on behalf of the
102 employee. The process may not adjudicate a compensation dispute
103 between an employee and an employer nor award damages to the
104 employee.

105 (b) A county, municipality, or political subdivision may
106 not adopt or maintain in effect any law, ordinance, or rule that
107 creates requirements or regulations for the purpose of
108 addressing unpaid compensation claims other than to establish
109 the administrative, nonjudicial process provided for in this
110 subsection.

111 (c) Notwithstanding paragraph (b), a local ordinance
112 governing wage theft enacted before January 1, 2011, is not

CS/HB 1125

2013

113 preempted by this section. However, any local ordinance
114 governing wage theft enacted before January 1, 2011, may not
115 apply to an employer whose annual gross volume of sales or
116 business transacted is more than \$500,000, exclusive of sales
117 tax collected or excise taxes paid.

118 (d) Any other regulation, ordinance, or provision for the
119 recovery of unpaid compensation by a county, municipality, or
120 political subdivision is expressly prohibited and is preempted
121 to the state.

122 Section 3. This act shall take effect upon becoming a law.