

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 laws,  
21 ordinances, and rules governing wage theft; providing  
22 that any regulation, ordinance, or other provision for  
23 recovery of unpaid wages by counties, municipalities,  
24 or political subdivisions is prohibited and preempted  
25 to the state; 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 law, ordinance,  
112 or rule governing wage theft enacted on or before January 2,

CS/CS/HB 1125

2013

113 | 2013, is not preempted by this section.

114 |       (d) Any other regulation, ordinance, or provision for the  
115 | recovery of unpaid compensation by a county, municipality, or  
116 | political subdivision is expressly prohibited and is preempted  
117 | to the state.

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