

By the Committee on Criminal Justice; and Senator Bradley

591-03351-13

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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 the procedure for filing of a
8 civil action for wage theft; providing jurisdiction;
9 limiting the filing fee to no more than \$50; requiring
10 a claimant to notify the employer of the employee's
11 intention to initiate a civil action; allotting the
12 employer a specific time to resolve the action;
13 providing a statute of limitations; requiring a
14 claimant to prove wage theft by a preponderance of the
15 evidence; limiting compensatory damages to twice the
16 amount owed; prohibiting certain damages; authorizing
17 a county, municipality, or political subdivision to
18 establish a process by which a claim may be filed;
19 prohibiting a local government from adopting or
20 maintaining in effect a law, ordinance, or rule for
21 the purpose of addressing unpaid wage claims;
22 prohibiting the preemption of certain local ordinances
23 governing wage theft; providing that any regulation,
24 ordinance, or other provision for recovery of unpaid
25 wages by counties, municipalities, or political
26 subdivisions is prohibited and preempted to the state;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

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

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

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

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

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

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

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

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

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

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

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

68 (b) County courts shall have original and exclusive
69 jurisdiction in all actions involving wage theft, as provided in
70 s. 34.01. Notwithstanding section 34.041, the filing fee for a
71 claim brought pursuant to this section may not exceed \$50.

72 (c) The action shall:

73 1. Be brought in the county court in the county where the
74 employee performed the work; and

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

76 (3) (a) Before bringing an action, the claimant must notify
77 the employer who is alleged to have engaged in wage theft of an
78 intent to initiate a civil action orally or in writing.

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

83 (c) The employer has 7 days after the date of service of
84 the notice to pay the total amount of unpaid compensation or
85 otherwise resolve the action to the satisfaction of the
86 claimant.

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

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

89 (5) The claimant must prove wage theft by a preponderance
90 of the evidence. A prevailing claimant is entitled to damages
91 limited to twice the amount of compensation due and owing. The
92 court may only award economic damages expressly authorized in
93 this subsection, and may not award noneconomic or punitive
94 damages, or attorney fees to a prevailing party notwithstanding
95 section 448.08.

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

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

116 (c) Notwithstanding paragraph (b), a local ordinance

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117 governing wage theft enacted before January 1, 2011, is not
118 preempted by this section.

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

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