

8 such subpoena to go outside the county of his residence, except when
 9 the hearing is in a county adjoining the county of his residence, then
 10 he shall be required to obey such subpoena attend at a greater dis-
 11 tance than that provided for in section six hundred twenty-two
 12 point sixty-eight (622.68) of the Code. Witnesses subpoenaed and tes-
 13 tifying before the commissioner or an inspector his deputy shall be
 14 paid the same fees as witnesses before a justice's court under section
 15 six hundred twenty-two point sixty-nine (622.69) of the Code, such
 16 payment to be made out of the general funds of the state on voucher
 17 by the commissioner, but such expense for witnesses shall not exceed
 18 one hundred dollars annually appropriated to the bureau of labor.

Approved April 8, 1975

CHAPTER 90

IOWA WAGE PAYMENT COLLECTION LAW

H. F. 351

AN ACT relating to the payment of wages and expenses by an employer and providing a civil money penalty.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. NEW SECTION. **Short title.** This Act shall be known
 2 and may be referred to as the "Iowa Wage Payment Collection Law".

1 SEC. 2. NEW SECTION. **Definitions.** As used in this Act:

2 1. "Commissioner" means the labor commissioner or a designee.

3 2. "Employer" means any person, as defined in chapter four (4) of
 4 the Code, who in this state employs for wages a natural person.

5 3. "Employee" means a natural person who is employed in this state
 6 for wages by an employer. Employee does not mean a licensed person
 7 employed on a contractual basis for professional services. For the pur-
 8 poses of this Act, the following persons engaged in agriculture shall not
 9 be deemed employees:

10 a. The spouse of the employer and relatives of either the employer
 11 or spouse residing on the premises of the employer, and

12 b. Any person engaged in agriculture as an owner-operator or ten-
 13 ant-operator and the spouse or relatives of either who reside on the
 14 premises while exchanging labor with the operator or for other mutual
 15 benefit of any and all such persons.

16 4. "Wages" means compensation owed by an employer for:

17 a. Labor or services rendered by an employee, whether determined
 18 on a time, task, piece, commission, or other basis of calculation.

19 b. Vacation, holiday, sick leave, and severance payments which are
 20 due an employee under an agreement with the employer or under a
 21 policy of the employer.

22 c. Any payments to the employee or to a fund for the benefit of the
 23 employee, including but not limited to payments for medical, health,
 24 hospital, welfare, pension, or profit-sharing, which are due an employ-
 25 ee under an agreement with the employer or under a policy of the em-
 26 ployer. The assets of an employee in a fund for the benefit of the
 27 employee, whether such assets were originally paid into the fund by an
 28 employer or employee, are not wages.

29 5. "Days" means calendar days.

30 6. "Liquidated damages" means the sum of five percent multiplied
31 by the amount of any wages that were not paid or of any authorized
32 expenses that were not reimbursed on a regular payday or on another
33 day pursuant to section three (3) of this Act multiplied by the total
34 number of days, excluding Sundays, legal holidays, and the first seven
35 days after the regular payday on which wages were not paid or expen-
36 ses were not reimbursed. However, such sum shall not exceed the
37 amount of the unpaid wages and shall not accumulate when an em-
38 ployer is subject to a petition filed in bankruptcy.

1 SEC. 3. NEW SECTION. **Mode of payment.**

2 1. An employer shall pay all wages due its employees, less any law-
3 ful deductions specified in section five (5) of this Act, at least in
4 monthly, semimonthly, or biweekly installments on regular paydays
5 which are at consistent intervals from each other and which are des-
6 ignated in advance by the employer. However, if any of these wages
7 due its employees are determined on a commission basis, the employer
8 may, upon agreement with the employee, pay only a credit against
9 such wages. If such credit is paid, the employer shall, at regular inter-
10 vals, pay any difference between a credit paid against wages deter-
11 mined on a commission basis and such wages actually earned on a
12 commission basis. These regular intervals shall not be separated by
13 more than twelve months. A regular payday shall not be more than
14 twelve days, excluding Sundays and legal holidays, after the end of
15 the period in which the wages were earned. An employer and employee
16 may, upon written agreement which shall be maintained as a record,
17 vary the provisions of this subsection.

18 2. The wages paid under subsection one (1) of this section shall be
19 paid in United States currency or by written instrument issued by the
20 employer and negotiable on demand at full face value for such curren-
21 cy, unless the employee has agreed in writing to receive a part of or all
22 wages in kind or in other form.

23 3. The wages paid under subsection one (1) of this section shall be
24 sent to the employee by mail or be paid at the employee's normal
25 place of employment during normal employment hours or at a place
26 and hour mutually agreed upon by the employer and employee.

27 4. The wages paid under subsection one (1) of this section may be
28 delivered to a designee of the employee who is so designated in writing
29 or may be sent to the employee by any reasonable means requested by
30 the employee in writing. A designee under this subsection shall not al-
31 so be an assignee or buyer of wages under section five hundred thirty-
32 nine point four (539.4) of the Code nor a garnisher of the employee un-
33 der chapter six hundred forty-two (642) of the Code, unless the desig-
34 nee complies with the provisions of section five hundred thirty-nine
35 point four (539.4) and chapter six hundred forty-two (642) of the Code.

36 5. If an employee is absent from the normal place of employment on
37 the regular payday, the employer shall, upon demand of the employee
38 made within the first seven days following the regular payday, pay the
39 wages, less any lawful deductions specified in section five (5) of this
40 Act, which were due on that regular payday. However, if demand is
41 not made within this seven-day period, the employer shall, upon de-
42 mand of the employee, pay the wages which were due on a regular
43 payday within the first seven days following the day on which demand
44 is made.

45 6. Expenses by the employee which are authorized by the employer
46 and incurred by the employee shall either be reimbursed in advance of

47 expenditure or be reimbursed not later than thirty days after the em-
 48 ployee's submission of an expense claim. If the employer refuses to pay
 49 all or part of each claim, the employer shall submit to the employee a
 50 written justification of such refusal within the same time period in
 51 which expense claims are paid under this subsection.

1 **SEC. 4. NEW SECTION. Employment suspension or termina-**
 2 **tion—how wages are paid.** When the employment of an employee is
 3 suspended or terminated, the employer shall pay all wages earned, less
 4 any lawful deductions specified in section five (5) of this Act, by the
 5 employee up to the time of the suspension or termination not later
 6 than the next regular payday as provided in section three (3) of this
 7 Act. However, if any of these wages are the difference between a credit
 8 paid against wages determined on a commission basis and such wages
 9 actually earned on a commission basis, the employer shall pay such
 10 difference not more than thirty days after the date of suspension or
 11 termination. If vacations are due an employee under an agreement
 12 with the employer or a policy of the employer establishing pro-rata va-
 13 cation accrued, the increment shall be in proportion to the fraction of
 14 the year which the employee was actually employed.

1 **SEC. 5. NEW SECTION. Deductions from wages.**
 2 1. An employer shall not withhold or divert any portion of an em-
 3 ployee's wages unless:
 4 a. The employer is required or permitted to do so by state or federal
 5 law or by order of a court of competent jurisdiction; or
 6 b. The employer has written authorization from the employee to so
 7 deduct for any lawful purpose accruing to the benefit of the employee.
 8 2. The following shall not be deducted from an employee's wages:
 9 a. Cash shortage in a common money till, cash box, or register oper-
 10 ated by two or more employees or by an employee and an employer.
 11 However, the employer and a full-time employee who is the manager
 12 of an establishment may agree in writing signed by both parties that
 13 the employee will be responsible for a cash shortage that occurs within
 14 forty-five days prior to the most recent regular payday. Not more than
 15 one such agreement shall be in effect per establishment.
 16 b. Losses due to acceptance by an employee on behalf of the em-
 17 ployer of checks which are subsequently dishonored if the employee
 18 has been given the discretion to accept or reject such checks and the
 19 employee does not abuse the discretion given.
 20 c. Losses due to breakage, lost or stolen property, unless such tools
 21 and equipment are specifically assigned to and their receipt acknowl-
 22 edged in writing by the employee from whom the deduction is made,
 23 damage to property, default of customer credit, or nonpayment for
 24 goods or services rendered so long as such losses are not attributable to
 25 the employee's willful or intentional disregard of the employer's inter-
 26 ests.
 27 d. Gratuities received by an employee from customers of the em-
 28 ployer.

1 **SEC. 6. NEW SECTION. Notice and record-keeping requirements.**
 2 1. An employer shall after being notified by the commissioner pursu-
 3 ant to subsection two (2) of this section:
 4 a. Notify its employees in writing at the time of hiring what wages
 5 and regular paydays are designated by the employer.
 6 b. Notify, at least one pay period prior to the initiation of any
 7 changes, its employees of any changes in the arrangements specified in
 8 subsection one (1) of this section that reduce wages or alter the regular

9 paydays. The notice shall either be in writing or posted at a place
10 where employee notices are routinely posted.

11 c. Make available to its employees upon written request, a written
12 statement enumerating employment agreements and policies with re-
13 gard to vacation pay, sick leave, reimbursement for expenses, retire-
14 ment benefits, severance pay, or other comparable matters with respect
15 to wages. Notice of such availability shall be given to each employee
16 in writing or by a notice posted at a place where employee notices are
17 routinely posted.

18 d. Establish, maintain, and preserve for three calendar years the
19 payroll records showing the hours worked, wages earned, and deduc-
20 tions made for each employee and any employment agreements en-
21 tered into between an employer and employee.

22 2. The commissioner shall notify an employer to comply with sub-
23 section one (1) of this section if the employer has paid a claim for un-
24 paid wages or nonreimbursed authorized expenses and liquidated
25 damages under section ten (10) of this Act or if the employer has been
26 assessed a civil money penalty under section twelve (12) of this Act.
27 However, a court may, when rendering a judgment for wages or non-
28 reimbursed authorized expenses and liquidated damages or upholding
29 a civil money penalty assessment, order that an employer shall not be
30 required to comply with the provisions of subsection one (1) of this sec-
31 tion or that an employer shall be required to comply with the provi-
32 sions of subsection one (1) of this section for a particular period of
33 time.

34 3. Within ten working days of a request by an employee, an employ-
35 er shall furnish to the employee a written, itemized statement listing
36 the earnings and deductions made from the wages for each pay period
37 in which the deductions were made together with an explanation of
38 how the wages and deductions were computed. An employer need hon-
39 or only one such request in any calendar year unless the rate of earn-
40 ings, hours or deductions are changed during the calendar year. Each
41 change shall entitle an employee to a further request for an itemized
42 statement.

1 SEC. 7. NEW SECTION. **Wage disputes.** If there is a dispute be-
2 tween an employer and employee concerning the amount of wages or
3 expense reimbursement due, the employer shall, without condition and
4 pursuant to section three (3) of this Act, pay all wages conceded to be
5 due and reimburse all expenses conceded to be due, less any lawful de-
6 ductions specified in section five (5) of this Act. Payment of wages or
7 reimbursement of expenses under this section shall not relieve the em-
8 ployer of any liability for the balance of wages or expenses claimed by
9 the employee.

1 SEC. 8. NEW SECTION. **Damages recoverable by an employ-**
2 **ee.** When it has been shown that an employer has intentionally
3 failed to pay an employee wages or reimburse expenses pursuant to
4 section three (3) of this Act, whether as the result of a wage dispute or
5 otherwise, the employer shall be liable to the employee for any wages
6 or expenses that are so intentionally failed to be paid or reimbursed,
7 plus liquidated damages, court costs and any attorney's fees incurred
8 in recovering the unpaid wages and determined to have been usual and
9 necessary. In other instances the employer shall be liable only for un-
10 paid wages or expenses, court costs and usual and necessary attorney's
11 fees incurred in recovering the unpaid wages or expenses.

1 SEC. 9. NEW SECTION. **General powers and duties of the com-**
2 **missioner.**

3 1. The commissioner shall administer and enforce the provisions of
4 this Act. The commissioner may hold hearings and investigate charges
5 of violations of this Act.

6 2. The commissioner may, consistent with due process of law, enter
7 any place of employment to inspect records concerning wages and pay-
8 rolls, to question the employer and employees, and to investigate such
9 facts, conditions or matters as are deemed appropriate in determining
10 whether any person has violated the provisions of this Act. However,
11 such entry by the commissioner shall only be in response to a written
12 complaint.

13 3. The commissioner may employ such qualified personnel as are
14 necessary for the enforcement of this Act. Such personnel shall be em-
15 ployed pursuant to chapter nineteen A (19A) of the Code.

16 4. The commissioner shall promulgate, pursuant to chapter seven-
17 teen A (17A) of the Code, any rules necessary to carry out the provi-
18 sions of this Act.

1 **SEC. 10. NEW SECTION. Settlement of claims and suits for**
2 **wages.**

3 1. Upon the written complaint of the employee involved, the com-
4 missioner may determine whether wages have not been paid and may
5 constitute an enforceable claim. If for any reason the commissioner de-
6 cides not to make such determination, the commissioner shall so notify
7 the complaining employee within fourteen days of receipt of the com-
8 plaint. The commissioner shall otherwise notify the employee of such
9 determination within a reasonable time and if it is determined that
10 there is an enforceable claim, the commissioner shall, with the consent
11 of the complaining employee, take an assignment in trust for the
12 wages and for any claim for liquidated damages without being bound
13 by any of the technical rules respecting the validity of the assignment.
14 However, the commissioner shall not accept any complaint for unpaid
15 wages and liquidated damages after one year from the date the wages
16 became due and payable.

17 2. The commissioner with the assistance of the office of the attorney
18 general if the commissioner requests such assistance, shall, unless a set-
19 tlement is reached under this subsection, commence a civil action in
20 any court of competent jurisdiction to recover for the benefit of any
21 employee any wage and liquidated damages' claims that have been as-
22 signed to the commissioner for recovery. With the consent of the as-
23 signing employee, the commissioner may also settle a claim on behalf
24 of the assigning employee. Proceedings under this subsection and sub-
25 section one (1) of this section that precede commencement of a civil ac-
26 tion shall be conducted informally without any party having a right to
27 be heard before the commissioner. The commissioner may join various
28 assignments in one claim for the purpose of settling or litigating their
29 claims.

30 3. The provisions of subsection one (1) and two (2) of this section
31 shall not be construed to prevent an employee from settling or bringing
32 an action for damages under section eight (8) of this Act if the employ-
33 ee has not assigned the claim under subsection one (1) of this section.

34 4. Any recovery of attorney's fees, in the case of actions brought un-
35 der this section by the commissioner, shall be remitted by the commis-
36 sioner to the treasurer of state for deposit in the general fund of the
37 state. Also, the commissioner shall not be required to pay any filing
38 fee or other court costs.

39 5. An employer shall not discharge or in any other manner discrimi-
40 nate against any employee because such employee has filed a com-

41 plaint, assigned a claim, or brought an action under this section or has
42 cooperated in bringing any action against an employer.

1 **SEC. 11. NEW SECTION. Wage claims brought under reciprocity.**

2 1. The commissioner may enter into reciprocal agreements with the
3 labor department or corresponding agency of any other state or its rep-
4 resentatives for the collection in such other states of claims or judg-
5 ments for wages and other demands based upon claims assigned to the
6 commissioner.

7 2. The commissioner may, to the extent provided for by any recipro-
8 cal agreement entered into by law or with an agency of another state
9 as provided in this section, maintain actions in the courts of such other
10 state to the extent permitted by the laws of that state for the collection
11 of claims for wages, judgments and other demands and may assign
12 such claims, judgments and demands to the labor department or agen-
13 cy of such other state for collection to the extent that such an assign-
14 ment may be permitted or provided for by the laws of such state or by
15 reciprocal agreement.

16 3. The commissioner may, upon the written consent of the labor de-
17 partment or other corresponding agency of any other state or its repre-
18 sentatives, maintain actions in the courts of this state upon assigned
19 claims for wages, judgments and demands arising in such other state in
20 the same manner and to the same extent that such actions by the com-
21 missioner are authorized when arising in this state. However, such ac-
22 tions may be maintained only in cases in which such other state by law
23 or reciprocal agreement extends a like comity to cases arising in this
24 state.

1 **SEC. 12. NEW SECTION. Civil penalties.**

2 1. Any employer who violates the provisions of this Act or the rules
3 promulgated under it shall be subject to a civil money penalty of not
4 more than one hundred dollars for each violation. The commissioner
5 may recover such civil money penalty according to the provisions of
6 subsections two (2) through five (5) of this section. Any civil money
7 penalty recovered shall be deposited in the general fund of the state.

8 2. The commissioner may propose that an employer be assessed a
9 civil money penalty by serving the employer with notice of such pro-
10 posal in the same manner as an original notice is served under the
11 rules of civil procedure. Upon service of such notice, the proposed as-
12 sessment shall be treated as a contested case under chapter seventeen A
13 (17A) of the Code. However, an employer must request a hearing with-
14 in thirty days of being served.

15 3. If an employer does not request a hearing pursuant to subsection
16 two (2) of this section or if the commissioner determines, after an ap-
17 propriate hearing, that an employer is in violation of this Act, the
18 commissioner shall assess a civil money penalty which is consistent
19 with the provisions of subsection one (1) of this section and which is
20 rendered with due consideration for the penalty amount in terms of
21 the size of the employer's business, the gravity of the violation, the
22 good faith of the employer, and the history of previous violations.

23 4. An employer may seek judicial review of any assessment ren-
24 dered under subsection three (3) of this section by instituting proceed-
25 ings for judicial review pursuant to chapter seventeen A (17A) of the
26 Code. However, such proceedings must be instituted in the district
27 court of the county in which the violation or one of the violations oc-
28 curred and within thirty days of the day on which the employer was
29 notified that an assessment has been rendered. Also, an employer may
30 be required, at the discretion of the district court and upon instituting

31 such proceedings, to deposit the amount assessed with the clerk of the
32 district court. Any moneys so deposited shall either be returned to the
33 employer or be forwarded to the commissioner for deposit in the gener-
34 al fund of the state, depending on the outcome of the judicial review,
35 including any appeal to the supreme court.

36 5. After the time for seeking judicial review has expired or after all
37 judicial review has been exhausted and the commissioner's assessment
38 has been upheld, the commissioner shall request the attorney general
39 to recover the assessed penalties in a civil action.

1 SEC. 13.

2 1. *This Act shall not authorize the commissioner or any other per-
3 son to take any assignment of wages or commence any action that is
4 based on an act committed prior to the effective date of this Act.

1 SEC. 14. Section seventy-nine point one (79.1), unnumbered para-
2 graph one (1), Code 1975, is amended to read as follows:

3 Salaries specifically provided for in an appropriation Act of the gen-
4 eral assembly shall be in lieu of existing statutory salaries, for the posi-
5 tions provided for in any such Act, and all salaries shall be paid in
6 equal monthly, semimonthly or biweekly installments according to the
7 provisions of this Act and shall be in full compensation of all services,
8 except as otherwise expressly provided. All employees of the state in-
9 cluding highway maintenance employees of the state department of
10 transportation shall earn two weeks' vacation per year during the first
11 year of employment and through the fourth year of employment, and
12 three weeks' vacation per year during the fifth and through the elev-
13 enth year of employment, and four weeks' vacation per year during
14 the twelfth year and all subsequent years of employment, with pay.
15 One week vacation shall be equal to the number of hours in the em-
16 ployee's normal work week. Vacation allowances shall be accrued on a
17 pay period, monthly, or quarterly basis according to the provisions of
18 this Act as provided by the rules of the Iowa merit employment de-
19 partment. Said vacations shall be granted at the discretion and conven-
20 ience of the head of the department, agency or commission, except
21 that in no case may an employee be granted vacation in excess of the
22 amount earned by him. In the event that the employment of an em-
23 ployee of the state shall be is terminated for any reason other than a
24 discharge for good cause, he shall be paid a vacation allowance for any
25 vacation which he may have earned prior to such termination, and
26 which he has not yet taken. For the purposes of this section, death of
27 an employee shall be considered a termination of employment which
28 shall require payment of such vacation allowances as might be payable
29 for any other termination the provisions of this Act relating to such
30 termination shall apply.

1 SEC. 15. Sections four hundred seventy-seven point fifty-one
2 (477.51) and four hundred seventy-seven point fifty-two (477.52), Code
3 1975, are repealed.

Approved June 3, 1975

*According to enrolled Act