

By the Committees on Rules; and Judiciary; and Senator Simpson

595-03710-14

2014926c2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

A bill to be entitled
An act relating to wage theft; amending s. 34.01,
F.S.; expanding the original jurisdiction of county
courts; creating s. 448.115, F.S.; defining the term
"wage theft"; describing the occurrence of a wage
theft; authorizing an aggrieved employee to initiate a
civil action for wage theft; granting county courts
original and exclusive jurisdiction over actions
involving wage theft; specifying requirements to bring
a civil action for wage theft; authorizing a county,
municipality, or political subdivision to establish an
administrative process to assist in the collection of
compensation owed to an employee; preempting
regulation of wage theft to the state after a
specified date; exempting certain counties,
municipalities, and political subdivisions; providing
an effective date.

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

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

595-03710-14

2014926c2

30 interest, costs, and attorney's fees, except those within the
 31 exclusive jurisdiction of the circuit courts; ~~and~~

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

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

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

40 448.115 Civil action for wage theft; notice; civil penalty;
 41 preemption.-

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

47 (b) A wage theft occurs when an employer fails to pay a
 48 portion of wages, salary, commissions, or other similar form of
 49 compensation due to an employee within a reasonable time from
 50 the date on which the employee performed the work, according to
 51 the already applicable rate and the pay schedule of the employer
 52 established by policy or practice. In the absence of an
 53 established pay schedule, a reasonable time from the date on
 54 which the employee performed the work is 2 weeks.

55 (2) (a) If an employer commits wage theft, an aggrieved
 56 employee may initiate a civil action pursuant to this section.

57 (b) County courts have original and exclusive jurisdiction
 58 in all actions involving wage theft, as provided in s.

595-03710-14

2014926c2

59 34.01(1)(e). Notwithstanding s. 34.041, the filing fee for a
60 claim brought pursuant to this section may not exceed \$50.

61 (c) The action shall:

62 1. Be brought in the county court in the county where the
63 employee performed the work; and

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

65 (3)(a) Before bringing an action, the claimant must notify,
66 orally or in writing, the employer who is alleged to have
67 engaged in wage theft of his or her intent to initiate a civil
68 action.

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

73 (c) The employer has 7 days after the date of service of
74 the notice to pay the total amount of unpaid compensation or
75 otherwise resolve the action to the satisfaction of the
76 claimant.

77 (4) The action must be filed within 1 year after the last
78 date that the alleged unpaid work was performed by the employee.

79 (5) The claimant must prove wage theft by a preponderance
80 of the evidence. A prevailing claimant is entitled to damages
81 limited to twice the amount of compensation due and owing. The
82 court may only award economic damages expressly authorized in
83 this subsection and may not award noneconomic or punitive
84 damages or attorney fees to a prevailing party, notwithstanding
85 s. 448.08.

86 (6)(a) A county, municipality, or political subdivision may
87 establish an administrative, nonjudicial process under which an

595-03710-14

2014926c2

88 assertion of unpaid compensation may be submitted by, or on
 89 behalf of, an employee in order to assist in the collection of
 90 compensation owed to the employee. At a minimum, any such
 91 process shall afford the parties involved an opportunity to
 92 negotiate a resolution regarding the compensation in question.
 93 The county, municipality, or political subdivision may, as part
 94 of the process, assist the employee in completing an application
 95 for a determination of civil indigent status under s. 57.082 and
 96 may pay the filing fee under s. 34.041 on behalf of the
 97 employee, if applicable. The process may not adjudicate a
 98 compensation dispute between an employee and an employer nor
 99 award damages to the employee.

100 (b) Any local regulation of wage theft enacted on or after
 101 January 1, 2014, by a county, municipality, or other political
 102 subdivision that exceeds the provisions of this section is
 103 preempted to the state. A county, municipality, or other
 104 political subdivision that has enacted a local ordinance or
 105 resolution regulating wage theft before January 1, 2014, may
 106 amend, revise, or repeal the ordinance or resolution on or after
 107 January 1, 2014.

108 (c) Any other regulation, ordinance, or provision for the
 109 recovery of unpaid compensation by a county, municipality, or
 110 political subdivision is expressly prohibited and is preempted
 111 to the state.

112 (7) This section does not preclude a person who commits
 113 wage theft from being prosecuted for theft under s. 812.014.

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