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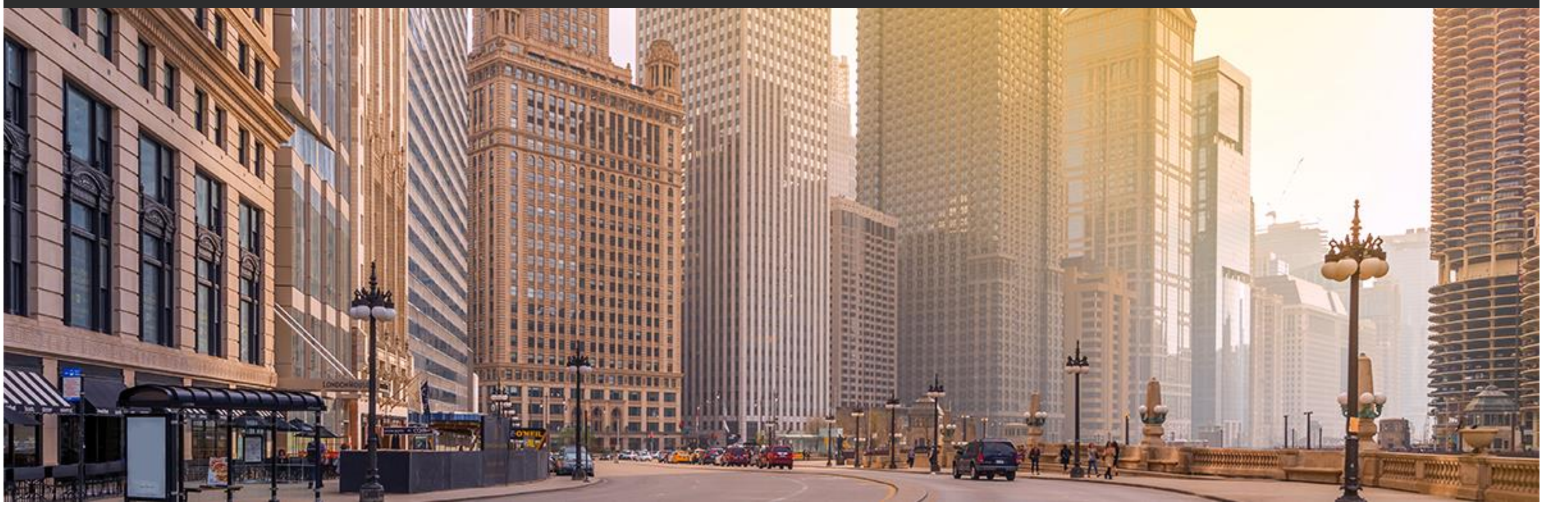

November 2024

Illinois Enacts New Pay Stub Obligations

Go-To Guide:

- Starting Jan. 1, 2025, Illinois employers must provide detailed pay stubs to employees each pay period, including hours worked, pay rates, overtime, and deductions.
- Employers must retain pay stub records for three years and provide copies to current/former employees upon request within 21 days, with some limitations.
- Non-compliance may result in civil penalties up to $500 per violation, in addition to existing damages under the Illinois Wage Payment and Collection Act.

Illinois Gov. Pritzker approved SB3208, which amends the Illinois Wage Payment and Collection Act (IWPCA). The amendments take effect Jan. 1, 2025, and expand existing wage statement requirements for Illinois employers.

The IWPCA applies to all employers and employees in the state, including local government and school district employees but exempting state or federal government employees.

Pay Stub Requirements

The amendments create new employer pay stub obligations, recordkeeping requirements, and related penalties, as follows:

- **Pay Stubs:** In addition to maintaining records of names and addresses of all employees and wages earned each payday, employers will be required to furnish employees with a pay stub electronically or in hardcopy each pay period. The amendments define pay stub as an "itemized statement [] reflecting an employee's hours worked, rate of pay, overtime pay and overtime hours worked, gross wages earned, deductions made from the employee's wages, and the total of wages and deductions year to date."
- **Records:** Employers must keep copies of pay stubs for at least three years after the payment date, regardless of whether an employee separates, or employment ends, during that period.
- **Pay Stub Copies:** Upon request from an employee or former employee, employers must furnish pay stubs to the employee. Employers may require an employee to submit a request for pay stubs in writing. The current or former employee requesting the paystub is entitled to designate whether the employer provides the requested pay stubs in physical or electronic format, "including a communication that is transmitted through electronic mail, text message, computer system, or is otherwise sent and stored electronically and is capable of being downloaded or permanently retained by the former employee." The employer must provide the requested pay stubs within 21 calendar days. Employers are not required to grant an employee's request for a copy of pay stubs more than twice in a 12-month period or a former employee's request more than one year after separation.
- **Access to Pay Stubs After Employment Ends:** If an employer (1) provides pay stubs electronically, and (2) a separated employee cannot access pay stubs for at least one year after separation, then the employer must offer to provide the departing employee with a record of the employee's pay stubs from the year preceding the date of separation. Such employers must make this offer by the end of the terminating employee's final pay period. The employer must document the date it makes this offer and how the employee responded.
- **Penalties:** Non-compliance may be subject to a civil penalty of up to $500 per violation. Such penalties are in addition to any damages or attorney's fees for wage noncompliance, also covered by the IWPCA.

Practical Considerations

Before the Jan. 1, 2025, effective date, covered employers should consider:

- Assessing wage statements and ensuring compliant pay stubs will be issued to employees each pay period.
- Reviewing recordkeeping procedures to comply with the new three-year retention period.
- Training payroll and related staff on the new pay stub related requirements.
- Evaluating whether electronically provided pay stubs are accessible by former employees for one year after separation, and if not, establishing a protocol for offering such records to departing employees.

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