

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

595-03710-14

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

18  
19 Be It Enacted by the Legislature of the State of Florida:

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

23       34.01 Jurisdiction of county court.—

24       (1) County courts shall have original jurisdiction:

25       (a) In all misdemeanor cases not cognizable by the circuit  
26       courts;

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

28       (c) Of all actions at law in which the matter in  
29       controversy does not exceed the sum of \$15,000, exclusive of

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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.

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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

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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.