

1 TITLE 56: LABOR AND EMPLOYMENT
2 CHAPTER I: DEPARTMENT OF LABOR
3 SUBCHAPTER b: REGULATION OF WORKING CONDITIONS
4

5 PART 200
6

7 PAID LEAVE FOR ALL WORKERS ACT
8

9 SUBPART A: GENERAL PROVISIONS
10

11	Section	
12	200.100	Scope
13	200.110	Definitions
14	200.120	Incorporated and Referenced Materials
15		

16 SUBPART B: EARNING PAID LEAVE
17

18	Section	
19	200.200	General Provisions
20	200.210	Start of Paid Leave Benefits
21	200.220	Accruing Paid Leave Over a 12-Month Period
22	200.230	Frontloading Paid Leave at the Start of a 12-Month Period
23	200.240	Mixed-Earning Policies
24	200.250	Notice and Accounting
25	200.260	Collective Bargaining Agreements
26	200.270	Local Paid Leave Ordinances
27		

28 SUBPART C: USE OF PAID LEAVE
29

30	Section	
31	200.300	General Provisions
32	200.310	Paid Leave Usage Policy and Notice Requirements
33	200.320	Carry Over
34	200.330	Rate of Pay
35		

36 SUBPART D: EMPLOYER RESPONSIBILITIES
37

38	Section	
39	200.400	Domestic Workers
40	200.410	Joint Employment
41	200.420	Transfers and Reinstatements
42	200.430	Continuation of Health Benefits
43	200.440	Recordkeeping Requirements

- 44 200.450 Display of Paid Leave for All Workers Notice
- 45 200.460 Determining Payout of Paid Leave Upon Separation from Employment
- 46 200.470 Prohibition on Retaliation

47
48
49

SUBPART E: ENFORCEMENT

50 Section

- 51 200.500 Filing a Complaint
- 52 200.510 Service of Documents
- 53 200.520 Administrative Hearings
- 54 200.530 Damages, Penalties, and Relief Due to the Employee
- 55 200.540 Penalties Due to the Department of Labor

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57 AUTHORITY: Implementing and authorized by the Paid Leave for All Workers Act [820 ILCS
58 192].

59

60 SOURCE: Adopted at 48 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL PROVISIONS

63

64 **Section 200.100 Scope**

65

66 This Part implements the Paid Leave for All Workers Act [820 ILCS 192].

67

68 **Section 200.110 Definitions**

69

70 In addition to the terms set forth in Section 10 of the Act, all other terms used in this Part shall
71 have the meanings set forth in this Section.

72

73 "Accrual" or "accrue" is the practice of accumulating paid time off over a period
74 of time, proportionately to hours worked.

75

76 "Act" means the Paid Leave for All Workers Act [820 ILCS 192].

77

78 "Administrative Law Judge" means an individual authorized by the Department to
79 determine the merits of claims alleging violations of the Act.

80

81 "Aggrieved Employee" means an employee affected by a possible violation of the
82 Act, regardless of whether the employee has filed a claim with the Department.

83

84 "Complaint" means a signed document alleging a violation of the Act,
85 accompanied by any supporting documentation required by the Department.

86

87 *"Construction industry" means any constructing, altering, reconstructing,*
88 *repairing, rehabilitating, refinishing, refurbishing, remodeling, remediating,*
89 *renovating, custom fabricating, maintenance, landscaping, improving, wrecking,*
90 *painting, decorating, demolishing, or adding to or subtracting from any building,*
91 *structure, highway, roadway, street, bridge, alley, sewer, ditch, sewage disposal*
92 *plant, waterworks, parking facility, railroad, excavation or other structure,*
93 *project, development, real property, or improvement, or to do any part thereof,*
94 *whether or not the performance of the work herein described involves the addition*
95 *to or fabrication into, any structure, project, development, real property, or*
96 *improvement herein described of any material or article of merchandise. The*
97 *definition also includes moving construction-related materials on the job site or*
98 *to or from the job site, snow plowing, snow removal, and refuse collection. [820*
99 *ILCS 192/10]*

100
101 "Day" means a calendar day.

102
103 *"Department" means the Illinois Department of Labor, its Director, and the*
104 *Director's authorized representatives. [820 ILCS 192/110]*

105
106 *"Domestic work" means housekeeping, house cleaning, home management, nanny*
107 *services including childcare and child monitoring, caregiving, personal care or*
108 *home health services for elderly persons or persons with an illness, injury, or*
109 *disability who require assistance in caring for themselves, laundering, cooking,*
110 *companion services, chauffeuring; or other household services for members of*
111 *households or their guests in or about a private home or residence or any other*
112 *location where the domestic work is performed, as defined by the Domestic*
113 *Workers' Bill of Rights Act. [820 ILCS 192/10]*

114
115 "Domestic worker" means a person, *including independent contractors, sole*
116 *proprietors, and partnerships,* who performs domestic work. [820 ILCS 192/10]

117
118 "Domicile" for purposes of the definition of "employee," means a *true, fixed, and*
119 *permanent legal home of a person or the place to which the person intends to*
120 *return even though the person may reside elsewhere. As a further explanation, "a*
121 *person may have more than one residence but only one domicile". [625 ILCS*
122 *5/1-115.5]*

123
124 "Employee" means an individual who works part-time, full-time, or performs
125 seasonal work and is:

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127 permitted to work by an employer whose base of operations, regional
128 office, or headquarters is in Illinois and that employee's work is primarily
129 performed in Illinois, or

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permitted to work by an employer if either of the following is true:

The work is primarily performed in Illinois for an employer that performs substantial business in the State, markets its services in the State, or maintains a registered agent within the State of Illinois; or

the work is primarily performed in Illinois and individual is domiciled in Illinois.

For the purposes of this Part, when considering whether work is performed primarily in Illinois, the Department will consider the following factors:

The amount of work performed in Illinois compared to the amount of work performed outside of Illinois;

Whether the work performed inside of Illinois is isolated, temporary, or transitory; and

Whether the work performed outside of Illinois is the of same nature or has the same duties of the work performed in Illinois.

The definition of "employee" does not include the following:

An employee as defined in the federal Railroad Unemployment Insurance Act (45 U.S.C. 351) or the federal Railway Labor Act (45 U.S.C. 151);

A student enrolled in and regularly attending classes in a college or university who is also working less than full-time temporary basis at the same college or university;

An employee of a college or university who works for less than 2 consecutive quarters and the employee does not have a reasonable expectation to be rehired by the same employer for the same service in the subsequent calendar year; or

A bona fide independent contractor except an individual working as a domestic worker *as defined by the Domestic Workers' Bill of Rights Act* and by this Part. [820 ILCS 192/10]

The definition of "employee" includes domestic workers.

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"Employer" means any individual, sole proprietor, partnership, association, corporation, limited liability company, business trust, employment and labor placement agency where wage payments are made directly or indirectly by the agency or business for work undertaken by employees under hire to a third party pursuant to a contract between the business or agency with the third party, *State or local unit of government, any political subdivision of the State, or any State or local government agency*, including all branches of State government, employing individuals in Illinois, except for the following:

*Public school districts organized under the School Code [105 ILCS 5];
and*

*Park districts organized under the Park District Code [70 ILCS 1205].
[820 ILCS 192/10]*

"Foreseeable" means reasonably able to be known or anticipated.

"Frontload" means to *make available the minimum number of hours of paid leave time, subject to pro rata requirements provided in 820 ILCS 192/15(b), to an employee on the first day of employment or the first day of the 12-month period.* [820 ILCS 192/15(c)]

"Independent contractor" means an individual, other than a domestic worker, who:

has been and will continue to be free from control and direction over the performance of the individual's work, both under the contract of service with the employer and in fact; and

performs work that is either outside the usual course of business or is performed outside all of the employer's places of business, unless the employer is in the business of contracting with third parties for the placement of employees; and

is in an independently established trade, occupation, profession, or business. [820 ILCS 115/2]

"Paid leave", "paid leave time", or "paid leave hours" means time off from work for which the employer is required to pay the employee.

"Party" means any employee affected by a possible violation of the Act or any employer whose compliance with the Act is in question.

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"Practical" means realistically capable of being accomplished in the actual circumstances.

"Qualifying pre-existing paid leave policy" means a bona fide paid leave policy that an employer has enacted prior to January 1, 2024, that, in practice, satisfies the minimum amount of leave required by subsection 15(a) if the policy offers an employee the option, at the employee's discretion, to take paid leave for any reason.

"Rate of pay" means:

for an employee who is not engaged in an occupation in which gratuities or commissions have customarily and usually constituted part of remuneration for hire, an employee's hourly rate of pay; and

for an employee who is engaged in an occupation in which gratuities or commissions have customarily and usually constituted part of remuneration for hire, the full minimum wage in the jurisdiction where the employee is employed or the agreed-upon hourly base wage rate, whichever is higher. [820 ILCS 192/5]

"Shared services" means services provided by a domestic worker to more than one employer that are intentionally coordinated by the employers. For example, in the context of childcare services, shared services are commonly referred to as a "nanny share".

"State agency" means all boards, commissions, agencies, institutions, authorities, bodies politic and corporate of the State created by or pursuant to the constitution or statute, of the executive branch of State government.

"Unforeseeable" means not reasonably able to be known or anticipated.

"Writing" or "Written" means a printed or printable communication in physical or electronic format, including a communication that is transmitted through electronic mail, text message, or a computer system or is otherwise sent or stored electronically. [820 ILCS 192/10]

Section 200.120 Incorporated and Referenced Materials

The following regulations and standards are incorporated in this Part. All incorporations by reference refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.

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- a) The following State statutes are referenced in this Part:
 - 1) Illinois Vehicle Code [625 ILCS 5];
 - 2) School Code [105 ILCS 5];
 - 3) Park District Code [70 ILCS 1205];
 - 4) Forms Notice Act [20 ILCS 435];
 - 5) Illinois Wage Payment and Collection Act [820 ILCS 115]; and
 - 6) Illinois Administrative Procedure Act [5 ILCS 100/Art. 10].
- b) The following State regulations are referenced in this Part:
 - 1) Minimum Wage Law Code (56 Ill. Adm. Code 210);
 - 2) Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).
and
 - 3) Payment and Collection of Wages and Final Compensation (56 Ill. Adm. Code 300).
- c) The Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207 and 213).

SUBPART B: EARNING PAID LEAVE

Section 200.200 General Provisions

- a) Minimum Paid Leave Time Requirements
 - 1) An employee is entitled to earn a *minimum of 40 hours of paid leave during a 12-month period or a pro rata number of hours of paid leave* during a 12-month period, consistent with Section (a)(2) and Section 15(b) of the Act and Section 200.220 of this Part. [820 ILCS 192/15]
 - 2) Employers may provide such leave via accrual or frontloading.
 - 3) An employer may choose to provide more than the minimum number of paid leave hours to an employee under this subsection or otherwise adopt a

301 more generous paid leave policy as long as the policy meets the minimum
302 requirements of the Act and this Part.

303
304 b) An employer who has a qualifying pre-existing paid leave policy in effect on
305 January 1, 2024, is not required to modify the pre-existing paid leave policy. If,
306 after January 1, 2024, the employer modifies a pre-existing paid leave policy in
307 such a way that it no longer provides a minimum of 40 hours of paid leave to be
308 used for any reason in accordance with Section 15(a) of the Act, that policy will
309 no longer be considered a qualifying pre-existing paid leave policy.

310
311 **Section 200.210 Start of Paid Leave Benefits**

312
313 An employee shall begin to earn *paid leave hours*, via frontloading or accrual, *at the*
314 *commencement of the individual's employment with the employer or on January 1, 2024,*
315 *whichever is the later date.* [820 ILCS 192/15]

316
317 **Section 200.220 Accruing Paid Leave Over a 12-Month Period**

318
319 a) If an employer requires employees to earn paid leave hours via accrual, an
320 employee is entitled to *accrue paid leave hours at the rate of one hour of paid*
321 *leave for every 40 hours worked during a 12-month period up to a minimum of 40*
322 *hours of paid leave over the same 12-month period.* [820 ILCS 192/15] An
323 employer may choose to provide leave in smaller, proportional, increments, if the
324 rate of benefit accrual is at least 1 hour of paid leave for every 40 hours worked.
325 For the purpose of this Section, work periods must be counted on a minute-by-
326 minute basis or may be rounded up to the next 15 minutes. An employer may not
327 round down time worked.

328
329 b) Except as provided in subsection (c), an employer is required to count all time
330 that an employee works, including overtime hours worked, for purposes of
331 calculating accrual. An employer is not required to count time when an employee
332 is on paid or unpaid leave or other non-compensable time where the employee is
333 not performing work for the employer as time worked for accrual purposes.

334
335 c) *Employees exempt from the overtime requirements of the federal Fair Labor*
336 *Standards Act (29 U.S.C 213(a)(1)) shall be deemed to work 40 hours in each*
337 *workweek for purposes of paid leave time accrual if that employee regularly*
338 *works 40 or more hours in a workweek.* [820 ILCS 192/20] If such employee's
339 regular workweek is less than 40 hours, the employee's paid leave time accrues
340 based on the number of hours in their regular workweek.

341

- 342 1) An overtime-exempt employee who regularly works 40 hours or more in a
343 workweek is entitled a minimum of 40 hours of paid leave during a 12-
344 month period.
345
- 346 2) An overtime-exempt employee who regularly works less than 40 hours in
347 a workweek is entitled to accrue paid leave hours based on the number of
348 hours worked in that workweek consistent with Sections 200.200 and
349 200.220.

350
351 d) Accrual calculation examples.

352
353 EXAMPLE A: Employee A works 15 hours per week, 52 weeks per year.
354 Employee A is entitled to accrue 19.5 hours of paid leave annually. (15 times 52
355 = 780 hours worked per year. 780 divided by 40 = 19.5 hours of paid leave time.)
356

357 EXAMPLE B: Employee B works 50 hours per week, 52 weeks per year.
358 Employee B is entitled to accrue at least 40 hours of paid leave annually.
359 Employee B's employer may choose to provide more than 40 hours, either via
360 accrual or frontloading.
361

362 EXAMPLE C: Employee C is paid on a salary basis and qualifies for the
363 "administrative" exemption under the Fair Labor Standards Act. Employee C's
364 office hours are regularly 37.5 hours per week, but in some weeks, this
365 employee's work hours may be fewer or more, depending on workload. Employee
366 C's employer requires employees to earn paid leave via accrual. Employee C's
367 paid leave shall accrue on the basis of 37.5 hours per week, even in weeks when
368 they work fewer hours.
369

370 **Section 200.230 Frontloading Paid Leave at the Start of a 12-Month Period**

371
372 a) If an employer frontloads leave by providing to its employees the minimum
373 required number of paid leave hours available for use on the employee's first day
374 of employment or the first day of any 12-month period, the employer is subject to
375 the following requirements:
376

377 1) The employer shall give written notice to the employee informing the
378 employee of how many paid leave hours that employee is receiving on or
379 before the first day of employment or on or before the first day of the 12-
380 month period.

381
382 A) If an employer chooses a fixed date for the beginning of the 12-
383 month period, such as January 1 or July 1, the employer may pro-
384 rate the amount of frontloaded paid leave time that an employee

385 who begins employment mid-12-month period shall receive. The
386 employer shall then frontload the full 12-month period's worth of
387 paid leave time to that employee at the next regular fixed date.
388

389 B) An employer may choose to use each employee's employment start
390 date as the start of that employee's 12-month period.
391

392 C) An employer may not retroactively diminish benefits that the
393 employer has already provided to an employee. Therefore, an
394 employer may not recoup or require an employee to repay paid
395 leave time that was frontloaded at the beginning of the 12-month
396 period if the employee's employment ends before the end of the
397 12-month period.
398

399 2) Each 12-month period shall renew consecutively for the duration of
400 employment unless employer does all of the following (see Section 15(d)
401 of the Act):
402

403 A) Gives written notice to the employee at least 30 days prior to the
404 end of the 12-month period, informing them that the 12-month
405 period is changing or ending;
406

407 B) Gives the employee written documentation of the number of hours
408 worked during the 12-month period, the number of paid leave
409 hours accrued, the number of paid leave hours taken, and the
410 remaining paid leave hours balance; and
411

412 C) Ensures that the changing of the 12-month period does not reduce
413 the number of paid leave hours the employee is otherwise entitled
414 to in a 12-month period.
415

416 3) An employee who receives frontloaded paid leave on the first day of any
417 12-month period shall continue to receive paid leave hours on the first day
418 of any consecutive 12-month period unless the employer does the
419 following (see Section 15(d) of the Act):
420

421 A) Gives written notice the employee at least 30 days prior to the end
422 of the 12-month period that the 12-month period is changing or
423 ending;
424

425 B) Gives the employee written documentation of the number of hours
426 worked during the 12-month period, the number of paid leave

427 hours accrued, the number of paid leave hours taken, and the
428 remaining paid leave hours balance; and

429
430 C) Ensures that the changing of the 12-month period does not reduce
431 the number of paid leave hours the employee is otherwise entitled
432 to in a 12-month period.

433
434 b) The number of hours of paid leave provided under this Section shall not be less
435 than what the employee would be entitled to earn if the employer had not
436 provided all paid leave hours on the first day of employment or the first day of the
437 12-month period.

438
439 c) With appropriate notice to the employee and documentation, employers may
440 frontload paid leave time for part-time employees at a pro rata amount consistent
441 with the employee's anticipated work schedule for that 12-month period.
442 However, if the employee works more hours than the employer anticipated, the
443 employee is entitled to accrue additional hours at a rate of 1 hour of paid leave for
444 every 40 hours worked in that same 12-month period, up to 40 hours of paid
445 leave. If a part-time employee works fewer hours in the 12-month period than
446 anticipated by their employer, the employer may not diminish or recoup used or
447 unused frontloaded paid leave benefits in any way.

448
449 **Section 200.240 Mixed-Earning Policies**

450
451 a) An employer may provide some of its employees paid leave in form of
452 frontloading, and other employees paid leave via accrual, if the employer's paid
453 leave policy or policies meets all of the requirements of the Act and this Part.

454
455 b) An employer shall not illegally discriminate or otherwise violate state or federal
456 law when determining which employees qualify for frontloading or accrual.

457
458 **Section 200.250 Notice and Accounting**

459
460 If an employee accrues paid leave based on Section 200.220 and requests information regarding
461 that employee's paid leave balance, then the employer shall provide such records to the employee
462 as soon as is practical.

463
464 **Section 200.260 Collective Bargaining Agreements**

465
466 a) Employees covered under a bona fide collective bargaining agreement may
467 negotiate minimum standards of paid leave meeting or exceeding what is required
468 by the Act.

469

- 470 b) *No term or provision of an existing bona fide collective bargaining agreement, in*
471 *effect on January 1, 2024, shall be affected by the Act. [820 ILCS 192/15]*
472
- 473 c) For a bona fide collective bargaining agreement that takes effect on or after
474 January 1, 2024, *covered employees may waive the requirements of the Act only if*
475 *the language of the waiver is clear, unambiguous, and explicitly waives the*
476 *requirements of the Act. [820 ILCS 192/15]* In the absence of a clear,
477 unambiguous, and explicit waiver in a collective bargaining agreement taking
478 effect after January 1, 2024, the employer shall be subject to the Act and this Part.
479
- 480 d) The provisions of this Act do not apply to:
- 481
- 482 1) *an employee who works in the construction industry and is covered by a*
483 *bona fide collective bargaining agreement, regardless of whether that*
484 *collective bargaining agreement is in effect before or after January 1,*
485 *2024; [820 ILCS 192/20] or*
486
- 487 2) *an employee who works for an employer that provides services nationally*
488 *and internationally of delivery, pickup, and transportation of parcels,*
489 *documents, and freights and is covered by a bona fide collective*
490 *bargaining agreement, regardless of whether that collective bargaining*
491 *agreement is in effect before or after January 1, 2024. [820 ILCS 192/15]*
492
- 493 e) If an employee works for a State Agency and is covered by a bona fide collective
494 bargaining agreement in effect on July 1, 2024, then *nothing in the Act shall affect*
495 *the validity or change the terms of the agreement applying to the employee.*
496 *Employees covered under a bona fide collective bargaining agreement with a*
497 *State Agency may only waive the requirements of the Act in such agreement under*
498 *the following conditions:*
499
- 500 1) *If the language of the waiver is clear, unambiguous, and explicitly waives*
501 *the requirements of the Act; and*
502
- 503 2) *The collective bargaining agreement is in effect after January 1, 2024.*
504 *[820 ILCS 192/15]*
505

506 **Section 200.270 Local Paid Leave Ordinances**
507

- 508 a) The Act and this Part *shall not apply to any employer that is covered by a*
509 *municipal or county ordinance that is in effect on January 1, 2024 that requires*
510 *employers to give any form of paid leave to their employees, including paid sick*
511 *time or paid leave. [820 ILCS 192/15]*
512

513 b) An employer that qualifies for subsection (a) but who employs employees who
514 are not covered by such municipal or county ordinance, is required to provide
515 paid leave to such employees in accordance with the Act.
516

517 EXAMPLE: Employer A is located in the city of Commerce, Illinois, which has a
518 local paid leave ordinance. Employer A also has a branch location located in the
519 city of Anytown, Illinois, which does not have a local paid leave ordinance.
520 Employer A provides paid leave in accordance with that ordinance to its
521 employees in Commerce. Employer A is required to comply with the Act and this
522 Part in relation to its employees working in Anytown.
523

524 c) Notwithstanding the provisions of subsection (a), any employer that is not
525 required to provide paid leave to its employees, including paid sick leave, under a
526 municipal or county ordinance that is in effect on January 1, 2024 shall be subject
527 to the provisions of the Act and this Part if the employer would be required to
528 provide paid leave under the Act to its employees. This shall include employers
529 located in municipalities or counties that have opted out of an overlapping
530 jurisdiction's paid leave law.
531

532 d) If a municipality or county enacts or amends a local law or ordinance to provide
533 paid leave time, including paid sick leave, after January 1, 2024, and the local law
534 or ordinances provides equal or greater paid leave benefits, rights, and remedies
535 than the Act, then the employer shall comply with the local law or ordinance.
536

537 e) If a municipality or county enacts or amends a local law or ordinance to provide
538 paid leave time, including paid sick leave, after January 1, 2024, and the local law
539 or ordinances provides less paid leave benefits, rights, or remedies than the Act,
540 then the employer shall comply with the minimum requirements of the Act.
541

542 SUBPART C: USE OF PAID LEAVE

543
544 **Section 200.300 General Provisions**
545

546 a) *An employee is entitled to begin using earned paid leave time 90 calendar days*
547 *after commencement of employment or 90 days after January 1, 2024, whichever*
548 *is later. [820 ILCS 192/15]*
549

550 EXAMPLE A: The Paid Leave for All Workers Act takes effect on January 1,
551 2024. Six months later, Employee A starts a new job on Monday, July 1, 2024,
552 and works 40 hours per week. Employee A starts accruing paid leave on their
553 first day (July 1) but must wait 90 days (until September 29, 2024) before using
554 any of their accrued paid leave time. See Section 15(g) of the Act.
555

556 EXAMPLE B: Employee B is hired to begin employment in an office job on
 557 September 1, 2024, which is the beginning of the employer's pay period. The
 558 office is closed on September 1 because it is a weekend, and it's also closed on
 559 Monday, September 2 for Labor Day, so Employee B's first day performing work
 560 is Tuesday, September 3. Because Employee B's employment status began on
 561 September 1, that day is the beginning of the 90-day waiting period. See Section
 562 15(g) of the Act.

563
 564 EXAMPLE C: Employee C has worked for an employer since 2019 but did not
 565 previously get paid time off. Employee C is entitled to earn paid leave beginning
 566 January 1, 2024 (the effective date of the Act). Employee C's employer
 567 frontloads its employees' paid leave in accordance with the Act, but Employee C
 568 must wait 90 days before being entitled to use any of their paid leave time. See
 569 Section 15(g) of the Act.

570
 571 EXAMPLE D: Employee D works 40 hours per week between June 1 and
 572 August 15 (75 days) and does not work the rest of the year. Although Employee D
 573 is entitled to accrue 1 hour of paid leave for every 40 hours worked, they are not
 574 entitled to use that leave during that time because they are not employed for 90
 575 days or longer. If Employee D returns to work for that employer within 12
 576 months, their accrued but unused leave shall be carried over or reinstated. See
 577 Section 15(k) of the Act.

- 578
 579 b) *An employee is entitled to use paid leave earned under the Act and this Part for*
 580 *any reason of the employee's choosing. [820 ILCS 192/15]*
 581
 582 1) *An employer shall not require an employee to provide a reason for taking*
 583 *paid leave time.*
 584
 585 2) *An employer shall not require an employee provide any type of*
 586 *documentation, including a certificate or form, as proof or support for the*
 587 *reason to use the paid leave time. [820 ILCS 192/15]*
 588

589 EXAMPLE: Employee A has accrued a sufficient number of hours under the Act
 590 to take a paid leave day. Employer A has scheduled a business closure for a
 591 major holiday. In the past, Employer A has allowed employees to choose whether
 592 to go unpaid for that holiday, or to use paid leave time available to them.
 593 Employer A may not require Employee A to use their accrued paid leave hours
 594 for the holiday closure.

- 595
 596 c) If an employer maintains a written paid leave policy, handbook, or manual, that
 597 policy, handbook, or manual must be consistent with the Act and this Part,
 598 including Section 200.310.

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- d) *An employee shall be allowed to choose whether to use paid leave earned under the Act and this Part before using any other leave benefits provided by the employer or State law. [820 ILCS 192/15]*
- e) An employee shall be allowed to choose whether to use any other leave benefits provided by the employer or State law before using paid leave earned under the Act and this Part.
- f) An employer who offers more than one type of leave should confirm and document what category of leave the employee wishes to draw from for any use of leave.
- g) Employees shall have the discretion to determine how many paid leave hours they need to use in a 12-month period except:
 - 1) If an employee's scheduled workday is more than two hours, then *the employer may restrict the use of paid leave to increments of no less than 2 hours per day*, in minimum units of 1 hour.
 - 2) *If an employee's scheduled workday is less than two hours, then the employer may restrict the amount of paid leave used per day to the equivalent of the scheduled workday. [820 ILCS 192/15]*

Examples

Example A: Employee A wants to use 45 minutes of paid leave to run an errand. Their employer may have a policy requiring employees to use 2 hours.

Example B: Employee B wants to use 3 hours of paid leave. Their employer may not require employees to use a higher number of hours instead.

Section 200.310 Paid Leave Usage Policy and Notice Requirements

- a) If an employer chooses to impose terms and conditions on employees' use of paid leave time, beyond the provisions explicitly required by the Act, the employer must adopt a reasonable, written paid leave policy, made available in English and in any additional language commonly spoken by the employer's workforce, that, at a minimum, includes the protections of the Act and this Part, and is consistent with the provisions of the Act and this Part. A written paid leave policy, other than a qualifying pre-existing policy, that is inconsistent with the Act and this Part

642 is invalid, and an employer with such a policy waives its right to notice of
643 employees' use of paid leave time.

- 644
- 645 1) The paid leave policy can be a part of an existing employer manual,
646 existing employer handbook, or a separate document.
 - 647
 - 648 2) The employer shall provide the paid leave policy to the employee prior to
649 or upon the employee's commencement of employment or within 90 days
650 after the effective date of the Act, whichever is later. Employers who
651 regularly communicate with employees via electronic means shall also
652 provide the notice via the employer's regular electronic communication
653 method.
 - 654
 - 655 3) If an employer changes the paid leave policy during the course of an
656 employee's employment, then the employer shall notify the employee of
657 the updated paid leave policy as soon as practical.
 - 658
 - 659 4) An employee may request to use paid leave *under this Act and this Part by*
660 *making an oral or written request to the employer consistent with the*
661 *employer's paid leave policy.* [820 ILCS 192/15] An employer's policy
662 may require the employee to provide written notice after making an oral
663 request for paid leave.

664

665 b) If an employer's paid leave policy has prior notification requirements, those may
666 include the following (see Section 15(h) of the Act):

- 667
- 668 1) If an employee's request to use paid leave time is foreseeable, then an
669 employer may require an employee give a maximum of 7 days' prior
670 notice.
 - 671
 - 672 2) If an employee's request to use paid leave time is unforeseeable, then the
673 employer may require the employee to provide notice as soon as
674 practically possible after the employee is aware of the necessity of the
675 leave.

676

677 c) An employer may deny an employee's request to use paid leave under the
678 following conditions:

- 679
- 680 1) The employer's policy for considering leave requests under the Act,
681 including any basis for denial under this Section is disclosed to the
682 employee, in writing, consistent with this Section; and
- 683

- 684 2) The employer's paid leave policy establishes certain limited circumstances
685 in which paid leave may be denied in order to meet the employer's core
686 operational needs for the requested time period. In considering whether an
687 employee's request for paid leave may be denied based on operational
688 needs, relevant factors include:
- 689 A) Whether the employer provides a need or service critical to the
690 health, safety, or welfare of the people of Illinois; and
691
692 B) Whether similarly situated employees are treated the same for the
693 purposes of reviewing, approving, and denying paid leave; and
694
695 C) Whether granting leave during a particular time period would
696 significantly impact the business operations due to the employer's
697 size and available workforce; and
698
699 D) Whether the employee has adequate opportunity to use all paid
700 leave time they are entitled to over a 12-month period.
701
702
- 703 3) The employer provides to the employee, and maintains according to
704 Section 200.440, a record of, each request which is denied and the
705 employer's reason for the denial.
706
- 707 d) *An employer shall provide employees with written notice of the paid leave policy*
708 *notification requirements in this Section in the manner provided in Section 20 (d)*
709 *of the Act for notice and posting, and shall do so within 5 calendar days of any*
710 *change to the employer's reasonable paid leave policy notification requirements.*
711 [820 ILCS 192/15]
712
- 713 e) *An employer shall not require an employee to search for or locate a replacement*
714 *worker to cover the employee's use of paid leave time.* [820 ILCS 192/15]
715
- 716 f) If an employer changes its policy regarding an employee's requirement to notify
717 the employer before taking paid leave time, then the employer must communicate
718 the change in writing within 5 calendar days after the change.
719
- 720 g) An employer may restrict an employee's use of paid leave to the employee's
721 known or anticipated work schedule.
722

723 **Section 200.320 Carry Over**
724

- 725 a) For an employee who accrues paid leave time over the course of a 12-month
726 period, any unused paid leave time shall carry over annually from one 12-month

727 period to the next 12-month period. Employers may establish a reasonable policy
728 consistent with Section 200.310 restricting employees' ability to carry over more
729 than 40 hours of unused paid leave. See Section 15(i) of the Act.

730
731 b) Employees who receive frontloaded paid leave at the beginning of the 12-month
732 period, in accordance with Section 200.220, are not entitled to carry over paid
733 leave time from one 12-month period to the next. See Section 15(c) of the Act.

734
735 c) An employee is not entitled to use more than 40 hours of paid leave in a 12-month
736 period unless the employer allows them to do so. See Section 15(i) of the Act.

737
738 **Section 200.330 Rate of Pay**

739 a) Employees shall be paid their hourly rate of pay when taking paid leave time.

740
741 b) *Employees who work in an occupation where gratuities are customarily the form*
742 *of payment shall be paid at least the full minimum wage in the jurisdiction where*
743 *the employer is located or the agreed upon base hourly wage rate, whichever is*
744 *higher, for all paid leave hours.*

745
746 c) Employees who work in an occupation where commissions are customarily the
747 form of payment shall be paid at least the full minimum wage in the jurisdiction
748 where the employer is located or the agreed upon base hourly wage rate,
749 whichever is higher, for all paid leave hours.

750
751 d) Employees who earn compensation through any other method shall be paid their
752 hourly rate of pay when taking paid leave.

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754
755 **SUBPART D: EMPLOYER RESPONSIBILITIES**

756
757 **Section 200.400 Domestic Workers**

758 a) Domestic workers shall earn or accrue paid leave under this Act from each
759 employer for whom they perform work. *If the employer of a domestic worker*
760 *requires that a domestic worker demonstrate that the domestic worker has*
761 *performed, in aggregate for all employers, more than 8 hours of domestic work*
762 *per workweek, in order to meet the definition of "domestic worker" in Section 10*
763 *of the Domestic Workers' Bill of Rights Act, then a signed statement prepared by*
764 *the domestic worker and submitted to each employer indicating that the employee*
765 *has worked or is scheduled to work 8 total hours in the workweek shall suffice in*
766 *order for the domestic worker to be eligible to earn paid leave time. [820 ILCS*
767 *192/10]*

- 770 b) If a domestic worker is employed jointly by two or more employers in a shared
771 services arrangement, then all of the employers shall be considered one employer
772 for the purposes of the Act and this Part (see Section 200.420).
773

774 EXAMPLE: A worker is hired jointly by two families with an agreement to
775 provide nanny services for two separate households. The worker provides
776 services for a combined 50 hours during the week: 30 hours for Family A and 20
777 hours for Family B. For the purposes of providing paid leave time, the families
778 are in a shared services arrangement. All of the worker's time spent working for
779 both families is counted together for accrual calculation purposes.
780

781 **Section 200.410 Joint Employment**

782
783 For the purposes of the Act and this Part, questions of joint employment will be evaluated
784 according to the provisions of Section 210.115 of the Minimum Wage Law Code (56 Ill. Adm.
785 Code 210).
786

787 **Section 200.420 Transfers and Reinstatements**

- 788
789 a) *An employee is entitled to retain and use all unused accrued paid leave earned at*
790 *a division, entity, or location if the employee is transferred to a separate division,*
791 *entity, or location of the same employer. [820 ILCS 192/15]*
792
793 b) *An employee is entitled to retain and use all unused accrued paid leave time*
794 *earned from employment if the employee was terminated or separated from*
795 *employment and was rehired within 12 months by the same employer. The unused*
796 *earned or accrued paid leave time shall be reinstated to the employee on the first*
797 *day of reinstatement. [820 ILCS 192/15]*
798
799 c) If an employee separates and returns within the same 12-month period, that
800 employee is entitled to reinstatement of any unused frontloaded paid time off
801 unless it was paid out upon separation.
802

803 **Section 200.430 Continuation of Health Benefits**

- 804
805 a) If an employee takes earned or accrued paid leave under the Act, then *the*
806 *employer shall continue to provide any health plan coverage for the employee and*
807 *the employee's family that the employee already had during the duration of the*
808 *paid leave time. [820 ILCS 192/15]*
809
810 b) *The continuation of any group health plan coverage shall not be at a level or at*
811 *conditions less than if the employee had not taken or used paid leave under the*
812 *Act. [820 ILCS 192/15]*

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- c) If the employee is required to pay a premium for the health plan while taking or using paid leave time, then before the use of paid leave *the employer shall notify the employee in writing that the employee is still responsible for continued payment.* [820 ILCS 192/15]

Section 200.440 Recordkeeping Requirements

- a) *Every employer shall create and maintain, for not less than 3 years, the following records for each employee:*
 - 1) Name and address;
 - 2) *Hours worked each day* in each workweek;
 - 3) *Paid leave earned or accrued* in each workweek;
 - 4) *Paid leave taken or used* in each workweek;
 - 5) Requests by the employee to use paid leave that the employer denied; and
 - 6) *Remaining paid leave balance* in each workweek and upon employee's separation or termination from employment. [820 ILCS 192/15]
- b) Every employer shall make all records related to the Paid Leave for All Workers Act and this Part available to the employee or for inspection by the Department upon request.

Section 200.450 Display of Paid Leave for All Workers Notice

Every employer shall display a notice in the following manner:

- a) *Each notice shall be posted in a conspicuous location on the employer's premises where notices to employees are customarily posted.*
- b) The notice shall not be obscured in any manner and shall be prominently visible in the location where notices to employees are customarily posted. In addition to displaying a notice in a physical location at the employer's premises, employers who regularly communicate with employees via electronic means shall also provide the notice via the employer's regular electronic communication method.
- c) *The notice shall be a written document that includes the following:*

- 856 1) A statement, supplied by the Department at no cost to the employer,
857 *summarizing the requirements of the Act including information about*
858 *filing a complaint with the Department; [820 ILCS 192/20] and*
859
860 2) A statement, written by the employer, summarizing the employer's written
861 paid leave manual, handbook, or policy, if the employer has one, including
862 how an employee may receive a copy of such document.
863
864 d) If the employer's workforce has a significant percentage of workers who are not
865 literate in English, then the employer shall additionally post the notice, as
866 supplied by the Department, in the languages commonly spoken in the workplace.
867

868 **Section 200.460 Determining Payment of Paid Leave Upon Separation from Employment**
869

- 870 a) An employee's existing time off allowance bank or time off account shall be kept
871 separate from the accounting of the employee's earned paid leave under the Act
872 unless the employer's written policy or practice is to combine such leave.
873
874 b) If an employer chooses to credit the paid leave provided for under the Act to an
875 existing paid leave allowance provided by the employer, such policy must be
876 communicated to the employee within 30 days after the start of employment or of
877 the effective date of the policy. See Sec. 300.210.
878
879 c) If an employer chooses to credit the leave provided for under the Act to an
880 existing paid leave allowance provided by the employer, *any unused paid leave*
881 *time shall be paid to the employee upon an employee's termination, resignation,*
882 *retirement, or other separation to the same extent that vacation time is paid under*
883 *the Illinois Wage Payment and Collection Act [820 ILCS 115/5]. [820 ILCS*
884 *192/15]*
885
886 d) If an employer does not provide an additional form of paid leave allowance, nor
887 chooses to combine or credit the multiple forms of leave together, then an
888 employer shall not be required to pay out, provide financial benefit, or
889 reimbursement for unused paid leave earned under the Act upon an employee's
890 termination, resignation, retirement, or other separation from employment at any
891 time of the year.
892

893 EXAMPLE A: Prior to January 1, 2024, Employer A, who is subject to the
894 Illinois Wage Payment and Collection Act, offers two weeks of paid vacation to
895 all employees. Beginning on January 1, 2024, Employer A allows employees to
896 accrue paid leave under the Paid Leave for All Workers Act, and terms that leave
897 "PLAW Leave." Employer A maintains records of the distinct balance each

898 employee has in the employee's vacation account and in the employee's PLAW
899 Leave account.

900
901 Because Employer A maintains separate documentation of the vacation leave and
902 PLAW Leave, Employer A does not have to pay out PLAW Leave upon an
903 employee's separation. When Employee A requests to use leave, Employer A
904 should ask Employee A whether they wish to deduct the leave from their vacation
905 balance or their PLAW Leave balance in order to appropriately document
906 Employee A's remaining paid leave balances.

907
908 **Section 200.470 Prohibition on Retaliation**

- 909
910 a) *It is unlawful for any employer to threaten to take or to take any adverse action*
911 *against an employee because the employee does one or more of the following:*
912
913 1) *exercises a right or attempts to exercise a right under the Act or this Part;*
914
915 2) *opposes practices which the employee believes to be in violation of the Act*
916 *or this Part; or*
917
918 3) *supports the exercise of rights of another employee of the same employer*
919 *under the Act or this Part. [820 ILCS 192/25]*
920
921 b) *It is unlawful for any employer to consider the use of paid leave by an employee*
922 *as a factor in any employment action that involves recruitment, hiring, promotion,*
923 *renewal of employment, selection for training or apprenticeship, discharge,*
924 *discipline, tenure or terms, privileges or conditions of employment evaluation, or*
925 *counting paid leave under a no-fault attendance policy. [820 ILCS 192/25]*
926
927 c) It is unlawful for an employer to take adverse employment action, including but
928 not limited to, penalizing or disciplining an employee under an attendance point
929 system or equivalent attendance scoring or tracking system when an employee
930 exercises his or her rights under the Act or this Part.

931
932 **SUBPART E: ENFORCEMENT**

933
934 **Section 200.500 Filing a Complaint**

- 935
936 a) *An employee may file a complaint with the Department alleging a violation of the*
937 *Act by completing and submitting a form provided by the Department and*
938 *submitting supporting documentation. All complaints shall be filed within 3 years*
939 *after the alleged violation. [820 ILCS 192/30]*
940

- 941 b) *The Department has the power to conduct investigations* upon receipt of a
942 complaint or at the discretion of the Director. Complaints shall be reviewed by
943 the Department to determine whether there is cause for investigation.
944
945 c) The Department may attempt to resolve the complaint by conference, voluntary
946 mediation, conciliation, or persuasion.
947
948 d) If, after investigation, the Department believes that the Act has been violated, then
949 the Department shall notify the parties in writing and the matter shall be referred
950 to an administrative hearing consistent with Section 200.520.
951

952 **Section 200.510 Service of Documents**

953
954 Service of any document upon any person may be made by personal delivery, certified mail with
955 the return receipt signed by the person or its agent, U.S. regular mail with postage prepaid, email
956 to an email address previously designated by the party for purposes of receiving communications
957 under this Act, or any other verifiable means, such as private carrier, to the following:
958

- 959 a) an address on file with the Department;
960
961 b) an address on file with the Secretary of State;
962
963 c) an address on file with any other State agency with which the respondent must
964 maintain a current address; or
965
966 d) any other address, including e-mail address, that the Department reasonably
967 calculates to be a true and current address for the respondent.
968

969 **Section 200.520 Administrative Hearings**

970
971 Hearings shall be conducted pursuant to the provisions of Article 10 of the Illinois
972 Administrative Procedure Act [5 ILCS 100/Art. 10] and the Rules of Procedure in
973 Administrative Hearings (56 Ill. Adm. Code 120).
974

975 **Section 200.530 Damages, Penalties, and Relief Due to the Employee**

- 976
977 a) If the Department determines that an employer owes payment for paid leave hours
978 to a claimant or did not allow the employee to use earned paid leave hours, then
979 the total amount due to the claimant shall be the following:
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981 1) Total value of earned paid leave hours owed to the claimant;
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983 2) *Compensatory damages;*

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- 3) *A penalty of not less than \$500 and not more than \$1,000; and*
- 4) *Any equitable relief as determined by the Administrative Law Judge pursuant to a hearing conducted under the IAPA. [820 ILCS 192/30]*

b) When determining the amount of a penalty, the Director shall consider the following factors:

- 1) The gravity of the violation, including the nature, circumstances, and extent of the violation, and the severity of the actual or potential harm;
- 2) The history of previous violations; and
- 3) The size of the employer, including number of employees employed by the employer, the gross dollar volume of sales or business done, the employer's capital investments and financial resources, and other information relevant to the size of the employer.

Section 200.540 Penalties Due to the Department of Labor

- a) If an employer violates any provision of the Act except for Section 20(c) of the Act or any Section of this Part, except for Section 200.450, then the *employer shall be subject to a civil penalty of \$2,500 per offense*, payable to the Paid Leave for All Workers Fund. [820 ILCS 192/35]
- b) *An employer who violates Section 200.450 of this Part, or Section 20(d) of the Act shall be fined a civil penalty of \$500 for the first audit violation and \$1,000 for any subsequent audit violation. [820 ILCS 192/20]*