



COMMENTARY
JANUARY 2019

Illinois Enacts New Employee Expense Reimbursement Law

IN SHORT

The Situation: An amendment to the Illinois Wage Payment and Collection Act ("IWPCA") was signed into law by Illinois Governor Bruce Rauner and took effect on January 1, 2019.

The Results: The amendment to the IWPCA provides that employers must reimburse their employees for all necessary expenditures and losses they incur within the scope of their employment, subject to the terms of the employer's expense reimbursement policy.

Looking Ahead: We recommend that all employers have an expense reimbursement policy in place that aligns with the amended law as soon as possible.

Effective January 1, 2019, the IWPCA amendment requires Illinois employers to reimburse their employees for all "necessary expenditures or losses" incurred in the employees' "scope of employment," subject to the terms of the employer's expense reimbursement policy.

Though a number of other jurisdictions require employers to reimburse employee expenses, the new Illinois law is unique in its treatment of employers' expense reimbursement policies. The Illinois law provides that employees are not entitled to reimbursement if "(i) the employer has an established written expense reimbursement policy and (ii) the employee failed to comply with the written expense reimbursement policy." Moreover, the law provides that "if the written expense reimbursement policy ... establishes specifications or guidelines for necessary expenditures, the employer is not liable ... for the portion of the expenditure amount that exceeds the specifications or guidelines of the policy so long as the employer does not institute a policy that provides for no reimbursement or *de minimis* reimbursement."

This *Commentary* examines the IWPCA amendment, its similarities to and differences from California's employee expense reimbursement law, and includes several recommendations for Illinois employers to minimize potential liability for unreimbursed business expenses under the new law.

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TWO KEY TAKEAWAYS

1. If you are an Illinois employer and you currently have a written expense reimbursement policy in place, revisit it to ensure it aligns with the amended IWPCA.
2. If you are an Illinois employer and you do not have a written employee expense reimbursement policy in place, prepare one as soon as possible that complies with the new Illinois law. Otherwise, employees can seek reimbursement for all "necessary expenditures



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or losses" they incur within the scope of their employment under Illinois law, with very limited exceptions.

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