

PROPOSED SUBSTITUTE TO FILE ID 15-1232

(Finance Committee 2-10-15)

Sponsored by: JEFFERY R. TOBOLSKI, County Commissioner and TONI PRECKWINKLE, President, Cook County Board of Commissioners

PROPOSED ORDINANCE AMENDMENT

COOK COUNTY WAGE THEFT ORDINANCE

THEREFORE BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 34, Finance, Article IV, Procurement, Division 4, Disqualifications and Penalties, Section 34-179 shall be amended as follows:

Sec. 34-179. - Disqualification due to violation of laws related to the payment of wages.

(a) A Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) who has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages shall be ineligible to enter into a Contract with the County for a period of five years from the date of conviction, entry of a plea, administrative finding or admission of guilt.

(b) The CPO shall obtain an affidavit or certification from every Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) from whom the County seeks to make a Contract with certifying that the Person seeking to do business with the County including its Substantial Owners (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) of this Section.

(c) For Contracts entered into following the effective date of this Ordinance, if the County becomes aware that a Person including Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) under contract with the County is in violation of Subsection (a) of this Section, then, after notice from the County, any such violation(s) shall constitute a default under the Contract.

(d) If a Person including a Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) is ineligible to contract with the County due to the provisions of Subsection (a) of this Section, the Person seeking the Contract may submit a request for a reduction or waiver of the ineligibility period to the CPO. The request shall be in writing in a manner and form prescribed by the CPO and shall include one or more of the following actions have been taken:

(1) There has been a bona fide change in ownership or Control of the ineligible Person or Substantial Owner;

(2) Disciplinary action has been taken against the individual(s) responsible for the acts giving rise to the violation;

(3) Remedial action has been taken to prevent a recurrence of the acts giving rise to the disqualification or default; or

(4) Other factors that the Person or Substantial Owner believe are relevant.

The CPO shall review the documentation submitted, make any inquiries deemed necessary, request additional documentation where warranted and determine whether a reduction or waiver is appropriate. Should the CPO determine that a reduction or waiver of the ineligibility period is appropriate; the CPO shall submit its decision and findings to the County Board.

(e) A Using Agency may request an exception to such period of ineligibility by submitting a written request to the CPO, supported by facts that establish that it is in the best interests of the County that the Contract be made from such ineligible Person. The CPO shall review the documentation, make any inquiries deemed necessary, and determine whether the request should be approved. If an exception is granted, such exception shall apply to that Contract only and the period of ineligibility shall continue for its full term as to any other Contract. Said exceptions granted by the CPO shall be communicated to the County Board.

THEREFORE BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 74, Taxation, Article 2, Real Property Taxation, Division 2, Classification System for Assessment, Sections 74-71 and 74-74 are hereby amended as follows:

Sec. 74-71. - Definition.

Property tax incentive. For the purpose of applicability of the Living Wage pursuant to Section 34-160 of the County's Code, and the Laws Regulating the Payment of Wages, pursuant to Section 74-74, "property tax incentive" means a reduction in the assessment level as set forth in Chapter 74, Article II, Division 2 of this Code for owner-occupied Class 6b industrial property, Class 8 industrial property, or Class 9 multifamily residential property. For the purpose of this article, "property tax incentive" shall not include a Class 9 designation granted to supportive living facilities, which establish an alternative to nursing home care for low income older persons and persons with disabilities under Medicaid and which are certified by the State Department of Public Aid pursuant to Chapter 74, Article II, Division 2 of this Code, the County Real Property Assessment Classification Ordinance.

Sales tax means the Retailer's Occupation Tax, the Service Occupation Tax and/or the Use Tax.

Sec. 74-74-Laws Regulating the Payment of Wages

(a) Except where a Person has requested an exception from the Assessor and the County Board expressly finds that granting the exception is in the best interest of the County, such Person including any Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) shall be ineligible to receive any property tax incentive noted in Division 2 of this Article if , during the five year period prior to the date of the application, such Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367 of the Cook County Code) admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment

and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(b) The Assessor shall obtain an affidavit or certification from every Person and Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) who seeks a property tax incentive from the County as noted in Division 2 of this Article certifying that the Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) has not violated the statutory provisions identified in Subsection (a) of this Section.

(c) If the County or Assessor becomes aware that a Person or Substantial Owner (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) has admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages during the five year period prior to the date of the application, but after the County has reclassified the Person's or Substantial Owner's (as defined in Part I, Chapter 34, Article V, Section 34-367of the Cook County Code) subject property under a property tax incentive classification, then, after notice from the Assessor of such violation, the Person or Substantial Owner shall have 45 days to cure its violation and request an exception or waiver from the Assessor. Failure to cure or obtain an exception or waiver of ineligibility from the Assessor shall serve as grounds for revocation of the classification as provided by the Assessor or by the County Board by Resolution or Ordinance. In case of revocation or cancellation, the Incentive Classification shall be deemed null and void for the tax year in which the incentive was revoked or cancelled as to the subject property. In such an instance, the taxpayer shall be liable for and shall reimburse to the County Collector an amount equal to the difference in the amount of taxes that would have been collected had the subject property not received the property tax incentive.

THEREFORE BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners, that Chapter 54, Licenses, Permits and Miscellaneous Business Regulations, Article X, General Business Licenses, Section 54-384 and 54-391 are hereby amended as follows:

Sec. 54-384. - License application.

All applications for a General Business License shall be made in writing and under oath to the Director of Revenue on a form provided for that purpose.

(a) Every application for a County General Business License shall be submitted and signed by the Person doing business or authorized representative of the Person doing business and shall contain the following:

- (1) Name of the applicant.
- (2) Business address.

- (3) Social security numbers, Tax ID number, and residence addresses of its sole proprietor or the three individuals who own the highest percentage interests in such Person and any other individual who owns five percent or more interest therein.
- (4) Pin number of the property or properties where the business is being operated.
- (5) A brief description of the business operations plan.
- (6) Sales tax allocation code. The sales tax allocation code identifies a specific sales tax geographic area and is used by the State of Illinois for sales tax allocation purposes.
- (7) Certification that applicant is in compliance with all applicable County Ordinances.
- (8) For Business Licenses applied for or renewed following the effective date of this provision, certification that the applicant has not, during the five year period prior to the date of the application for a Business License, admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., the Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq., the Employee Classification Act, 820 ILCS 185/1 et. seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages.

(b) The Director of Revenue shall be the custodian of all applications for licenses which [sic] under provisions of this Code. All information received by the Department from applications filed pursuant to this article or from any investigations conducted pursuant to this article, except for official County purposes, or as required by the Freedom of Information Act, shall be confidential.

(c) The General Business License applicant may be subject to an inspection by the following county departments including, but not limited to, Health, Building and Zoning and the Environment, prior to licensing.

(d) It shall be grounds for denial and/or revocation of any license issued under the provisions of this article whenever the license applicant knowingly includes false or incomplete information in the license application or is in violation of a County Ordinance.

Sec. 54-391. - License denial, nonrenewal, suspension, and revocation.

(a) Any County department or agency issuing citations pursuant to applicable Cook County Code of Ordinances shall have the authority to issue to the applicant or licensee a notice of violation recommending denial, nonrenewal, suspension, or revocation of an applicant's or licensee's General Business License.

- (1) After an authorized County department or agency issues a notice of violation recommending denial, nonrenewal, suspension or revocation to the applicant or licensee, a copy of this notice of violation, along with copies of any documents supporting the

above recommendation shall be forwarded to the Department of Revenue. The notice of violation and documents supporting the recommendation shall be "Prima Facie" or on its face legally sufficient to deny issuance, deny renewal, suspend or revoke the license, until disproved by documentary evidence.

- (2) The Director of Revenue or his or her designee shall have the authority to deny, renew, suspend, or revoke a General Business License issued under the provisions of this article if he or she determined the applicant or licensee violated any Federal or State statute or any provision of the Cook County Code of Ordinances.
- (3) However, no General Business License shall be denied issuance or renewal, suspended, or revoked except after a License Administration Hearing. The applicant or licensee shall be given written notice at least seven days prior to the date of the hearing, where the Director of Revenue or his or her designee shall make a determination based on the documentation provided by both the applicant or licensee and the Department(s) issuing the citation. The Director of Revenue or his or her designee may upon a show of good cause grant the applicant or licensee one continuance. The Director of Revenue or his or her designee shall have the right to authorize the examination of the books and records of any applicant or licensee who appears before him or her for a Determination Hearing.
- (4) If the Director of Revenue or a designee determines, after the License Administration Hearing, the license shall be denied, not renewed, suspended, or revoked, a written notice of determination and order to close the applicant or licensee's business, pursuant to Section 54-393 of this article, shall be issued to the applicant or licensee and the Sheriff. The Department of Revenue, with the assistance of the Sheriff, will immediately close the business.
- (5) An applicant or licensee who disagrees with the determination issued by the Director of Revenue or his or her designee may file an appeal for an administrative hearing, with the Cook County Department of Administrative Hearings in accordance with Cook County Code of Ordinances, Chapter 2, Administration, Article IX, Administrative Hearings. The filing of an appeal does not stop or prevent the physical closing of the applicant or licensee's business. The business shall remain closed unless an order to reopen is issued by the Department of Administrative Hearings or the Cook County Circuit Court.
- (6) If after the administrative hearing the Department of Administrative Hearings determines the license shall be denied, not renewed, suspended or revoked, the Department of Administrative Hearings shall immediately prepare and issue a written determination informing the applicant or licensee that the Notice of Determination issued by the Director of Revenue or his designee is upheld and the business will remain closed.
- (7) An applicant or licensee who wishes to appeal the determination of the Cook County Department of Administrative Hearings must provide written notice to the Department of Administrative indicating an appeal has been filed with the Circuit Court pursuant to Section 2-917 of this Code.
- (8) If after the administrative hearing the Department of Administrative Hearings issues a written determination indicating the license shall not be denied, suspended, revoked, or shall be renewed, the license shall be reinstated in accordance with Department of Revenue policy or procedures. However, a determination issued by the Department of Administrative Hearings in favor of the applicant or licensee does not forfeit the Department of Revenue's right to file an appeal with the Circuit Court.

(b) Notwithstanding the requirements set forth in subpart (a) (2)-(8) above, in circumstances where an applicant is unable to certify that the applicant has not, during the five year period prior to the

date of the application for a Business License admitted guilt or liability or has been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Illinois Wage Payment and Collection Act, 820 ILCS 115/1 et seq., Illinois Minimum Wage Act, 820 ILCS 105/1 et seq., the Illinois Worker Adjustment and Retraining Notification Act, 820 ILCS 65/1 et seq., the Employee Classification Act, 820 ILCS 185/1 et seq., the Fair Labor Standards Act of 1938, 29 U.S.C. 201, et seq., or any comparable state statute or regulation of any state, which governs the payment of wages, the applicant may seek an exception from the certification from the County Board through the Director of Revenue at the time of application and the following process shall apply:

- (1) An applicant shall be permitted to request an exception to such certification in a form and manner provided by the Director of Revenue.
- (2) The Director of Revenue shall review the requested exception and accompanying documentation and make a recommendation to the County Board as to whether the exception should be accepted or denied.
- (3) If the County Board expressly finds that the exception is in the best interest of the County, the Director of Revenue shall continue through the review process as prescribed in Subsection (a).

(c) The license of any person who has failed to pay any fine, assessment of costs or other sum of money owed to the County pursuant to an order of the Department of Revenue, an order of the Department of Administrative Hearings or a court order, by the due date indicated in the order, or within 30 calendar days of becoming a debt due and owing may be suspended by the Department of Revenue, in accordance with its rules and after affording a hearing. The license shall be suspended until such time that the fine, assessment of costs or other sum of money has been fully paid.

(d) A Person whose license has been denied renewal, suspended or revoked may seek re-issuance or reinstatement of the license in accordance with procedures prescribed by Department of Revenue.

Effective date: This ordinance shall take effect on May 1, 2015.