

# An Employer's Guide to the Illinois Secure Choice Savings Program Act

By Starr M. Rayford

## INTRODUCTION

In January 2015, Illinois became the first state to fully enact legislation requiring that private-sector employers offer their workers retirement benefits. Now as employer registration deadlines for mid-sized and small companies approach, local businesses are on notice to take appropriate action steps to ensure they comply with the Illinois Secure Choice Savings Program Act to avoid per-employee penalties.

## WHAT IS THE ILLINOIS SECURE CHOICE SAVINGS PROGRAM ACT?

The Illinois Secure Choice Savings Program Act (850 ILCS 80/1, *et seq.*) requires certain employers to provide their employees with a qualified, employer-sponsored retirement savings plan. The law mandates participation for private-sector employers at no fee, but does not require participation by their employees. If they so choose, employees may opt-out of the plan at any time.

## WHICH EMPLOYERS ARE REQUIRED TO COMPLY?

All Illinois employers who (i) have been operating within the state for at least two years, and (ii) have at least 25 employees are required to comply with the Act. Under the Act, the number of employees is based on how many employees a business reports to IDES for unemployment insurance. Both full-time and part-time employees are included in a company's total employee calculation, whereas, independent contractors are not.

## WHAT ARE THE REQUIREMENTS OF THE ACT?

The Act stipulates that an employer must provide all eligible employees with a qualified employer-sponsored retirement savings plan option. An employer can choose to either participate in the Illinois Secure Choice Roth IRA plan, or offer one of the following types of employer-sponsored savings plans:

- 401(k) savings plan;
- 403(a) qualified annuity plan;
- 403(b) tax-sheltered annuity plan;
- Simplified Employee Pension plan;
- Simple IRA plan;
- Governmental 457(b) plan; or
- Any other retirement savings plan qualified under Section 401(a) of the Internal Revenue Code.

Employers who choose to offer the Illinois Secure Choice plan must (i) enroll all eligible employees in the savings program, (ii) withhold at least 5 percent of each employee's compensation for retirement plan contributions, and (iii) remit the employees' contributions to the Illinois Secure Choice plan. Employers cannot withhold more than the annual maximum IRA contribution limit set by the IRS, and they may not contribute to the plan.

The Act also requires all affected employers to register with the State and provide basic information as to the number of employees and type of retirement savings plan offered by a specified deadline:

- Employers with 500 or more employees were required to register by **November 1, 2018**.
- Employers with 100-499 employees must register by **July 1, 2019**.
- Employers with 25-99 employees are required to register by **November 1, 2019**.

The Illinois State Treasurer will provide two reminders (or "notifications") to employers prior to their required registration deadline. These reminders will be sent by email or by mail approximately 120 days and 30 days prior to the employer's registration deadline.

## WHAT HAPPENS IF A BUSINESS DOESN'T COMPLY?

Employers who are subject to the Act's requirements and fail to meet these obligations face fines of \$250 per employee for the first year of noncompliance, and \$500 per employee if the employer continues to be in violation of the Act.

## HOW CAN I ENSURE MY BUSINESS IS COMPLIANT?

Visit the Illinois Secure Choice Retirement Savings Program website at [www.ILSecureChoice.com](http://www.ILSecureChoice.com) to register your business or to learn more. You may also contact Lawrence Kamin at 312.372.1947. Our attorneys can assess your situation and help ensure your business complies with the Illinois Secure Choice Savings Program Act.

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