

New Philadelphia Anti-Wage Theft Law Begins July 1, 2016

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"Wage theft" (the intentional non-payment or underpayment of earned wages) is already prohibited by Pennsylvania's Wage Payment and Collection Law. However, effective July 1, 2016, employers in Philadelphia will also be subject to the city's new Wage Theft Law, which imposes new penalties, provides for a private right of action for alleged violations, and creates the position of Wage Theft Coordinator within the City's Managing Director's Office.

The Wage Theft Law defines "wage theft" as any violation of the Pennsylvania Wage Payment and Collection Law or the Pennsylvania Minimum Wage Act where work has been performed in Philadelphia "or the employment contract underlying the violation is made in Philadelphia." Wage theft includes any instance of wages, or a portion thereof, being earned but not paid to the earning employee.

Claims

Claims can be brought by individuals or "authorized organizations," such as labor unions, within three years from the date the wage theft allegedly occurred where the amount of unpaid wages claimed falls between \$100 and \$10,000. The employer named in such a complaint must file an answer, after which a factual investigation is conducted. The Wage Theft Coordinator is to conduct an investigation and provide a written adjudication, including "findings of fact and conclusions of law," within 60 days from the date the answer is received, or within 110 days from receipt of the complaint, whichever is earlier. Where wages are determined to be owed, an order will be entered instructing that payment be made. Any final decision of the Wage Theft Coordinator may be appealed within 30 days of the decision by either the complainant or respondent to a court of competent jurisdiction. However, an employee can skip this step altogether and go straight to court.

Administrative Penalties

In addition to the earned wages claimed, administrative penalties may be assessed against an employer for each violation, with each week of unpaid wages potentially being subject to penalty. In addition, the employer would be responsible for paying the employee's attorneys' fees.

Of even more significance is the fact that the new law gives the the City of Philadelphia the option to "deny, suspend or revoke any license or permit issued or pending" where the employer has been found liable for a violation of the Wage Theft Law, the Pennsylvania Wage Payment and Collection Law, or the Pennsylvania Minimum Wage Act. The Wage Theft Law also includes an anti-retaliation provision and a posting requirement, and provides explicitly for joint and several liability among or between two or more named respondents.

Potential Implications

The Wage Theft Law increases the obligations already imposed on employers under the Pennsylvania Wage Payment and Collection Law. Philadelphia employers should familiarize themselves with the compliance obligations and seek counsel to review policies and procedures to avoid potential claims and penalties.

If you need advice on this legislation or other labor and employment issues, contact Debbie Sandler (215.864.6203; sandlerd@whiteandwilliams.com) or any member of our Labor and Employment Group for further assistance.

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