
Compliance Alert List for 2015

Wage Protection Act of 2014: Records to be Kept for 3 Years, Increases Penalties

Changes to Colorado's wage and hour law are set to go into effect on January 1, 2015, with the implementation of the Wage Protection Act of 2014. There will be a procedure for the Colorado Division of Labor to adjudicate complaints for unpaid wages or compensation of \$7,500 or less per employee, impose increased fines on employers, and provides for attorneys' fees for employees paid less than the applicable minimum wage.

Beginning January 1, 2015, employees will no longer be required to make a written demand on their employers within 60 days to trigger penalties for nonpayment. Employees have two years to file a complaint with the division or a court, and notice of the filing of a complaint will trigger the penalty provision. Penalties will accrue from the date the wages were owed, rather than from the date of demand.

The division may also fine employers (but not employees) \$250 for failing to timely respond to a division notice. Failure or refusal to testify or produce records in response to a division subpoena will be a misdemeanor, punishable by a \$200 fine, 60 days in jail or both, and each day of a failure or refusal will be a separate offense.

The Act authorizes the division to collect fines and penalties without a hearing. Fines imposed by the division will be credited to a "wage theft enforcement fund" created to pay the division's costs.

The new law directs the division to establish an administrative procedure for adjudicating claims of \$7,500 or less for wages earned on or after January 1, 2015 and allocates funds for enforcement. Under the new procedure, the director of the division will notify the employer of the complaint and, unless the employer pays the full amount demanded within 14 days of the notice, the director will investigate the complaint and issue a determination within 90 days. If, within 14 days

of the determination, the employer tenders the wages determined to be due, the director may, but is not required to, waive or reduce the fines and reduce the penalties by up to 50%. The employee is not required to accept the amount tendered. Within 35 days of the determination, the employee may choose to terminate the administrative process and file a court complaint.

Alternatively, any interested party may appeal a determination within 35 days to a hearing officer to be selected by the director. The hearing officer's decision may be appealed to a court, and court review will be limited to appeal briefs and the record. If a determination is not appealed and the employee does not terminate the process and file in court, the determination may be filed with a court and enforced as a judgment. Employees are not required to file an administrative complaint before filing suit.

Records are required to be kept under the new wage law: employers must maintain records reflecting the information in an employee's pay statement for at least three years after payment of the wages and provide copies of the records to the division or to an employee on request (the division may fine an employer up to \$250 per month, per employee, up to a total of \$7,500 for violations); and

If an employer makes final wages available at a work site or local office and an employee has not received them within 60 days of the date they were due, the employer must mail the check to the employee's last known address.

What This Means for Counties

Employers should develop recordkeeping procedures and begin educating managers and supervisors about the increased importance of responding promptly to wage complaints.

For more information, contact CTSI at 303-861-0507.