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ARTICLES & INSIGHTS

ABOUT THE AUTHOR



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North Carolina Employers Take Note: Requirements For Wage Payment Have Been Updated

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The North Carolina Wage and Hour Act (NCWHA) governs the payment of wages to workers employed in North Carolina and is enforced by the North Carolina Department of Labor. Effective July 8, 2021, various provisions of the NCWHA were amended, as summarized below.

Method of Payment to Separated Employees

Prior to these amendments, employers were required to pay terminated employees all wages due by the next regular payday after the separation, either “through the regular pay channels or by mail if requested by the employee.” The law now requires that employers issue final paychecks to separated employees using the regular payroll method used by the employer and may alternatively mail a separated employee’s final paycheck only if (1) the employee makes a *written* request for payment by mail and (2) the employer uses *trackable* mail to send the final paycheck, which likely requires delivery via certified mail or United States Postal Service Priority Mail. It is recommended that the employer maintain a record of the employee’s written request for payment of their final paycheck by mail and confirmation of delivery of the final paycheck in the separated employee’s personnel records.

Written Notification of Wage Payment Details

- The NCWHA requires that employers provide notice to newly hired employees of their promised wages and the day and location for payment of such wages if paychecks will be delivered in person or the method of payment if the employer is utilizing direct deposit or mail for delivery of paychecks. While such notice in the past was sufficient if provided verbally, the amended law now requires that such notice be provided to new employees *in writing*. Therefore, it is advisable that employers have such notifications signed by the new employee and that they maintain documentation of the written, signed wage notification in the new employee’s personnel records.
- If an employee’s wages are reduced, the law previously required that the employer

provide 24 hours advance written notice that could be posted in a common area accessible to employees. The amended law now requires that such written notice must be provided *at least one pay period in advance of the reduction in wages* and must be delivered to the affected employees individually in addition to being posted.

Increased Penalties for Recordkeeping Violations

Prior to amendment of the NCWHA, employers faced a maximum civil penalty of \$2,000.00 *per investigation* for violations of its recordkeeping requirements. That penalty has now been increased such that the maximum exposure is \$2,000.00 *per violation*. North Carolina Department of Labor investigations generally involve reviewing numerous employee records, each of which is now potential minefields for individual liability. The NCWHA and the regulations on wage payment require that every employer maintain complete and accurate records which contain the following information for each employee in each workweek, unless the employee is specifically exempted: (1) full name; (2) home address, including zip code and phone number; (3) date of birth if the employee is under the age of 20; (4) occupation or job title; (5) time of day and day of the week the employee's workweek begins; (6) regular rate of pay; (7) hours worked each workday; (8) total hours worked each workweek; (9) total straight-time earnings each workweek; (10) total overtime earnings each workweek; (11) total additions to or deductions from wages; (12) total gross wages paid each pay period; and (13) date of each payment. In addition, such records shall include, where applicable, tip credits; costs of meals, lodging, or other facilities; start and end time for youth workers under the age of 18; youth employment certificates; wage deductions; vacation and sick leave policies; policies and procedures relating to promised wages; and records required to compute wages. Employers must maintain all wage records for each employee for a period of three (3) years.

If you have questions about this amended statute or any other employment-related matter, please call [Connie Carrigan](tel:9192502119) at (919) 250-2119 or e-mail her at ccarrigan@smithdebnamlaw.com.

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