

New York's Annual Wage Notice Requirement Eliminated

New York's Wage Theft Prevention Act requires employers to provide annual wage notices to current employees by February 1 of each year and to new employees at the time of hire. On December 29, Governor Andrew Cuomo signed a bill eliminating the annual notice requirement. Both the governor's signing statement and a posting on the state department of labor's website confirm that the change is effective immediately and annual notices will not be required in 2015. However, employers must continue to provide wage notices for new hires.

Background

New York's Wage Theft Prevention Act (WTPA) amended the state labor laws to require that employers provide every employee who works in the state with written notice that identifies his or her regular pay rates and certain other pay-related information. Since 2012, employers have been required to provide notice at the time of hire, prior to a change in pay information, and annually to both exempt and nonexempt employees between January 1 and February 1, regardless of whether their pay information has changed. (See our [November 18, 2011 For Your Information.](#))

Last summer, the New York legislature passed a bill to amend certain WTPA requirements, including eliminating the annual wage notice requirement, increasing penalties for wage theft, and expanding liability for wage payment violations. (See our [July 22, 2014 For Your Information.](#)) The bill, which was slated to take effect 60 days after becoming law, was delivered to Governor Andrew Cuomo on December 17, leaving the annual notice requirement in place pending further action. (See our [December 17, 2014 For Your Information.](#))



Repeal of the Annual Wage Notice Requirement

On December 29, Governor Cuomo signed the bill eliminating the requirement for employers to provide annual wage notices to current employees between January 1 and February 1 of each year. In a [signing statement](#), the

governor wrote that the legislature has agreed to accelerate the effective date of this change to remove the annual notice requirement for the 2015 calendar year. In light of that, the state department of labor [announced](#) that it will not require annual statements in 2015.

Expanded Penalty, Liability, and Enforcement Provisions

The new law significantly increases the penalties for failure to provide timely wage notices to new hires and for failure to provide employee pay statements, and imposes a new penalty of \$1,000 to \$20,000 on repeat offenders. Successor employers may now face liability for a prior employer's wage payment violations, the 10 members with the largest ownership stakes in limited liability companies may be jointly and severally liable for unpaid wages, and construction contractors and subcontractors may be required to disclose wage violations to employees. Finally, under the new law, investigations into violations of the WTPA or retaliation against an employee for reporting wage theft will generally cover a six-year period from the date of the claim. These changes are slated to take effect February 27, 2015.

In Closing

Elimination of the annual wage notice requirement bill reduces — but does not eliminate — existing administrative burdens on employers. While annual notices will no longer be required, other WTPA requirements remain unchanged. Thus, employers must continue to provide wage notices to new hires including their rate(s) of pay (including overtime rate for non-exempt employees), regular pay day, allowances taken as part of the minimum wage (tip, meal or lodging deductions), how the employee is paid (by the hour, shift, day, week, commission, etc.), and certain other information. Earnings statements must still be issued with each wage payment and pay-related records maintained for six years. When the expanded penalty and liability provisions take effect, the stakes for noncompliance will be higher than ever.

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