

Severe Penalties Related to NY's New Wage Law

The new law, called the Wage Theft Prevention Act, requires employers to give annual written notice of wages, paydays and other information. For new employees, notice is required within 10 days of hire. For current employees, the deadline to give the notice is February 1, 2012. After that, the notice must be given to all employees annually. Employers must not only give out the notices but also collect employees' signatures on them and keep them for six years.

Notice forms for the various kinds of employees (full-time, temporary, hourly, exempt and others) are available from the New York Department of Labor at www.labor.ny.gov/workerprotection/laborstandards/workprot/lshmpg.shtm. The forms are available in three foreign languages as well as English - Chinese, Korean and Spanish – and these must be used for employees whose primary language is one of them. For other primary foreign language speakers, English is acceptable unless the Department of Labor creates forms in new languages. There are also new requirements for the content of pay stubs.

The new law increases penalties for underpayment of wages and for failure to give proper notice. Employees who are not paid their full wages can get double damages and counsel fees, as well as interest. Fines are also imposed for non-compliance. Failure to provide the required notice within ten business days of a new hire's first day produces a penalty of \$50 for each work week that the violation continues, up to \$2,500, plus costs and attorneys' fees. The \$50 per work week penalty applies to notice to current employees as well, starting next February. There are also misdemeanor and felony penalties.

Criminal penalties for non-compliance apply not only against employers but also against any officers and agents of corporations, partnerships and limited liability companies who are responsible for violations. Employers may not retaliate against employees who file complaints about violation of the law or underpayment of wages; such retaliation is also a crime.

If you have questions regarding this Alert, please contact, **David Rabinowitz** at 212.554.7815/drabinowitz@mosessinger.com or **Kimberly Klein** at 212.554.7853/kklein@mosessinger.com.

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