

Changes to Wage Theft Prevention Act a win for employers

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On December 29, 2014, Governor Cuomo signed a bill passed by the New York State Legislature earlier in 2014 that will eliminate the onerous annual notice requirement under the Wage Theft Prevention Act. While this is a win for employers, the bill also, among other things, increases certain penalties imposed under the Wage Theft Prevention Act and expands successor and personal liability for wage violations.

Before this amendment, the Wage Theft Prevention Act required that employers, annually before February 1st, provide employees with a notice of wage-related information (i.e. pay rate) and obtain an acknowledgment from employees that each received their notice. While employers must continue to provide this notice to employees at the time of hire, this burdensome annual notice requirement is no longer required except for employees in the hospitality industry. Although the law is not effective until late February 2015, the Department of Labor will not be enforcing the annual notice requirement effective January 1, 2015.

The amendments also increase penalties for failure to provide a notice under the Wage Theft Prevention Act to employees at the time of hire. Instead of being fined \$50 per week with a maximum penalty of \$2,500, employers who fail to provide notice could now face penalties of \$50 per day with a maximum penalty of \$5,000. Additionally, employers who have a previous wage violation or whose violation is found to be willful or egregious may be forced to supply certain wage and employee data to the Department of Labor for publication on its website.

The amendments also seek to expand liability for wage violations. Similar to the liability imposed on the 10 largest shareholders in the Business Corporation Law, the amendments change the Limited Liability Company Law to provide that the 10 members with the largest ownership percentage of a limited liability company will be jointly and severally liable for all debts, wages, and salaries owing to the company's employees. Further, the amendments add language to the Labor Law to prevent employers from forming "alter ego" companies to avoid liability for a wage violation.

Amy Habib Rittling and Vincent Miranda are available to discuss what companies would fall within the hospitality industry and to generally ensure that onboarding policies comply with the Wage Theft Prevention Act. [Click here](#) to read this and other developments in labor and employment law at the New York Employment Law Update.

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