

● **WAGE PAYMENT AND COLLECTION ACT OF THE STATE**

STATUTORY CITATION: Del. Code Title 19, §§ 1101–1115

RELATED REGULATIONS: Del. Admin. Code 16-1324 §§ 1.0–2.0

GENERAL SUMMARY: The Wage Payment and Collection Act regulates the frequency and method of wage payments in the state and places limitations on the withholding of wages by employers, both agricultural and non-agricultural alike. The Act also authorizes the state labor department to adopt administrative regulations governing wage deductions.

PROVISIONS APPLICABLE TO AGRICULTURE

PAYDAYS AND PAY PERIODS — Employers in Delaware must pay their employees on regular paydays designated in advance, but in no case may paydays be less frequent than once during each calendar month. The end of the pay period for which payment is made on a regular payday may not be more than 7 days before the regular payday. If the regular payday falls on a non-workday, payment must be made on the preceding workday.

METHOD OF PAY — Wages must generally be paid in lawful U.S. money, by check, or by payroll debit card. Use of checks is allowable only if the employer makes suitable arrangements for cashing checks, without discount, at a bank or other business establishment convenient to the workplace, and payment using debit cards is subject to conditions spelled out in state regulations.

TERMINATION PAY — Whenever an employee quits or is laid off or discharged, final wages are due and payable on the next regular payday.

WITHHOLDING OF WAGES — An employer may not withhold or divert any portion of a worker's wages unless (1) the employer is required or authorized to do so by state or federal law, (2) the deductions are for documented health care or medical services, without financial benefit to the employer, or (3) the employer has a signed authorization from the worker for deductions for a lawful purpose accruing to the worker's benefit.

WAGE STATEMENTS AND RECORDKEEPING — Every employer with more than 3 employees is required (1) to notify each employee in writing, at the time of hiring, of the wage rate to be paid and the day, hour and place of payment, and (2) to furnish each employee with a written statement at the time of payment showing the wages earned, the pay period, itemized deductions from earnings, and, for employees paid at an hourly rate, the total number of hours worked. In addition, such employers must safeguard all wage and hour records at their place of business for a period of at least 3 years.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Office of Labor Law Enforcement, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802 (302-761-8200)*. On application to superior court, the Department is authorized to enter and inspect any workplace in the state, to examine and copy books and records, to question the employer and any employee, hold hearings, and take other steps to enforce the Act. Workers who have not been paid in accordance with the Act may file a complaint with the Department, which may bring legal action against the employer involved to collect unpaid wages or otherwise enforce compliance. In general, if an employer fails without reasonable grounds to pay an employee's wages as required, the employer is liable to the employee for liquidated damages in addition to the unpaid wages, in the amount of (1) 10 percent of the unpaid wages for each day (except Sundays and legal holidays) on which the failure continues, or (2) an amount equal to the unpaid wages, whichever is smaller.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Department of Labor, a worker may recover unpaid wages by filing suit against the employer in civil court, using a private attorney or a public legal service provider.