

● WAGE AND HOUR LAW (*MINIMUM WAGE*)

STATUTORY CITATION: Haw. Rev. Stat. §§ 387-1 – 387-15

GENERAL SUMMARY: Among its other purposes, Hawaii's wage and hour law establishes a state minimum wage, along with recordkeeping and posting requirements which every employer subject to the law is obligated to observe. The state minimum wage is currently \$9.25 an hour, but is scheduled to rise to \$10.10 beginning January 1, 2018.

The state minimum wage generally applies only to employees who are not covered by the minimum wage provisions of the federal Fair Labor Standards Act (*see entry, U.S. — Wages & Hours — Minimum Wage*). But in any workweek when the state minimum is higher than the federal rate, workers who would otherwise be excluded by this provision are entitled to the state minimum wage that week also. Since the current \$7.25 federal minimum wage is less than Hawaii's current rate of \$9.25, this provision effectively extends the state minimum wage to otherwise covered workers here regardless of their coverage under FLSA.

PROVISIONS APPLICABLE TO AGRICULTURE

APPLICABILITY OF MINIMUM WAGE —

Agriculture Generally — During any workweek in which the employer has at least 20 employees, a worker engaged in any agricultural service other than coffee harvesting is entitled to no less than the state minimum wage.

Coffee Harvesting — The state wage and hour law, and thus the minimum wage, **does not apply** to workers employed in any workweek in the harvesting of coffee.

RECORDKEEPING — Every employer who has any employee covered by the wage and hour law must record and safeguard certain data for each covered worker, including name, address, occupation, the amount of wages paid each pay period, the hours worked each day and each week, and the pay rate and basis thereof.

POSTING — Every subject employer must keep posted, in conspicuous locations at each workplace, prescribed notices regarding the provisions and coverage of the wage and hour law, to inform workers of their rights and entitlements under the statute.

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 — *Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777)*. Agents of the Department are authorized to enter any establishment or place of employment, to inspect and copy payroll and related employer records, and to question any employee in an investigation of a wage complaint or any other suspected violation of the wage and hour law. A worker who believes he or she has not received full pay in accordance with these provisions may file a claim with the nearest district office of the Department. In addition to restitution of unpaid wages, an employee found to have been underpaid as a result of a willful violation of the law is entitled to an equal amount as liquidated damages. Violators are also subject to criminal charges.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — As an alternative to administrative enforcement by the Department, a worker has the right to take direct civil action against an employer to recover unpaid wages and damages under the wage and hour law, utilizing a private attorney or public legal service provider.