

☉ WAGE AND HOUR ACT (*WAGE PAYMENTS*)

STATUTORY CITATION: N.C. Gen. Stat. §§ 95-25.1 – 95-25.25

RELATED REGULATIONS: 13 N.C. Admin. Code 12 .0101 – .0906

GENERAL SUMMARY: The Wage and Hour Act prescribes the conditions under which wage payments in North Carolina are to be made and imposes certain pay disclosure and recordkeeping requirements on the state's employers. With certain exceptions, these provisions apply to all employment in the state, agricultural and non-agricultural alike.

SPECIFIC TERMS AND CONDITIONS

PAYDAYS AND PAY PERIODS — Employers must pay their employees' wages on a regular payday. Pay periods may be daily, weekly, bi-weekly, semi-monthly, or monthly. Bonuses, commissions or other forms of compensation may be paid as infrequently as once a year if prescribed by the employer in advance.

FORM OF PAYMENT — In accordance with administrative rules, acceptable forms of payment include cash, money order, negotiable checks, and direct deposit into an institution whose deposits are federally insured or an institution selected by the employee.

FINAL WAGES — Workers whose employment is discontinued for any reason must be paid all wages due on or before the next regular payday, and any bonus or other such compensation is payable on the first regular payday after the amount due can be determined. Compensation of any kind may not be forfeited unless the worker has been notified, in the formal manner described below, of the employer's policy regarding loss or forfeiture of compensation.

WITHHOLDING OF WAGES — It is illegal for an employer to withhold or divert any part of a worker's wages unless the employer is required or authorized to do so by state or federal law, or the employer has a signed prior authorization from the worker indicating the purpose of the deduction. Furthermore, the cash value of loss or damage to an employer's property may not be deducted from an employee's wages unless the employee receives at least 7 days' notice of the amount to be deducted.

STATEMENT OF DEDUCTIONS — For each pay period in which any deduction from wages occurs, the employer must provide the worker with an itemized statement of deductions.

NOTIFICATION — At the time of hiring, employers must formally notify their new employees as to pay rates, compensation policies, and the day and place for payment of wages. In addition, workers must have access to a written statement or posted notice of the employer's policies regarding holidays, vacation pay and comparable matters.

RECORDKEEPING — The provision that requires most employers to make and preserve a record of wage payments and deductions with respect to each of their employees **does not apply** to anyone employed in agriculture.

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. A worker who has been subjected to any such reprisal may file a complaint with the Department up to 180 days after the violation occurs.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Wage and Hour Bureau, Standards and Inspections Division, North Carolina Department of Labor, Raleigh, North Carolina 27699 (919-807-2796; toll-free 800-625-2267)*. Designated representatives of the Department are authorized to enter any place of employment to gather facts essential to determining both the employer's coverage under the Act and the employer's compliance with the Act's applicable provisions. With respect to a subject employer, the Department may inspect the workplace, examine payroll records, question employees, and investigate other pertinent facts. A worker may submit a claim for unpaid wages to the Department, which must attempt to collect a valid claim through informal methods prior to exercising its power to take court action on the worker's behalf to recover the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — As an alternative to enforcement by the Labor Department, a worker may take private civil action against the employer, using outside legal assistance. Regardless of whether the action is brought by the Department or directly by the worker, any such suit must be filed within 2 years of the date the claim arose.