

● WAGE PAYMENT AND COLLECTION LAW

STATUTORY CITATION: W. Va. Code §§ 21-5-2 – 21-5-18

GENERAL SUMMARY: Article 5 of the West Virginia labor laws regulates the payment of wages, including such matters as pay periods, medium of payment, final compensation, and certain required notifications. The wage payment and collection law applies to both agricultural and non-agricultural employment alike.

SPECIFIC TERMS AND CONDITIONS

PAY PERIODS — Other than railroad companies, all employers in the state generally must pay their workers' wages at least twice a month, with no more than 19 days between paydays, unless a different schedule is provided for by special agreement.

MEDIUM OF PAYMENT — Wages may not be paid in any medium other than (1) in lawful U.S. money, (2) by check or similar draft drawn on one or more banking institutions, convenient to the place of employment and where arrangements have been made for cashing at full face value, (3) by deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution, or (4) by any method of depositing immediately available funds in an employee's demand account in a bank or credit union. Use of a payroll card must be agreed upon in writing by both the employer and the employee.

FINAL COMPENSATION — When an employer discharges an employee, the employer must pay the worker's final wages in full no later than the next regular payday. If the employer fails to adhere to this timeframe, the worker is entitled to recover the unpaid amount, plus *two times* the unpaid amount as liquidated damages.

NOTIFICATIONS — At the time of hiring, every employer must provide to each worker hired a written notice of the rate of pay and the day, hour and place of payment. Any change in these conditions must be announced in advance and in writing. There must be a summary of the wage payment and collection law posted at the workplace and accessible to the employees at all times.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY — *Wage and Hour Section, Division of Labor, West Virginia Department of Commerce, Charleston, West Virginia 25305 (304-558-7890)*. Representatives of the Division of Labor may enter any place of employment in the state, question employees, examine payroll records and related documents, and take other enforcement action, either in response to a worker's complaint or on the agency's own initiative. At the request of a worker claiming unpaid wages, the Division is authorized to take legal action against the employer to collect the claim. Violation of the wage payment and collection law is also grounds for criminal prosecution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — *None*.

PRIVATE CIVIL ACTION — In lieu of filing an administrative claim with the Division of Labor, a worker whose wages have not been paid in accordance with these provisions may recover unpaid wages and damages, if applicable, by bringing suit against the employer directly, utilizing outside legal assistance. The court is authorized to award the worker reasonable attorney's fees if the worker prevails in any such action.