

Promises in Writing: Recent Amendments to North Carolina Wage and Hour Act

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North Carolina employers must comply with new wage notification requirements due to amendments to the North Carolina Wage and Hour Act (N.C. Gen. Stat. 95-25.1 *et seq.*), which went into effect last month.

First, the amendment requires that employers must provide new hires with **written** notice of their promised wages and the day and location for wage payment (if wages are delivered in person) or the method of payment, such as direct deposit or mail (if wages are delivered other ways). N.C.G.S. 95-25.13. Earlier versions of this notice requirement permitted verbal notice, but the amendments make it clear that the notice must now be in writing. Employers should maintain a copy of this notice in each employee's personnel file.

Second, employers must provide a longer notice period before changing employees' wages. Employers must provide written notice of changes to employee pay "at least one pay period prior to any changes in promised wages." Earlier versions of the law permitted notification just 24 hours before such changes. The amendment did not change that employers are permitted to increase wages without providing this notice.

The new amendment additionally requires that employers send final paychecks either through regular pay channels or by trackable mail if requested by the employee in writing. N.C. 95-25.7. Final wages are still due on or before the next regular payday, and wages based on bonuses, commissions or other amounts that cannot be calculated by the next regular payday must be paid on the first regular payday after they become calculable.

The law also makes a minor adjustment to the language regarding youth employment certificates. While this is not a change impacting employers, it serves as a good reminder that all employees under age 18

must have a youth employment certificate unless they meet the requirements of a specific exemption.

Finally, the law substantially increases penalties employers face for violations of the law's recordkeeping requirements from \$250-\$2000 per investigation to \$250-\$2,000 per **violation**. North Carolina employers are required to maintain all records required by statute or rule for enforcement of any provision of the NC Wage and Hour Act including but not limited to tip credits; costs of meals, lodging or other facilities; start and end time for youth under age 18; youth employment certificates; wage deductions; vacation and sick leave policies; policies and procedures relating to promised wages; and records required to compute wages. 13 NCAC 12.0801(b).

Employers must also maintain the following information for each employee in each workweek (absent a specific exemption): full name, home address, birthdate, occupation, time and day the workweek begins, regular rate of pay, hours worked each workday, total hours worked each workweek, total straight-time earnings, total overtime earnings, total additions to or deductions from wages, gross wages paid each pay period, and date of each payment. 13 NCAC 12.0801(a).

Nexsen Pruet's employment team is available to assist employers with implementation of these new requirements and with assessing ongoing compliance with wage and hour and recordkeeping requirements.