EMPLOYMENT LAW SUMMARY

Colorado: Wage Payment Requirements

HEFFERNAN INSURANCE BROKERS
Because You're Different

Several federal laws regulate wage payments. These include the Fair Labor Standards Act (FLSA), the Davis-Bacon Act and the Service Contract Act. Colorado law complements these federal standards and, in some cases, imposes more stringent requirements for employers. The Colorado Department of Labor and Employment (CDLE) enforces compliance with these laws and other labor standards throughout the state.

PAYMENT METHODS

Colorado law requires employers to pay wages to employees in lawful United States currency via either:

- Cash;
- Check;
- Direct deposit (if authorized by employees);
- Pay card (such as a pre-paid debit card), as long as the entire amount of net pay is accessible at least once per pay period; or
- Any other means of payment that poses no cost to employees.

PAYMENT FREQUENCY

Employers must pay employee wages at least once per month, or every 30 days, on established paydays. In general, regular paydays must be within 10 calendar days after the end of a pay period. However, Colorado law does not restrict employers from paying wages earlier or at more frequent intervals. In addition, employers and their employees may agree to different pay schedules.

However, employers may be subject to sanctions if they lack sufficient funds to allow their employees to redeem their wages in full at least twice within any 24-month period.

WITHHOLDINGS AND DEDUCTIONS

Employers may not withhold all or a portion of an employee's wages unless the withholding or deduction is:

- Authorized by law;
- Authorized by the employee; or
- Necessary to replace losses resulting from employee theft.

Common deductions authorized by law include taxes, union dues, FICA contributions, garnishments and court-ordered deductions (such as child support). Common deductions authorized by employees include funds for employee participation in hospitalization and medical insurance plans, savings plans and deposits to financial institutions, stock purchases, charitable donations, retirement plans, supplemental retirement plans, loan payments, loan or wage advances, employer goods or services and employer equipment or property. These authorizations must be made through a valid and legal agreement.

Deductions that are necessary to replace losses due to an employee's theft are allowed only if a report of the theft is filed with the proper law enforcement agency. An employee may recover these deductions, with interest, if he or she is not found guilty of the theft through criminal proceedings.

Employers must record each withholding with accuracy and may not derive any financial gain from wage deductions. Unless authorized by law, wage deductions and withholdings may not reduce an employee's gross wages below the minimum wage rate.

PAY STATEMENTS

Employers must provide each employee with an itemized earning statement. The itemized wage statement must be provided every pay period. Earning statements can be provided with each paycheck through these options:

- In writing;
- Through access to an electronic portal (the employer must have a valid email address for each employee using this option); or
- By providing each employee the information for the entire calendar year by Jan. 31 of the following year. Employers that use this option must also provide employees with access to their earning information upon request. Employees may make this request once per year.

Wage statements must include the following information:

- The employee's name or Social Security number;
- The employee's address, occupation and date of hire;
- The employee's date of birth (if the employee is under 18 years of age);
- The inclusive dates of the pay period;
- The daily record of all hours the employee worked;
- The credits or tips claimed by the employee, if any;
- The employee's regular rates of pay;
- Gross wages earned;
- All withholdings and deductions made; and
- The net amounts paid for that pay period.

Employers must maintain this information in their records for at least three years after the wages or compensation were due, or for the duration of any wage claim regarding that employee.

WAGE ASSIGNMENTS

Colorado law does not allow wage assignments unless they are:

- Authorized by an employee in a written agreement that is signed, dated, copied and provided to both the employer and employee within five days after signing;
- For a fixed and definite part of the employee's wages; and
- For wages already earned or that the employee will earn within 30 days of the date of the assignment.

If an employee is married and resides with his or her spouse, the wage assignment agreement must also be signed by the employee's spouse. Unless an assignment is to cover child support obligations, the spouse's signature must be made before a notary public (or another officer similarly authorized by the state to acknowledge signatures).

LAST PAYMENT OF WAGES

When an employee resigns or quits a position, the employer must pay all outstanding wages by the next regular payday. If an employer decides to terminate or discharge an employee, it must be ready to pay all of that employee's outstanding wages at the time the employee is terminated or discharged. Reasonable time extensions are available when payroll processing personnel are not on-site or available on the day of the employee's dismissal. However, a terminated employee must receive all of his or her outstanding wages no later than six hours after the start of the employer's next regular workday. In the event of an employee's death, the employee's surviving spouse is entitled to receive the deceased employee's earned wages. If there is no surviving spouse, the employee's wages must be paid to the deceased employee's next legal heir or personal representative upon request.

VACATION PAY

Upon separation of employment, employers must pay an employee all earned and unused paid vacation. Payment of unused, earned vacation must be made in accordance with any agreement between the employer and its employees regarding paid vacation benefits. Colorado law allows employers to determine:

- Whether to provide paid vacation benefits;
- The amount of paid vacation offered to employees (if any);
- When and how paid vacation accrues; and
- Whether to impose a yearly limit on the amount of paid vacation for its employees (as long as the limit does not cause employees to forfeit any of that year's vacation).

FINAL PAY DEDUCTION STATEMENT

Beginning Jan. 1, 2023, Colorado Senate Bill (SB) 161 requires employers to provide notice before deducting from an employee's final wages or compensation any amount of money or property the employee failed to return or repay upon the termination of employment. Employers must provide notice of final wage payment deductions within 10 days of termination. The notice must include:

1. A written account specifying the amount of money or the specific property the employee failed to pay or return;
2. The replacement value of the property; and
3. To the extent known, the time period when the money or property was provided to the employee and when the employer believes the employee should have paid the money or returned the property to the employer.

SB 161 also requires employers to pay the deducted amount within 14 days if employees repay the money or return the property within 14 days of receiving the notice.

SB 161 imposes penalties of up to twice the amount of the unpaid wages or $1,000 on an employer that fails to pay all past-due wages, whichever is greater.

Penalties increase to three times the amount of unpaid wages or $3,000 for a willful refusal to pay or violation. Employers with a second or subsequent violation within a five-year period may be found to have willfully refused to pay wages as required by law.

MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on wage payment laws in Colorado.