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New Jersey Passes Wage Theft Law

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New Jersey has recently passed legislation ratcheting up its Wage and Hour laws. The major changes are summarized in this post.

First, the statute of limitations for wage claims was increased from two years to six years.

Second, the Act provides for increased liability for unpaid wages and wages lost due to retaliation. In addition to the unpaid/lost wages, the employee can obtain liquidated damages equal to 200 percent of the unpaid wages, plus reasonable costs of the action and attorney's fees. However, there is a defense to liquidated damages for first time violators if the employer: (1) demonstrates that the violation was an inadvertent error made in good faith; (2) demonstrates that the employer had reasonable grounds for believing that the act or omission was not a violation; (3) acknowledges the violation; and (4) pays the amount owed within 30 days.

Third, the Act provides for the presumption of retaliation when an employer takes adverse action against an employee within 90 days of the employee filing a wage-related complaint or claim. This presumption can only be rebutted by clear and convincing evidence that the action was taken for other permissible reasons.

Fourth, the Act broadens the definition of employer to include successor entities.

Fifth, the Act also amends the penalties for knowing wage violations/retaliation. An employer may be fined $500 to $1,000 for its first violation and may be subject to imprisonment for 10-90 days. For the second violation, the employer may be fined $1,000 to $2,000 and may be subject to imprisonment for 10 to 100 days. For the third violation, the employer may be fined $2,000 to $10,000 and may be subject to imprisonment of up to 18 months.

Takeaway: Employers should review their payroll practices to ensure they are complying with Wage and Hour laws.

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