

Legislation Text

File #: 171113, **Version:** 0

Amending Chapter 9-4300 of The Philadelphia Code, entitled “Wage Theft Complaints,” to make various wage-related violations a violation of the Code; to further provide for determinations by the City regarding wage theft complaints and for appeals of such determinations; and making technical changes; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-4300 of The Philadelphia Code is amended as follows:

CHAPTER 9-4300. WAGE THEFT COMPLAINTS.

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§ 9-4301.1 *Wage Payment Claims.*

(1) Any conduct that constitutes a violation of the Pennsylvania Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended, shall constitute a violation of this Code. Each week during which any wages due remain unpaid is a separate violation.

§ 9-4302. Wage Theft Coordinator; Duties.

(1) Coordinator. The Managing Director shall designate a wage theft coordinator to carry out the duties set forth in this Chapter.

(2) The wage theft coordinator shall have the following duties:

* * *

(c) [Adjudicate] *Make determinations regarding* complaints as provided in this Chapter.

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§ 9-4303. Procedures for Wage Theft Complaints.

(1) Filing Wage Theft Complaints.

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(b) A signed complaint for wage theft must be filed with the wage theft coordinator less than three years from the date the wage theft occurred. A wage theft complaint properly filed under this Section tolls the applicable statute of limitations for any action in state or federal court concerning [the same set of facts and

circumstances.] *a claim under this Chapter.*

* * *

(d) Upon the filing of any complaint, the wage theft coordinator shall promptly determine [that] *whether* the wage theft complaint alleges wage theft, names at least one employer, and meets the threshold amount criterion. [The duty of the wage theft coordinator in determining whether a complaint meets this criterion is limited to receiving the complaint and comparing the information provided in the complaint to the criteria required herein. This determination is a ministerial act and may not be based on further investigation or the exercise of independent judgment.]

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(4) Standards for Resolving Factual Disputes.

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[(e) Any person who, makes or causes to be made any false entry or false statement of fact in any complaint, answer, report, account, record or other document submitted to the wage theft coordinator, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined by the wage theft coordinator not more than two thousand dollars (\$2000.00).]

(5) [Adjudication] *Determination by Wage Theft Coordinator of Violation.*

(a) Within sixty (60) days of receipt of the Answer, or within 110 days of receipt of the Complaint, whichever is earlier, the wage theft coordinator shall issue a written [adjudication of] *determination regarding* the Complaint. The [adjudication] *determination* shall include written findings [of fact and conclusions of law].

(b) If wages are determined to be owed *in violation of this Chapter* [and the employer has not admitted that those wages are owed in its Answer], the wage theft coordinator shall order them paid. In addition, the wage theft coordinator shall [order penalties consistent with this Code to be paid to the complainant. Each week in which any wages are unpaid is a separate violation.] *make a determination as to penalties that may be warranted in connection with the matter.*

[(c) If wages are determined to be owed and the employer has admitted that those wages are owed in its Answer, the wage theft coordinator shall order them paid. In addition, the wage theft coordinator may order penalties consistent with this Code to be paid to the complainant. Each week in which any wages are unpaid is a separate violation.]

[[d]] (c) Payments in full must be made within sixty (60) days of the date of the order. The wage theft coordinator may allow a reasonable payment plan, not to exceed six (6) months in length, to be entered into by the parties upon good cause shown.

[(e) If full payment is not made within the time periods contemplated in subsections (c) or (d), the wage theft coordinator shall file a petition in a court of competent jurisdiction for a judgment in the amount of the remaining unpaid balance.]

(d) Additionally, the wage theft coordinator shall periodically publish a list of the employers with current unpaid balances, and the amount of the unpaid balance.

[(f)] (e) A final decision by the wage theft coordinator may be appealed [by either party by filing a new lawsuit in any court of competent jurisdiction] within 30 days of *such final decision* [the wage theft coordinator's decision] *to the Board of Labor Standards, for adjudication pursuant to the procedures established for the adjudication of complaints pursuant to Section 17-107(7) of the Code (Contractors: Labor Management Standards; Board of Labor Standards) and any regulations established by the Board concerning procedures specific to claims under this Chapter.*

[(g)] (f) The determination of the wage theft coordinator as well as the complaint, answer, investigatory notes, and documents received shall be made available to any party for use in [a subsequent lawsuit] *any appeal under subsection (e), above or further litigation of the matter.*

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§ 9-4305. Private Right of Action.

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(2) If during the pendency of [an adjudication] *a determination* by the wage theft coordinator, prior to the issuance of a final decision, a complainant employee or Authorized Organization brings a private action in [their] *its* own right, whether under this Ordinance, state law, or federal law, in any state or federal court, seeking unpaid wages based upon the same facts and allegations as the complainant employee's complaint [to the County] *under the Chapter*, or affirmatively or by consent opts to participate in any such litigation, that complainant employee's complaint of wage theft to the wage theft coordinator shall be deemed withdrawn with respect to any respondent employer named as a defendant in such court action. This Section shall be interpreted narrowly so as to leave unaffected any cumulative rights which were not the subject of the complainant employee's complaint.

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§ 9-4306. Joint and Several Liability.

In an action brought under this Chapter, two or more respondents may be held as jointly and severally liable for any amount payable to the complainant [or the City, or both]; however, the total amount the complainant [or the City] may receive from jointly and severally liable respondents shall not exceed the total amount for which respondents are jointly and severally liable.

§ 9-4307. Penalties for Wage Theft.

(1) Penalties for each violation of this Chapter [, where no good faith contest of the wages owed exists,] may be imposed to the *full* extent allowed by the Home Rule Act, 53 P.S. § 13131. The maximum allowable penalties [may] *shall* be imposed if the violation is wanton and willful.

(2) *Any person who makes or causes to be made any false entry or false statement of fact in any complaint, answer, report, account, record or other document submitted to the wage theft coordinator, or who shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined up to two*

thousand dollars (\$2000.00).

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§ 9-4308. Other Penalties and Licensing Actions.

(1) The City, by and through its officials, boards and commissions, may deny, suspend or revoke any license or permit issued or pending, if, during the 3 year period prior to the date of [the application, the applicant] *denial, suspension or revocation, the applicant or licensee* admitted guilt or liability or has been found guilty, liable or responsible [, in any judicial or administrative proceeding.] of committing [or attempting to commit] a violation of [:]

[(a) Pennsylvania Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended, the Pennsylvania Minimum Wage Act, Act of Jan. 17, 1968, P.L. 11, No. 5, as amended, or any other federal or state law regulating the payment of wages.]

[(b) Any violation of] this Chapter.

* * *

(3) The period of non-issuance, *suspension*, revocation or non-renewal shall be *up to 1 year, based on the severity of the violation*, and the licensee or permittee or the person who is the principal of a license or permit shall not again be licensed or permitted in any other manner during such period.

(4) Appeals of license suspensions, revocations or denials pursuant to this Chapter are governed by Section 9-103 of this Title, and any other rules and regulations established by the City, *provided, however, that an appeal of a final determination of the wage coordinator pursuant to this Chapter regarding the substance of a wage theft complaint shall be brought pursuant to the requirements of subsection 9-4303(5)(e).*

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Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.