File #: 250065, **Version:** 1

Amending Title 9 of The Philadelphia Code, entitled "Regulation of Businesses, Trades and Professions," by revising Chapter 9-4100, entitled "Promoting Healthy Families and Workplaces," Chapter 9-4300, entitled "Wage Theft Complaints," and Chapter 9-4500 of The Philadelphia Code, entitled "Protections for Domestic Workers," and by adding new chapters, entitled "Protecting Victims of Retaliation" and "Enforcement of Worker Protection Ordinances," to add and revise definitions; remove provisions related to the wage theft coordinator; add requirements and remedies related to written contracts, meal times and breaks, leave time, contract termination, and other protections for domestic workers; establish for claims of retaliation under above-referenced chapters and Chapter 9-4700 of The Philadelphia Code ("Wrongful Discharge from Parking Employment") the elements of proof and procedures, remedies and penalties for enforcement; authorize creation of a worker justice fund for victims of retaliation; add requirements for employer record keeping and provision of notice of employee rights under above-referenced chapters and Chapter 9-4700; revise and clarify procedures, remedies and penalties associated with administrative and civil enforcement under above-referenced chapters and Chapter 9-4700; provide for annual reporting to Council on enforcement of the City's worker protection laws, including information regarding noncompliant employers; authorize revocation of City licenses and contracts awarded to employers found in violation of the City's worker protection laws; authorize visa and deferred action certification on behalf of immigrant workers; and make related technical changes; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

Section 1. Title 9 of The Philadelphia Code is hereby amended to read as follows:

TITLE 9. REGULATION OF BUSINESSES, TRADES AND PROFESSIONS

* * *

CHAPTER 9-4100. PROMOTING HEALTHY FAMILIES AND WORKPLACES

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§ 9-4101. Findings.

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§ 9-4102. Purposes.

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§ 9-4103. Definitions.

[(1) "Agency" means such office as the Mayor shall designate.]

(1) "*Chain establishment" means an establishment doing business under the same trade name used by fifteen (15) or more establishments whether such other establishments are located in the City or elsewhere and regardless of the type of ownership of each individual establishment.*

(2) ***

(3) "Employ" is as defined in 43 P.S. § 333.103(f).

[(3)] *(4)* "Employee" means any individual employed by an employer who performs work within the geographic boundaries of the City of Philadelphia for at least 40 hours in a year; but excluding independent contractors, seasonal workers, adjunct professors, employees hired for a term of less than six months, interns, pool employees, *Federal,* State and ~~Federal~~ *City* employees, and *non-probationary* employees covered by a bona fide collective bargaining agreement.

[(4)] *(5)* ***

[(5) "Employ" is as defined in 43 P.S. § 333.103(f).]

[(6) "Philadelphia" means the geographic boundaries of the City of Philadelphia.]

[(7) "Chain establishment" means an establishment doing business under the same trade name used by fifteen (15) or more establishments whether such other establishments are located in the City or elsewhere and regardless of the type of ownership of each individual establishment.]

(6) "Enforcement Agency." The Office of Worker Protections, within the Department of Labor, or any other agency designated by the Mayor to enforce the Worker Protection Ordinances, as defined under Section 9-6601.

(7) Epidemic means an outbreak of disease that spreads quickly and affects many individuals at the same time.

(8) ***

(9) ***

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(10) ***

(11) ***

(12) Paid sick time or paid sick days means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as the employee normally earns from the employee's employment at the time the employee uses the paid sick time and is provided by an employer to an employee for the purposes described in Section 9-4105 of this Chapter. *For purposes of calculating paid sick time for a Tipped Employee, as defined by this Section, the hourly rate of pay shall be the numerical average of (1) the hourly wage for Standard Occupational Classification (SOC) Code 35- 3011 "Bartenders," (2) the hourly wage for SOC 35-3031 "Waiters & Waitresses," and (3) the hourly wage for SOC 35-9011 "Dining Room & Cafeteria Attendants & Bartender Helpers," all as published for Philadelphia County by the Pennsylvania Department of Labor and Industry.*

(13) Pandemic means an outbreak of disease that occurs over a wide geographic area and affects an exceptionally high proportion of the population.

(14) Philadelphia means the geographic boundaries of the City of Philadelphia.

[(13)] *(15)* ***

[(14)] *(16)* ***

[(15)] *(17)* ***

[(16)] *(18)* ***

[(17)] *(19)* ***

[(18)] *(20)* ***

[(19) Epidemic means an outbreak of disease that spreads quickly and affects many individuals at the same time.]

[(20) Pandemic means an outbreak of disease that occurs over a wide geographic area and affects an exceptionally high proportion of the population.]

(21) Tipped Employee. An employee who customarily and regularly receives more than fifty dollars ($50) a month in tips from the same employment.

§ 9-4104. Accrual of Paid Sick Time.

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§ 9-4105. Use of Paid Sick Time.

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§ 9-4106. Exercise of Rights Protected; Retaliation Prohibited.

(1) It shall be unlawful for an employer or any other person to interfere with, restrain, [or] deny the exercise of, or the attempt to exercise, any right [protected under] *set forth in* this Chapter[.]*, or to retaliate against an employee for exercising any rights protected by this Chapter, as provided in Chapter 9-6500.*

[(2) An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has exercised rights protected under this Chapter. Such rights include but are not limited to the right to use sick time pursuant to this Chapter; the right to file a complaint or inform any person about any employer's alleged violation of this Chapter; the right to cooperate with the Agency in its investigations of alleged violations of this Chapter; and the right to inform any person of his or her potential rights under this Chapter.]

[(3)] *(2)* It shall be unlawful for an employer's absence control policy to count sick time taken under this Chapter as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action; provided, however, that nothing in this subsection shall prevent an employer from taking an action against an employee who uses sick time under this Chapter for purposes other than those enumerated in subsection 9-4105(1).

[(4) Protections of this Section shall apply to any person who mistakenly but in good faith alleges violations of this Chapter.]

[(5) There shall be a rebuttable presumption of unlawful retaliation under this Section whenever an employer discharges, suspends, demotes, or takes other adverse action against a person within 90 days of when that person:

(a) files a complaint with the Agency or a court alleging a violation of any provision of this Chapter;

(b) informs any person about an employer's alleged violation of this Chapter;

(c) cooperates with the Agency or other persons in the investigation or prosecution of any alleged violation of this Chapter; or

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(d) opposes any policy, practice, or act that is unlawful under this Chapter.]

§ 9-4107. Notice and posting.

[(1)] *An employer shall notify all employees of their rights under this Chapter and be subject to penalties for failure to do so, as provided in Section 9-6607.* [Employers shall give notice that employees are entitled to sick time, the amount of sick time, and the terms of its use guaranteed under this Chapter; that retaliation against employees who request or use sick time is prohibited and that each employee has the right to file a complaint or bring a civil action if sick time as required by this Chapter is denied by the employer or the employee is retaliated against for requesting or taking sick time. This information shall also be included in any employee handbooks that are distributed to employees.]

[(2) Employers shall comply with this Section by either (a) supplying each of their employees with a notice in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce that contains the information required in subsection (1); or (b) displaying a poster in a conspicuous and accessible place in each establishment where such employees are employed which contains in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce, all information required under subsection (1).]

[(3) The Agency shall create and make available to employers posters that contain the information required under subsection (1) for their use in complying with this subsection.]

[(4) An employer who willfully violates the notice and posting requirements of this Section shall be subject to a civil fine in an amount not to exceed one hundred dollars ($100) for each separate offense.]

§ 9-4108. Employer Records.

[Employers shall commence keeping records documenting hours worked by employees, sick time taken by employees and payment made to employees for the sick time if payment was made upon the effective date of this Chapter, shall retain such records for a period of two years, and shall allow the Agency access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this Chapter. When an issue arises as to an employee's entitlement to sick time under this Chapter, if the employer does not maintain or retain adequate records documenting hours worked by the employee and sick time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the employer has violated the Chapter, absent clear and convincing evidence otherwise.]

(1) An employer shall create and maintain contemporaneous, true, and accurate records showing compliance with this Chapter. An employer shall retain these records for a period of three years, commencing upon the effective date of the ordinance adding this provision to the Code, and shall either allow the Enforcement Agency to inspect the records, subject to the provisions set forth under Section 9-6603(2), or provide them to the Enforcement Agency upon request. Such records shall include:

(a) Hours worked by an employee, including dates;

(b) Hours of sick time taken by an employee and payments made to an employee for the sick time.

(2) If, an employer does not maintain or retain adequate records documenting compliance with applicable and effective provisions of this Section, or does not allow the Enforcement Agency reasonable access to such records within 30 days of the Enforcement Agency's request or any extension thereof by the Enforcement Agency upon a showing of good cause, it shall be presumed in any enforcement action that the employer has violated this Chapter, absent clear and convincing evidence to the contrary, including evidence that the alleged violations occurred before the employer was legally obligated to document compliance with this Section.

(3) The Enforcement Agency shall maintain the confidentiality of all records it obtains in connection with enforcement activities to the full extent permitted by law.

§ 9-4109. Regulations.

The *Enforcement* Agency is authorized to coordinate implementation, administration, and enforcement of this Chapter and shall promulgate appropriate guidelines or regulations for such purposes, and for the purposes of establishing procedures for the filing, investigation, and resolution of complaints regarding alleged violations of this Chapter.

§ 9-4110. Enforcement.

(1) [An employee or other person may report to the Agency any suspected violation of this Chapter]. *The Enforcement Agency is authorized to receive, investigate, and resolve complaints regarding violations of this Chapter in accordance with the procedures set forth under Chapter 9-6600.*

[(2) The Agency is authorized to take such steps as deemed appropriate to resolve complaints and enforce this Chapter, including, but not limited to, establishing a system to receive complaints regarding non-compliance with this Chapter, investigating alleged violations in a timely manner, and resolving complaints through mediation.]

[(3)] *(2)* Any [person] *complaint* alleging a violation of this Chapter [shall file a complaint] *must be filed* with the *Enforcement* Agency within [a year] *three years* of the date the [person] *complainant* knew or should have known of the alleged violation*, subject to the exceptions under Section 9-6607(5).* [The Agency shall maintain confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of any investigation by the Agency, or otherwise required by law. The Agency shall, to the extent practicable, notify such complainant that the Agency will be disclosing his or her identity prior to such disclosure.]

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[(4) Upon receiving a complaint alleging a violation of this Chapter, the Agency shall investigate such complaint and, if appropriate, attempt to resolve it through mediation. The Agency shall keep complainants reasonably notified regarding the status of their complaint and any resulting investigation and shall notify complainants of any final decision of the Agency, including any mediation result, with respect to the complaint. Whenever the Agency finds that a violation of this Chapter has occurred, it shall issue to the offending employer a notice of violation, and offer the employer a chance to remedy the violation within sixty (60) days of the issuance of the notice of violation.]

[(5)] *(3)* The *Enforcement* Agency *is authorized to administratively adjudicate potential violations of this Chapter and* shall have the power to [impose] *seek* penalties and fines for *any* violation of this Chapter *pursuant to subpart (a), below,* and to provide or obtain appropriate relief [, including reinstatement. It shall be a Class II offense under subsection 1-109(2) of this Code whenever (i) sick time is taken by an employee and is not compensated by the employer as required by this Chapter; (ii) sick time is requested by an employee but unlawfully denied by the employer and not taken by the employee; or (iii) an employee is retaliated against in any way other than discharge from employment. It shall be a Class III offense under subsection 1-109(3) for an employer to discharge an employee in retaliation for activity protected under this Chapter]. Remedies [shall] *may* include *reinstatement,* full restitution to the employee for lost wages and benefits[.]*, including paid sick time required by this Chapter, and liquidated damages pursuant to subpart (b), below.*

(a) If the Enforcement Agency determines that a violation under this Chapter has occurred, the Enforcement Agency may seek a civil monetary penalty of $2,000 for each violation, payable to the City.

(b) If the Enforcement Agency determines that a violation under this Chapter has occurred, the complaining employee shall be entitled to liquidated damages in a separate amount equal to the other monetary damages determined to be owed to the employee by the Enforcement Agency, payable to the employee and awarded at the time a determination is issued by the Enforcement Agency. Liquidated damages under this subsection are intended to make the employee whole and to compensate the employee for collateral harms suffered because of the violation and for the employee's time and effort enforcing the rights afforded to the employee under this Chapter.

(4) The Enforcement Agency or the City Solicitor may elect to enforce violations of this Chapter by filing a judicial action in a court of competent jurisdiction. Upon finding a violation, the court may award appropriate relief and impose the penalties and liquidated damages set forth in subsection (3), above.

[(6) The Agency, the City Solicitor, any person aggrieved by a violation of this Chapter, or any entity a member of which is aggrieved by a violation of this Chapter may bring a civil action in a court of competent jurisdiction against an employer violating this Chapter, except that a person aggrieved by a violation of this Chapter shall first file a complaint with the Agency as provided in this Section 9-4110, and shall have the right to bring a civil action after receiving notification of a final decision from the Agency, or 180 days after filing the complaint if no final decision has been rendered by the Agency within that time. Notwithstanding the

preceding sentence, for the first 120 days after the effective date of the ordinance enacting this Chapter, any such action may be brought without first filing an administrative complaint, unless the Agency shortens such period by regulation.]

[(a) Upon prevailing in an action brought pursuant to this Section, an aggrieved person shall recover the full amount of any unpaid sick time to which he or she would have been entitled under this Chapter, any wages and benefits lost or other damages suffered as the result of the employer's violation of this Chapter, and an equal amount, up to a maximum of two thousand dollars ($2,000), as liquidated damages. An aggrieved person shall also be entitled to reasonable attorney's fees.]

[(b) Upon prevailing in an action brought pursuant to this Section, an aggrieved person shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, reinstatement in employment, back pay and injunctive relief.]

[(c) The City Solicitor may bring a civil action to enforce this Chapter. The City Solicitor may seek injunctive relief. In addition to injunctive relief, or in lieu thereof, for any employer or other person found to have willfully violated this Chapter, the City Solicitor may seek to impose a fine payable to the City.]

[(d) The limitations period for a civil action brought pursuant to this Section shall be two (2) years from the date the alleged violation occurred.]

[(e) An action pursuant to this Section may be brought as a class action pursuant to the laws of Pennsylvania.]

(5) Private Right of Action. Any employee aggrieved by a violation of this Chapter or any entity a member of which is aggrieved by a violation of this Chapter may bring a civil action in a court of competent jurisdiction against an employer violating this Chapter. Before a civil action for damages under this Chapter may be initiated, the employer must be put on notice of the alleged violation and provided 15 days to remedy the harm. Such notice shall be provided in writing by an employee, their representative, or any entity a member of which is allegedly aggrieved by a violation of this Chapter. This 15-day waiting period provision shall not apply to claims involving willful misconduct or retaliation. The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date complainant knew or should have known of the alleged violation, subject to the exceptions under Section 9-6602(6) and Section 9-6607(5). Nothing in this Chapter or its implementing regulations shall be construed to require a complaint to be filed with the Enforcement Agency before bringing an action in court. Upon prevailing in an action brought pursuant to this Section, the aggrieved person shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, that is not duplicative of any relief provided to the person in any administrative proceedings or other judicial proceedings, including, without limitation, the penalties, damages, and remedies listed in subsection (3), above, and injunctive relief. The aggrieved person shall be entitled to an award of reasonable attorney's fees and costs.

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§ 9-4111. Confidentiality and Nondisclosure.

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§ 9-4112. Encouragement of More Generous Sick Time Policies; No Effect on More Generous Policies.

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§ 9-4113. Other Legal Requirements.

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§ 9-4114. Public Outreach and Education.

(1) The *Enforcement* Agency shall develop and implement a multilingual outreach program to inform employees and employers of the availability of paid sick time and the rights and responsibilities established under this Chapter and the importance to public health of workers staying at home when sick and children being kept at home when sick.

(2) ***

§ 9-4115. [Report.] *Reserved.*

[One year from the effective date of this Chapter, the Agency shall issue a report on implementation of this Chapter which will include information on outreach efforts, number of complaints filed and disposition of those complaints.]

§ 9-4116. COVID-19 Leave.

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§ 9-4117. Compensating Pool Employees and Healthcare Employees During a Declared Pandemic or Epidemic Event.

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§ 9-4118. Severability.

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CHAPTER 9-4300. WAGE THEFT COMPLAINTS

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§ 9-4301. Definitions.

(1) "Authorized Organization" means a group of employees, labor organization or party acting on behalf of an employee to whom any type of wages is payable.

(2) "Employee" shall [have the same meaning as the term] *include any individual who meets the definition of* "employe" in the Pennsylvania Minimum Wage Act, Act of Jan. 17, 1968, P.L. 11, No. 5, as amended*, or the definition of "employee" under the Fair Labor Standards Act, 29 U.S. Code § 203, or any individual who is employed by an "employer," as defined in the Pennsylvania Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended*.

(3) "Employer" shall have the same meaning as in the Pennsylvania Minimum Wage, Act of Jan. 17, 1968, P.L. 11, No. 5, as amended and the Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended.

(4) "Enforcement Agency" means the Office of Worker Protections, within the Department of Labor, or any other agency designated by the Mayor to enforce the Worker Protection Ordinances, as defined under Section 9-6601.

["Maximum Threshold Amount" means ten thousand dollars ($10,000).]

(5) "Minimum Threshold Amount" means one hundred dollars ($100.00).

(6) "Proper Party" means:

(a) An employee alleging wage theft; or

(b) Any member of an entity which alleges wage theft.

["Reasonable time" shall be presumed to be no later than fourteen (14) calendar days from the date on which the work is performed unless the employer has established, by policy or practice, a pay schedule whereby employees earn and are consistently paid wages according to regularly recurring pay periods, in which case such pay schedule shall govern.]

(7) "Wages" shall have the same meaning as in the Pennsylvania Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended.

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(8) "Wage Theft" means a violation of the Pennsylvania Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended, or a violation of 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, where the work is performed in Philadelphia or the employment contract underlying the violation is made in Philadelphia.

["Wages" shall have the same meaning as in the Pennsylvania Wage Payment and Collection Law, Act of July 14, 1961, P.L. 637, No. 329, as amended.]

§ 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] *wage theft, as defined by this Chapter*, shall constitute a violation of this Code *to the extent permissible under federal or state law*. Each week during which [any wages due remain unpaid is a separate violation] *an employee has suffered wage theft is a separate violation.*

§ 9-4302. [Wage Theft Coordinator; Duties.] *Reserved.*

[(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:

(a) Receive and review each wage theft complaint submitted by a Proper Party;

(b) If the complaint is above the Maximum Threshold Amount or below the Minimum Threshold Amount, assist and advise persons with complaints by providing them with information regarding available remedies, and provide such other assistance as the coordinator may deem appropriate; and

(c) Make determinations regarding complaints as provided in this Chapter.

(d) Oversee a public outreach and education program designed to inform workers and employers of their rights and duties in complying with this Chapter and other labor laws. Special emphasis should be placed on outreach to workers with limited English proficiency and other at-risk groups.

(e) Refer complaints and complainants to other governmental agencies for further action, if deemed necessary.]

§ 9-4303. Procedures for Wage Theft Complaints.

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(1) Filing Wage Theft Complaints.

(a) The Enforcement Agency is authorized to receive, investigate, and resolve complaints regarding violations of this Chapter in accordance with the procedures set forth under Chapter 9-6600.

[(a)] *(b)* A proper party must allege a [wage theft] violation in which the unpaid wages are equal to or greater than the minimum threshold amount [and equal to or less than the maximum threshold amount].

[(b)] *(c)* [A signed] *Any* complaint [for wage theft] *alleging a violation of this Chapter* must be filed [with the wage theft coordinator less than] *within* three years [from] *of* the date the [wage theft occurred] *complainant knew or should have known of the alleged violations, subject to the exceptions under Section 9-6607(5)*. A wage theft complaint properly filed under this Section tolls the applicable statute of limitations for any action in state or federal court concerning a claim under this Chapter.

[(c) The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the employer or employers and for the wage theft coordinator to determine both that an allegation of wage theft has been made and that the threshold amount has been met.]

[(d) Upon the filing of any complaint, the wage theft coordinator shall promptly determine whether the wage theft complaint alleges wage theft, names at least one employer, and meets the threshold amount criterion.]

[(e) Upon making such determination, the wage theft coordinator shall serve the complaint and a written notice on the employer or employers charged with the commission of a wage theft practice, setting forth the allegations, rights and obligations of the parties. Such service shall be by personal service or certified mail.]

[(2) Answer.

(a) Each employer shall file an answer to the complaint with the wage theft coordinator not later than thirty (30) days after receipt of the complaint. Such answer shall include all available records of the hours worked by the complaining employee or employees, the amounts paid to those employees, and any credits or deductions that may have been lawfully taken.

(b) In its answer, an employer may admit liability for either part of or the entire amount in dispute.]

[(3) Subpoenas.

(a) The wage theft coordinator shall have the power to subpoena records from any party to the complaint. Said records shall be returned to the wage theft coordinator within thirty (30) days after receipt

of the subpoena.]

[(4)] *(2)* Standards for Resolving Factual Disputes.

(a) In the event that there is a factual dispute as to whether wages are owed or the amount of wages that are owed, the complainant shall bear the burden of proof by a preponderance of the evidence.

(b) If an employer fails to keep records of an employee's hours worked and/or records of compensation provided to an employee, or if such records are imprecise or inadequate, the employee may meet the burden of proof by providing sufficient evidence to support a just and reasonable estimate of the wages owed. Such evidence may include, but is not limited to, text messages, emails, or other written communications, photographs, location data, and written or oral statements made by the complainant to the Enforcement Agency.

[(b) A complainant may meet the burden of proof by presenting sufficient evidence to show the amount of work performed, or the extent of work performed, and the amount of compensation due for the work performed, when:

(.1) The respondent employer has a legal obligation to keep records of an employee's hours worked and/or records of compensation provided to an employee; and

(.2) Such records are imprecise, inadequate or do not exist.]

(c) Failure to provide any records by the employer or employers*, or failure to allow the Enforcement Agency reasonable access to such records within 30 days of the Enforcement Agency's request or any extension thereof by the Enforcement Agency upon a showing of good cause,* shall raise a [rebuttable] presumption that the wages complained of were not paid*, absent clear and convincing evidence to the contrary.*

(d) An employer may present other evidence to negate the reasonableness of the inferences to be drawn from the complainant's evidence in (b), but the burden is on the employer to do so.

[(5) 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 determination regarding the Complaint. The determination shall include written findings.]

[(b) If wages are determined to be owed in violation of this Chapter, the wage theft coordinator shall order them paid. In addition, the wage theft coordinator shall make a determination as to penalties that may be warranted in connection with the matter.]

[(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.]

[(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.]

[(e) A final decision by the wage theft coordinator may be appealed within 30 days of such final 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 Relationships; Board of Labor Standards) and any regulations established by the Board concerning procedures specific to claims under this Chapter.]

[(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 any appeal under subsection (e), above or further litigation of the matter.]

§ 9-4304. Retaliation Prohibited.

[An employer shall not take retaliatory personnel action or discriminate against an employee because the employee has exercised rights protected under this Chapter. The wage theft coordinator may keep a complainant's name confidential until the validity of a complaint can be verified if the complainant alleges that there is a substantial risk of retaliation by the employer.] *It shall be unlawful for a hiring entity or any other person to interfere with, restrain, deny the exercise of, or the attempt to exercise, any right set forth in this Chapter, or to retaliate against an employee for exercising any rights protected by this Chapter, as provided in Chapter 9-6500.*

§ 9-4305. Private Right of Action.

(1) An employee or an Authorized Organization may file a[n] *civil* action [under this Chapter] in any court of competent jurisdiction *against an employer violating this Chapter*. [Upon a finding of a violation of this Chapter by the respondent employer, the court shall award the employee the unpaid wages due, costs, reasonable attorney's fees, and penalties pursuant to this Chapter.] *Before a civil action for damages under this Chapter may be initiated, the employer must be put on notice of the alleged violation and provided 15 days to remedy the harm. Such notice shall be provided in writing by an employee, their representative, or any entity a member of which is allegedly aggrieved by a violation of this Chapter. This 15-day waiting period provision shall not apply to claims involving willful misconduct or retaliation. Upon prevailing in an action brought pursuant to this Section, an aggrieved person shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, that is not duplicative of any relief provided to the person in any administrative proceedings or other judicial proceedings, including, without limitation, the penalties, damages, and remedies listed in Section 9-4307, and injunctive relief. The aggrieved person shall be entitled to an award of reasonable attorney's fees and costs.*

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(2) If during the pendency of a *complaint submitted pursuant to Section 9-4303* [determination by the wage theft coordinator], prior to the issuance of a final *determination* [decision], a complainant employee or Authorized Organization brings a private action in 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 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] *Enforcement Agency* 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.

(3) Nothing in this Chapter or its implementing regulations shall be construed as to require a complaint to be filed with the [wage theft coordinator] *Enforcement Agency* before bringing [an] *a civil* action in court or before any other governmental agency.

(4) The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date complainant knew or should have known of the alleged violation, subject to the exceptions under Section 9-6602(6) and Section 9-6607(5).

§ 9-4306. Joint and Several Liability.

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§ 9-4307. Penalties *and Damages* for Wage Theft.

(1) [Penalties for each violation of this Chapter may be imposed to the full extent allowed by the Home Rule Act, 53 P.S. § 13131. The maximum allowable penalties shall be imposed if the violation is wanton and willful.] *The Enforcement Agency is authorized to administratively adjudicate potential violations of this Chapter and shall have the power to seek penalties and fines for any violation of this Chapter pursuant to subpart (a), below, and to provide or obtain appropriate relief. Remedies shall include ordering an employer to pay the unpaid wages due, with interest, to the employee and liquidated damages pursuant to subpart (b), below.*

(a) If the Enforcement Agency determines that a violation under this Chapter has occurred, the Enforcement Agency may seek a civil monetary penalty of $2,000 for each violation, payable to the City.

(b) If the Agency determines that a violation under this Chapter has occurred, the complaining employee shall be entitled to liquidated damages, in accordance with state and federal wage laws, in an amount equal to the unpaid wages or $500, whichever is greater, payable to the employee and awarded at the time a determination is issued by the Agency. Liquidated damages under this subsection are intended to make the employee whole and to compensate the employee for collateral harms suffered as a result of the violation

and for the employee's time and effort enforcing the rights afforded to the employee under this Chapter.

[(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 ($2,000).]

(2) The Enforcement Agency or the City Solicitor may elect to enforce violations of this Chapter by filing a judicial action in a court of competent jurisdiction. Upon finding a violation, the court may award appropriate relief and impose the penalties and liquidated damages set forth in subsection (1), above.

§ 9-4308. [Other Penalties and Licensing Actions.] *Reserved.*

[(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 denial, suspension or revocation, the applicant or licensee admitted guilt or liability or has been found guilty, liable or responsible of committing a violation of this Chapter.]

[(2) Any license or permit issued by the City, its boards or commissions, may be revoked or suspended if the applicant, licensee or permittee is a person who was subject to a final judgment or other decision for violation of any of the laws set forth in subsection (1) above within 3 years prior to the effective date of this Ordinance, and the judgment was not satisfied within the lawful period for doing same, or the expiration of the period for filing an appeal; or if an appeal is made, the date of the final resolution of that appeal and any subsequent appeal resulting in a final administrative or judicial affirmation of violation of any of the laws set forth in subsection (1) above.]

[(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).]

[(5) An applicant for a commercial activity license or any other license or permit related to a business enterprise, shall be provided with a copy of this Chapter. All applicants shall certify that the applicant has not been found guilty, liable or responsible, in any judicial or administrative proceeding, of committing or attempting to commit a violation of any of the laws set forth in subsection (1) above within the past three (3) years. This provision shall apply to all persons or entities whose final administrative decision or adjudication or judicial judgment or conviction was entered on or after the effective date of this Chapter, with the exception of

judgments that remain unsatisfied as set forth in subsection (2) above.]

[(6) Application of this Ordinance is subject to applicable state or federal laws.]

§ 9-4309. Notice and Posting.

[(1) Employers shall give notice that employees are entitled to file complaints for unpaid wages under this Chapter; that retaliation against employees who file complaints under this Chapter is prohibited and that each employee has the right to file a complaint or bring a civil action if the employer fails to pay all wages earned by the employee. This information shall also be included in any employee handbooks that are distributed to employees.] *An employer shall notify an employee of the employee's rights under this Chapter and be subject to penalties for failure to do so, as provided in Section 9-6607.*

[(2) Employers shall comply with this Section by either (a) supplying each of their employees with a notice in English and in any language that is the first language spoken by at least 5% of the employer's workforce that contains the information required in subsection (1); or (b) displaying a poster in a conspicuous and accessible place in each establishment where such employees are employed which contains in English and in any language that is the first language spoken by at least 5% of the employer's workforce, all information required under subsection (1)]

[(3) The wage theft coordinator shall create and make available to employers posters that contain the information required under subsection (1) for their use in complying with this subsection.]

[(4) An employer who willfully violates the notice and posting requirements of this Section shall be subject to a civil fine in an amount not to exceed $100 for each separate offense.]

* * *

CHAPTER 9-4500. PROTECTIONS FOR DOMESTIC WORKERS

* * *

§ 9-4501. Definitions.

(1) "Domestic worker" includes hourly and salaried employees, independent contractors, full-time and part-time individuals and temporary individuals and is narrowly construed to mean any worker who: (i) works for one or more hiring entities; and (ii) is an individual who works in residence for the purposes of caring for a child, serving as a companion or caretaker for a sick convalescing, elderly or a person with a disability; housekeeping or house cleaning; cooking; providing food or butler service; parking cars; cleaning laundry; gardening; personal organizing, or for any other domestic service purpose; provided that the term Domestic Worker does not include:

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(a)***

(b)***

(c)***

(d)***

(e)***

(f)***

(g) An individual who is a doula, baby nurse, or lactation consultant.

(h) An individual employed or engaged in work on a casual basis.

(2) "Enforcement Agency." [The Mayor's Office of Labor or such other office as the Mayor shall designate.] *The Office of Worker Protections, within the Department of Labor, or any other agency designated by the Mayor to enforce the Worker Protection Ordinances, as defined under Section 9-6601.*

(3) "Hiring Entity." Any employer, as defined by the Pennsylvania Wage Payment Collection Law and the Minimum Wage Act, who employs a domestic worker, as well as any individual, partnership, association, corporation, business trust or combination thereof, that *engages* [pays a wage or wages for] the services of a domestic worker *for a fee or payment*. It includes any such entity, person or group of persons that provides compensation directly or indirectly to a domestic worker for the performance of domestic services and any such entity, person or persons acting directly or indirectly in the interest of the hiring entity in relation to the domestic worker.

(4) "'Live-in' Domestic Worker." [A domestic worker who resides in the household where they are employed.] *Any domestic worker who, as part of their working arrangement, lives in the residence of a hiring entity for a period of four consecutive workweeks or longer.*

(5) ***

(6) "*Significant misconduct*." *The willful refusal to perform work duties specifically set forth in the written work contract; abuse, neglect or similar conduct that gravely endangers the safety or well-being of a child or a sick, elderly or disabled person for whom the domestic worker is providing care; outrageous, dangerous or illegal conduct such as violence or threats of violence, theft, sexual harassment, or willful destruction of property; or the repeated failure to appear for scheduled work time without reasonable notice as set forth in Section 9-4105(3) or for a purpose other than those set forth in Section 9-4105(1). Significant misconduct shall not include the refusal to perform any job duty not specifically set forth in the written contract.*

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(7) "Work on a Casual Basis." Work that is irregular and casual in nature and duration*,* [as shall be further defined by regulation.] *and different in nature from the type of paid work in which the worker is customarily engaged*.

§ 9-4502. Contract and Other Requirements.

(1) No hiring entity shall employ a domestic worker, [except] *other than* for work on a casual basis [or work of less than 5 hours per month], unless the engagement is governed by a written contract governing the following: a specific list of job duties; hourly wage and overtime wage; weekly schedule including number of hours per week; the manner and frequency of payment; breaks for rest and meals; paid or unpaid leave including sick time; paid holidays; any other benefits provided; modes of transportation required and whether provided; value of housing if provided; sleeping period and personal time for live-in workers; the term of the contract; and any other terms and conditions as agreed upon by the domestic worker and the hiring entity or as mandated pursuant to this Chapter, provided that no provisions in the written agreement may waive a domestic worker's rights under federal, state, or local law. The contract must be signed and dated by all parties after ample opportunity to review.

(2) A hiring entity shall execute a written contract with a domestic worker no later than the first day a domestic worker is expected to perform work for that hiring entity. The agreement must be in English and such other language as may be preferred by the worker. The hiring entity shall make reasonable efforts to determine if the worker would prefer the agreement to be in another language.

(3) ***

(4) ***

(5) A referral agency shall provide domestic workers and hiring entities with information concerning the contract requirements of this Chapter at the time a hiring entity is connected with a worker and shall make any contract templates adopted by the [City] *Enforcement Agency* available to the hiring entity through the medium used to communicate with the hiring entity, such as through a link to the [City's] *Enforcement Agency's* template webpage on the referral agency's website.

(6) If a domestic worker and hiring entity agree to modify the written contract on account of added job duties, the hiring entity shall provide a new written contract to the domestic worker for review and execution consistent with the requirements of this section.

(7) The hiring entity shall be liable for penalties and damages under this Section if the Enforcement Agency, domestic worker, their representative, or any entity a member of which is allegedly aggrieved by a violation of this chapter, provides written notice to the hiring entity of the alleged violations and the hiring entity has failed to cure such violations within 30 days of notice.

§ 9-4503. Minimum Protections.

(1) Except as otherwise provided, the following minimum terms, and such other minimum terms as may be established by the Enforcement Agency by regulation, shall apply to a work relationship between a domestic worker and a hiring entity or hiring entities.

(2) Meal and Rest [Breaks.] *Periods.*

(a) The hiring entity shall allow the domestic worker an uninterrupted paid rest [-]period of not less than ten minutes for each four consecutive hours worked, *except as provided in subsection (c), below* [unless the nature of the work prevents the domestic worker from being relieved of all duties for such period of time, such as some types of child care and caretaker work for a sick, elderly or disabled person]. The hiring entity shall pay the domestic worker for the time spent on a rest [break] *period* at the domestic worker's regular rate of pay.

(a) The hiring entity shall allow *the domestic worker* an uninterrupted 30-minute meal [break] *period* after more than five consecutive hours worked*, except as provided in subsection (c), below*. [Unless the] *The* domestic worker [is] *shall be* relieved of all work duties *and permitted to leave the work site* during such 30-minute period [the meal period shall be considered an "on-duty" meal period and shall be paid at the domestic worker's regular rate of pay]. *Such meal period may be unpaid.*

[(.1)] *(c)* [An "on-duty" meal period shall be permitted only when] *If* the nature of the work prevents a domestic worker from being relieved of all duties *during a rest or meal period, such as caring for a child or a sick, elderly or disabled person who cannot be left unattended because of the nature of their caretaking needs, an "on-duty" rest or meal period may be permitted if agreed upon in advance in writing by the domestic worker* [and when, by written agreement between the parties, an "on-duty" meal period is agreed to]. Such agreement may be revoked by the domestic worker, in writing, at any time. *An on-duty rest or meal period shall be paid at the domestic worker's regular rate of pay. The domestic worker may, to the extent possible given their duties for the hiring entity, engage in personal activities, such as resting, eating a meal, drinking a beverage, making a personal telephone call, or making other personal choices during an "on-duty" rest or meal period.*

(b) A "live-in" domestic worker shall not be required to work more than six consecutive days for a hiring entity without a 24-hour period of rest, which may be unpaid.

[(c)] *(e)* The hiring entity shall not impede or discourage a domestic worker from taking such meal or rest *periods* [breaks].

[(d)] *(f)* In *the case of a violation of this subsection (2), the hiring entity shall be liable to* [Failure to allow a meal or rest period in accordance with this subsection 9-4503(2) shall entitle] the domestic

worker *for presumed damages as set forth in Section 9-4507(4)(b)* [to one additional hour of pay at the domestic worker's regular rate of compensation*,* for each workday that the meal or rest period was not provided. Payment of this extra pay shall not excuse non-compliance with this subsection].

[(3) Unpaid Leave Time.]

[(a) Except with respect to work on a casual basis, a domestic worker shall accrue unpaid leave time with respect to a hiring entity pursuant to the rules of Section 9-4104 of the Code ("Accrual of Paid Sick Time") and shall be permitted to utilize such time pursuant to the rules of Section 9-4105 ("Use of Paid Sick Time"). Use of such time shall be counted against accruals whether or not the domestic worker is compensated for such time pursuant to the system established under subsection 9-4503(4) ("Paid Leave Time").]

[(b) A "live-in" domestic worker shall not be required to work more than six consecutive days for a hiring entity without a 24-hour period of rest, which may be unpaid.]

[(4)] *(3)* Paid Leave Time.

(a) [The following paid leave time requirements shall be effective upon adoption of regulations by the Enforcement Agency establishing a centralized portable benefits system for: recording and dispersing paid leave time earned by domestic workers on an aggregated basis for work performed for multiple hiring entities; collecting funds from hiring entities to pay for such leave time; and developing the infrastructure to administer portable access to such funds for domestic workers who earn such leave time.] *Except with respect to work on a casual basis, a domestic worker shall be entitled to paid leave time, as provided in this Section. The right to receive paid leave time pursuant to this subsection shall not be conditioned upon the creation of a centralized portable benefits system.*

[(b) Except with respect to work on a casual basis, and any exemptions created as part of the establishment of the portable benefits system, a hiring entity shall be required to pay funds into the portable benefits system based on the hours worked for the hiring entity and such funds will become the compensation for earned paid leave time.]

[(c)] *(b)* ***

[(d) All contributions made by hiring entities shall be maintained in a Centralized Paid Leave Time account designated for each hiring entity and Domestic Worker that is engaged in domestic worker services. Once a domestic worker meets the required accrual hours for paid leave time as described under Section 9-4503(4)(c), then the workers' rights shall be deemed as vested for purposes of the Paid Leave Time provision. This will guarantee the domestic worker a right for Paid Leave Time and access to funds accrued and maintained in their designated Paid Leave Time account. The domestic worker retains such rights and access to her account regardless of changes that may occur in the relationship between the Domestic Worker and Hiring Entity that contributed to the Paid Leave Time account.]

[(e)] *(c)* The Enforcement Agency shall develop [the infrastructure] *a centralized portable benefits system* that facilitates the creation and the implementation of the Paid Leave Time Account through which hiring entities and domestic workers will have access in order to comply with all the provisions of Paid Leave Time. [The infrastructure that is developed by the Enforcement Agency must permit the collection of hiring entity contributions and that allows for the disbursement of the domestic worker vested compensation that is in compliance with the provisions of this section.] *The centralized portable benefits system shall allow for: recording and dispersing paid leave time earned by domestic workers on an aggregated basis for work performed for multiple hiring entities; collecting funds from hiring entities to pay for such leave time; and developing the infrastructure to administer portable access to such funds for domestic workers who earn such leave time.*

(.1) Prior to the Enforcement Agency implementing the centralized portable benefits system, a hiring entity shall provide paid leave time accrued through work performed for that hiring entity, as required under Section 9-4503(3). The hiring entity shall provide paid leave using the same payment method used to compensate a domestic worker for work performed and shall provide a domestic worker with an accounting of the domestic workers' paid leave time upon request.

(.2) Once the centralized portable benefits system is implemented, except with respect to work on a casual basis and any exemptions created as part of the establishment of the portable benefits system, a hiring entity shall be required to pay funds into the portable benefits system based on the hours worked for the hiring entity and such funds will become the compensation for earned paid leave time.

(.3) Once the centralized portable benefits system is implemented, all contributions made by hiring entities shall be maintained in a centralized Paid Leave Time account designated for each hiring entity and domestic worker that is engaged in domestic worker services. The domestic worker shall retain such rights and access to the Paid Leave Time account regardless of changes that may occur in the relationship between the domestic worker and Hiring Entity that contributed to the Paid Leave Time account.

[(f)] *(d)* [Payment for leave time shall be accessed by the domestic worker based on a demonstration of compensation needed to replace] *A domestic worker shall have the right to access paid leave time pursuant to this subsection in order to replace compensation for* lost regularly-scheduled work time because of: a change in work schedule or cancellation of planned work time by the employer; the need for leave time for any of the reasons for which sick leave may be used under Chapter 9-4100 of the Code ("Promoting Healthy Families and Workplaces"); personal time needed for significant and unexpected personal matters; or any other reason established by *the* Enforcement Agency by regulation.

[(5)] *(4)* Agreement Termination.

(a) The hiring entity shall provide a minimum two-week notification period before termination of the workplace relationship, and for "live-in" domestic workers a minimum four-week notification period

before termination of the workplace relationship. No notification period is required in connection with termination of work performed on a casual basis for a hiring entity.

(b) The hiring entity may terminate the relationship without complying with the full notification period based on a good-faith belief that the domestic worker has engaged in significant misconduct.

(c) *Severance Pay.*

(.1) [Failure] *If a hiring entity fails* to provide notification as required under this [Section] *subsection (4), the domestic worker* shall *be entitled* [entitle the domestic worker] to severance pay [in the amount of the worker's regular hourly rate multiplied by the regular number of hours worked over the period of time during which the required notification was not provided.] *as follows:*

(.a) If a hiring entity fails to provide the two-week notification period as required under this Section, a domestic worker shall be entitled to severance pay in an amount equal to the greater of two weeks of work based on the work schedule, pay rates and benefits set forth in their written contract or the actual hours worked during the domestic worker's last two weeks of work prior to the termination.

(.b) If a hiring entity fails to provide the four-week notification period to a "live-in" domestic worker, the "live-in" domestic worker shall be entitled to severance pay in an amount equal to the greater of four weeks of work based on the work schedule, pay rates and benefits set forth in their written contract or the actual hours worked during the "live in" domestic worker's last four weeks of work prior to the termination. A "live-in" domestic worker shall also be provided with four weeks of housing or comparable housing, or the value of such housing if it is not feasible to provide comparable housing.

(.c) Severance pay due to a domestic worker pursuant to this subsection shall be paid no later than the domestic worker's last day of work.

[(6)] *(5)****

§ 9-4504. Notification of Rights and Record Keeping.

(1) *Notice.* A hiring entity shall *notify a domestic worker of the worker's rights under this Chapter and be subject to penalties for failure to do so, as provided in Section 9-6607.* [provide to a domestic worker such notification of the rights of domestic workers under this Chapter, and such information on how to file a complaint for violation of such rights, as shall be determined by the Enforcement Agency by regulation.]

(2) [A hiring entity shall create and maintain records documenting hours worked, pay rate, leave time earned and used and the existence of a written contract, all pursuant to requirements established by regulation. If a hiring entity does not maintain such records or does not allow the Enforcement Agency reasonable access to such records, an adverse inference may be drawn with respect to facts alleged regarding

the issues about which records were not kept.] *A hiring entity shall create and maintain contemporaneous, true, and accurate records showing compliance with this Chapter. A hiring entity shall retain these records for a period of three years, commencing upon the effective date of the ordinance adding this provision to the Code, and shall either allow the Enforcement Agency to inspect the records, subject to the provisions set forth under Section 9-6603(2), or provide them to the Enforcement Agency upon request. Such records shall include:*

(a) All executed versions of written contracts and any other agreements between the hiring entity and domestic worker;

(b) Hours worked by a domestic worker, including dates, start times, end times, and rest and meal periods;

(c) Wages, benefits, and any other types of compensation paid or provided to a domestic worker, including the date of such payments;

(d) Any deductions from wages, benefits, or other types of compensation including the reason for such deductions;

(e) Leave time accrued and taken including whether it was paid or unpaid;

(f) All written notifications of termination provided to a domestic worker, including the date it was provided; and

(g) Any written warning, reprimand, or other discipline provided to a domestic worker.

(3) If a hiring entity does not maintain or retain adequate records documenting compliance with applicable and effective provisions of this Section, or does not allow the Enforcement Agency reasonable access to such records within 30 days of the Enforcement Agency's request or any extension thereof by the Enforcement Agency upon a showing of good cause, it shall be presumed in any enforcement action that the hiring entity has violated this Chapter, absent clear and convincing evidence to the contrary, including evidence that the alleged violations occurred before the employer was legally obligated to document compliance with this Section.

[(3)] *(4)* The Enforcement Agency shall maintain the confidentiality of all records it obtains in connection with enforcement activities to the full extent permitted by law.

(5) The hiring entity shall be liable for penalties and damages under this Section if the Enforcement Agency, domestic worker, their representative, or any entity a member of which is allegedly aggrieved by a violation of this Chapter, provides written notice to the hiring entity of the alleged violations and the hiring entity has failed to cure such violations within 30 days of notice.

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§ 9-4505. Rights Protected; Retaliation Prohibited.

(1) It shall be unlawful for a hiring entity or any other person to interfere with, restrain, [or] deny the exercise of, or the attempt to exercise, any right set forth in this Chapter*, or to retaliate against a domestic worker for exercising any rights protected by this Chapter, as provided in Chapter 9-6500.*

(2) The minimum requirements of Section 9-4503 ("Minimum Protections") shall be deemed incorporated into any contract, whether actual or implied, between the hiring entity and the domestic worker.

(3) A material breach by a hiring entity of a contract with a domestic worker shall constitute a violation of this Chapter, without regard to whether the breach is of a provision required by this Chapter.

[(4) No hiring entity or any other person shall take or threaten retaliatory action against any person because a domestic worker has exercised rights or pursued a claim of violation under this Chapter. Such rights include the right to use break and leave time pursuant to this Chapter; the right to demand compliance with protections established by contract; the right to file a complaint or inform any person about a hiring entity's alleged violation of this Chapter; the right to cooperate with the Enforcement Agency in any investigation pursuant to this Chapter; and the right to inform any person of the rights established under this Chapter.]

[(5) Retaliatory action includes communicating to a person the willingness or intent to contact a government agency regarding the suspected citizenship or immigration status of a domestic worker or family member of a domestic worker because the worker has or has expressed an intent to exercise rights protected under this Chapter or because of a belief the worker may do so.]

[(6) The protections of this Section 9-4505 shall apply to any person who mistakenly but in good faith alleges a violation of this Chapter.]

§ 9-4506. Regulations.

* * *

§ 9-4507. Liability, Administration, Enforcement and Penalties.

(1) Joint Liability. More than one person or entity may have an employment relationship with a domestic worker in connection with the same work. Individuals and entities with an overlapping employment relationship with a domestic worker are subject to joint and several liability, and concurrent fines and penalties, in connection with violations of this Chapter.

(2) [A domestic worker or other person representing a Domestic Worker*,* may report to the Agency any suspected violation of this Chapter]*. The Enforcement Agency is authorized to receive, investigate, and resolve complaints regarding violations of this Chapter in accordance with the procedures set forth under*

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Chapter 9-6600.

[(3) The Agency is authorized to take such steps as it deems appropriate to resolve complaints and enforce this Chapter, including, but not limited to, establishing a system to receive complaints regarding non-compliance with this Chapter, investigating alleged violations in a timely manner and resolving complaints through mediation.]

[(4) The Agency shall have the power to subpoena records and testimony from any party to a complaint. Such records shall be provided to the Agency within thirty (30) days after receipt of the subpoena.]

[(5)] *(3)* Any [person] *complaint* alleging a violation of this Chapter [shall file a complaint] *must be filed* with the *Enforcement* Agency within [two] *three* years of the date the [person] *complainant* knew or should have known of the alleged violation, *subject to the exceptions under Section 9-6607(5).*

[(6)] *(4) The Enforcement Agency is authorized to administratively adjudicate potential violations of this Chapter* [Upon establishment of a system of administrative adjudication, the Agency] *and* shall have the power to [impose] *seek* penalties and fines for *any* violation of this Chapter *pursuant to subpart (a), below,* and to provide or obtain appropriate relief. Remedies may include reinstatement and full restitution to the domestic worker for lost wages and benefits, including presumed damages [to be awarded to a domestic worker for the hiring entity's violation of this chapter] *pursuant to subpart (b)*, *below, and liquidated damages pursuant to subpart (c), below*. [The Agency shall also fix by regulation an amount of presumed damages.]

(a) If the Enforcement Agency determines that a violation under this Chapter has occurred, the Enforcement Agency may seek a civil monetary penalty of $2,000 for each violation, payable to the City.

(b) If the Enforcement Agency determines that the hiring entity has violated Section 9-4502, 9-4503(2), 9-4503(5), or 9-4504(1), the complaining domestic worker shall be entitled to presumed damages as set forth in this subpart (b)(.1) through (.4), below, payable to the domestic worker. The Enforcement Agency shall be authorized to increase any of the presumed damages amounts set forth below by regulation up to a maximum of $4,000 for each violation provided that the amount shall not increase more than 10% in a given year.

(.1) Written agreement (Section 9-4502): For a hiring entity's failure to comply with the written agreement requirements as specified by Section 9-4502, $100 per impacted domestic worker, or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, for each workday in which the violation occurs or continues, but not to exceed 30 days.

(.2) Rest and Meal Periods (Section 9-4503(2)):

(.a) For a hiring entity's failure to provide a paid rest period as specified by

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Section 9-4503(2)(a), one additional hour of pay at the domestic worker's regular rate of compensation or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, for each workday that a rest period was not provided.

(.b) For a hiring entity's failure to provide a meal period as specified by Section 9-4503(2)(b), one additional hour of pay at the domestic worker's regular rate of compensation, or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, for each workday that a meal period was not provided.

(.c) For a hiring entity's failure to comply with the requirements relating to an on-duty rest or meal period as specified in Section 9-4503(2)(c), one additional hour of pay at the domestic worker's regular rate of compensation, or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, for each workday that the violation occurred.

(.d) For a hiring entity's failure to provide a 24-hour period of rest to a "live-in" domestic worker as specified in Section 9-4503(2)(d), an additional amount equal to the pay earned on the 7th consecutive day of work, or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, but not to exceed one additional day of pay per 7-day period.

(.3) Worker Documents and Privacy (Section 9-4503(5)): For a hiring entity's failure to comply with the requirements of Section 9-4503(5), $200 per impacted domestic worker, or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, for each workday in which the violation occurs or continues, but not to exceed 30 days.

(.4) Notification of Rights (Section 9-4504(1)): For a hiring entity's failure to promptly comply with the requirements of Section 9-4504(1), $25 per impacted domestic worker, or another higher amount set by regulation, provided that the amount shall not increase more than 10% in a given year, for each workday in which the violation occurs or continues, but not to exceed 30 days.

(c) If the Enforcement Agency determines that a violation under this Chapter has occurred, the complaining domestic worker shall be entitled to liquidated damages in a separate amount equal to the other monetary damages determined to be owed to the domestic worker by the Enforcement Agency, payable to the domestic worker and awarded at the time a determination is issued by the Enforcement Agency. Liquidated damages under this subsection are intended to make the domestic worker whole and to compensate the domestic worker for collateral harms suffered because of the violation and for the domestic worker's time and effort enforcing the rights afforded to the domestic worker under this Chapter.

(5) The Enforcement Agency or the City Solicitor may elect to enforce violations of this Chapter by filing a judicial action in a court of competent jurisdiction. Upon finding a violation, the court may award appropriate relief and impose the penalties, presumed damages, and liquidated damages set forth in subsection (4), above.

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[(7) A hiring entity who retaliates against an employee for any activity protected under this Chapter shall be a Class III offense under § 1-109(3). All other violations of this Chapter shall be Class II offenses under § 1-109(2) of this Code.]

[8] (*6*) *Private Right of Action.* Any domestic worker aggrieved by a violation of this Chapter[,] *or* any entity a member of which is aggrieved by a violation of this chapter [or the City] may bring a civil action in a court of competent jurisdiction against a hiring entity violating this Chapter. *The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date the complainant knew or should have known of the alleged violation, subject to the exceptions under Section 9-6602(6) and Section 9-6607(5).* Nothing in this Chapter or its implementing regulations shall be construed to require a complaint to be filed with the *Enforcement* Agency before bringing an action in court. Upon prevailing in an action brought pursuant to this Section, an aggrieved person shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, that is not duplicative of any relief provided to the person in *any* administrative proceedings *or other judicial proceedings*, including, without limitation, *the penalties, damages, and remedies listed in subsection (4), above,* [reinstatement in employment, back pay] and injunctive relief. The aggrieved person shall be entitled to an award of reasonable attorney's fees and cost*s*.

* * *

§ 9-4509. Domestic Workers Standards and Implementation Task Force.

(1) The [Mayor's Office of Labor] *Enforcement Agency* is authorized to establish, within ninety days of the passage date of this ordinance, a Domestic Workers Standards and Implementation Task Force, which shall regularly convene members of the Administration, City Council and affected stakeholder organizations to discuss mechanisms to support implementation of this Chapter, including regulations promulgated under this Chapter.

(2) The [Mayor's Office of Labor] *Enforcement Agency* shall, no less than one time a year, file a report with the Chief Clerk of Council that shall include, in addition to such other information the [Mayor's Office of Labor] *Enforcement Agency* determines should be included, information concerning Domestic Workers, and reporting any policy recommendations or findings from the Domestic Workers Standards and Implementation Task Force.

§ 9-4510. Severability.

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CHAPTER 9-6500. PROTECTING VICTIMS OF RETALIATION

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§ 9-6501. Definitions.

(1) Adverse action. Any action that negatively affects a complainant's compensation, terms, or conditions of current or future work, including termination, intimidation, harassment, discrimination, demotion, suspension, discipline, reduction in hours, change in work schedule or pay, change in responsibilities or in the terms or conditions of employment, refusal to hire, blacklisting, interference with current employment or employment prospects, contacting law enforcement or a government agency to file a report, including reporting suspected or actual immigration status.

(2) Complainant. The worker, or individual or organization on behalf of a worker, who has filed a complaint for unlawful retaliation.

(3) Deferred Action Program. Any program run by the U.S. Department of Homeland Security for immigrant workers who are eligible for deferred action, continued presence, or parole, based on abusive or exploitative labor practices.

(4) Employer. Any individual, corporation, association, partnership, or business trust, or any group of persons, or a successor thereof that contracts with a worker to perform labor. An employer includes any "employer" as defined under Section 9-6601.

(5) Enforcement Agency. The Office of Worker Protections, within the Department of Labor, or any other agency designated by the Mayor to enforce the Worker Protection Ordinances, as defined under Section 9 -6601.

(6) Family member.

(a) A biological, adopted or foster child, stepchild or legal ward or a child to whom the employee stands in loco parentis;

(b) A biological, foster, or adoptive parent, stepparent, or legal guardian of a worker or a worker's spouse or a person who stood in loco parentis when the worker or the worker's spouse was a minor child;

(c) A person to whom the worker is legally married under the laws of Pennsylvania;

(d) A grandparent or spouse of a grandparent;

(e) A grandchild;

(f) A biological, foster, or adopted sibling or spouse of a biological, foster or adopted sibling;

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(g) A Life Partner as defined in Section 9-1102 of this Code.

(7) Determination or decision. A determination, order, or decision by the Enforcement Agency, Board of Labor Standards, or a court.

(8) Immigrant worker. Any worker who is not a U.S. citizen.

(9) Notice of Investigation. Oral or written notice from the Enforcement Agency informing the parties that the Enforcement Agency has received a complaint and opened an investigation into an alleged violation of this Chapter.

(10) Parties. Both the complainant and the respondent.

(11) Protected activity. Any act taken in good faith by a worker to assert rights protected under any "Worker Protection Ordinance," as defined under Section 9-6601. Such acts include a worker, under these laws, seeking information about their rights; communicating with another person about their rights or an alleged violation; opposing or refusing to participate in any practice that violates any Worker Protection Ordinance; making an oral or written complaint to an employer or any person associated with the employer; filing a complaint with the Agency or a court of competent jurisdiction; or providing evidence or participating in a proceeding related to a formal or informal complaint.

(12) Respondent. The person against whom the complaint for unlawful retaliation has been filed.

(13) Unlawful Retaliation. An employer taking adverse action against a worker or their family members because the worker has engaged in protected activity or in order to dissuade, deter, or prevent a worker from engaging in protected activity.

(14) Worker. Any person who has performed labor, including anyone who meets the definition of a "worker" under Section 9-6601.

§ 9-6502. Protection Against Unlawful Retaliation.

No employer or any person associated with the employer shall engage in unlawful retaliation.

§ 9-6503. Proving a Claim for Unlawful Retaliation.

(1) Unlawful retaliation shall include adverse actions taken prior, during, or after the termination of the worker's relationship with the employer.

(2) A causal connection between the protected activity and the adverse action may be established by

indirect or direct evidence.

(3) Unlawful retaliation can exist when the protected activity is only one of several motivating factors, so long as the protected activity is a factor in the adverse action.

(4) A rebuttable presumption of unlawful retaliation exists if an employer or any person associated with the employer has knowledge that a Worker has engaged in a protected activity and takes adverse action against a worker or their family member within ninety (90) days of the worker having engaged in a protected activity. The employer or any person associated with the employer may overcome the presumption with clear and convincing evidence that they would have taken the adverse action notwithstanding the protected activity, provided the employer or hiring entity documents in writing the incident relating to the alleged adverse action. In the case of seasonal work, the presumption also applies if the employer or hiring entity fails to rehire or enter into a new contract with a worker at the next opportunity for work in the same position.

§ 9-6504. Enforcement and Penalties.

(1) The Enforcement Agency is authorized to receive, investigate, and resolve complaints regarding violations of this Chapter in accordance with the procedures set forth under Chapter 9-6600. A complaint for unlawful retaliation may be concurrently filed with a complaint under any Worker Protection Ordinance, as defined under Section 9-6601. If a worker has first filed a complaint under these Chapters, a subsequent claim for retaliation will be associated with the initial complaint.

(2) Any complaint alleging a violation of this Chapter must be filed with the Enforcement Agency within three (3) years of the date the complainant knew or should have known of the alleged violation, subject to the exceptions under Section 9-6607(5).

(3) The Enforcement Agency shall have the authority to create a fast-track process for investigating complaints of unlawful retaliation, including prioritizing those complaints that allege unlawful retaliation that is severe or repeated or that causes significant physical, emotional, or financial harm.

(4) The Enforcement Agency is authorized to immediately notify the employer, or any person associated with the employer, to cease and desist from acts of unlawful retaliation.

(5) The Enforcement Agency is authorized to administratively adjudicate potential violations of this Chapter and shall have the power to seek penalties and fines for any violation of this Chapter pursuant to subpart (a), below, and to provide or obtain appropriate relief. Remedies may include reinstatement and full restitution to the worker for lost wages and benefits, compensation for physical or emotional harm, restoration of hours, or other equitable and injunctive relief, including ordering that the unlawful conduct cease and desist, and liquidated damages pursuant to subpart (b), below.

(a) If the Enforcement Agency determines that a violation under this Chapter has occurred,

the Enforcement Agency may seek a civil monetary penalty of $2,000 for each violation, payable to the City.

(b) If the Enforcement Agency determines that a violation under this Chapter has occurred, the complaining worker shall be entitled to liquidated damages in a separate amount equal to the other monetary damages determined to be owed to the worker by the Enforcement Agency, payable to the worker and awarded at the time a determination is issued by the Enforcement Agency. Liquidated damages under this subsection are intended to make the worker whole and to compensate the worker for collateral harms suffered because of the violation and for the worker's time and effort enforcing the rights afforded to the worker under this Chapter.

(6) The Enforcement Agency or the City Solicitor may elect to enforce violations of this Chapter by filing a judicial action in a court of competent jurisdiction. Upon finding a violation, the court may award appropriate relief and impose the penalties and liquidated damages set forth in subsection (5), above.

(7) Private Right of Action. Any worker aggrieved by a violation of this Chapter or any entity a member of which is aggrieved by a violation of this Chapter may bring a civil action in a court of competent jurisdiction against a person violating this Chapter. The limitations period for a civil action brought pursuant to this Section shall be three (3) years from the date the complainant knew or should have known of the alleged violation, subject to the exceptions under Section 9-6602(6) and Section 9-6607(5). Nothing in this Chapter or its implementing regulations shall be construed to require a complaint to be filed with the Enforcement Agency before bringing an action in court. Before a civil action for damages under this Chapter may be initiated, the person violating this Chapter must be put on notice of the alleged violation and provided 15 days to remedy the harm. Such notice shall be provided in writing by a worker, their representative, or any entity a member of which is allegedly aggrieved by a violation of this Chapter. This 15-day waiting period provision shall not apply to claims involving willful misconduct or retaliation. Upon prevailing in an action brought pursuant to this Section, an aggrieved person shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, that is not duplicative of any relief provided to the person in any administrative proceedings or other judicial proceedings, including, without limitation, the penalties, damages, and remedies listed in subsection (5), above, and injunctive relief. The aggrieved person shall be entitled to an award of reasonable attorney's fees and costs.

§ 9-6505. Worker Justice Fund.

(1) The Enforcement Agency shall have the authority to create a worker justice fund that would support workers who have suffered economically, physically, or emotionally because of retaliation. The Enforcement Agency shall have the power to implement and operate this fund by determining eligibility, procedure, and payment processes for the fund.

(2) It is the intent of Council that the Director of Finance direct that any penalties or fines collected pursuant to this Chapter be used to replenish the Worker Justice Fund.

§ 9-6506. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

* * *

CHAPTER 9-6600. ENFORCEMENT OF WORKER PROTECTION ORDINANCES

§ 9-6601. Definitions.

(1) Enforcement Agency means the Office of Worker Protections, within the Department of Labor, or any other agency designated by the Mayor to enforce the Worker Protection Ordinances.

(2) Complainant means the worker, or an entity on behalf of a worker, which has filed a complaint with the Enforcement Agency regarding suspected violation of a Worker Protection Ordinance.

(3) Determination means the written findings and decision of the Enforcement Agency following investigation of a complaint alleging violations of a Worker Protection Ordinance.

(4) Employer means any individual, corporation, association, partnership, or business trust, or any group of persons, or a successor thereof that contracts with a worker to perform labor. An employer includes any "employer" as defined under Sections 9-4103, 9-4301, 9-4601, any "hiring entity" as defined by Section 9-4501, or any "parking employer" as defined by Section 9-4701.

(5) Parties means the Complainant and the Respondent.

(6) Respondent means the person or entity against whom a complaint alleging violation of any Worker Protection Ordinance has been filed.

(7) Worker means any person who has performed labor, including anyone who meets the definition of a domestic worker as defined by Section 9-4501, an "employee" as defined by Sections 9-4103, 9-4301, and 9-4601, "parking employee" as defined by Section 9-4701, or "worker" as defined by Section 9-6501.

(8) Worker Protection Ordinance means any of the following Chapters of The Philadelphia Code: Chapter 9-4100 (Promoting Healthy Families and Workplaces); Chapter 9-4300 (Wage Theft Complaints); Chapter 9-4500 (Protections for Domestic Workers); Chapter 9-4600 (Fair Workweek Employment Standards); Chapter 9-4700 (Wrongful Discharge from Parking Employment), and Chapter 9-6500 (Protecting Victims of Retaliation), collectively referred to as the "Worker Protection Ordinances."

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§ 9-6602. Worker Protection Ordinance Complaints.

(1) A Worker, or any other person or organization on behalf of a Worker or group of Workers, may file a complaint with the Enforcement Agency regarding a suspected violation of any Worker Protection Ordinance.

(2) A Complainant is entitled to receive written confirmation of receipt of complaint from the Enforcement Agency.

(3) If the Enforcement Agency rejects a complaint due to failure to meet jurisdictional requirements, the Complainant shall have the right to submit a revised complaint or appeal that decision to the Philadelphia Board of Labor Standards. A resubmitted complaint that the Enforcement Agency deems eligible for investigation shall be backdated to the filing date of the initial complaint.

(4) The Enforcement Agency shall keep confidential the identity of any Complainant unless disclosure of such Complainant's identity is necessary for resolution of any investigation by the Enforcement Agency or to allow an employer a fair opportunity to respond to an allegation, or otherwise required by law. The Enforcement Agency shall, to the extent practicable, notify such Complainant that the Enforcement Agency will be disclosing their identity prior to such disclosure.

(5) The Complainant is entitled to receive written notice from the Enforcement Agency indicating the name and contact information for the investigator assigned to investigate their complaint.

(6) A properly filed administrative complaint tolls the applicable statute of limitations for any court action.

§ 9-6603. Investigation of Worker Protection Ordinance Violations.

(1) The Enforcement Agency is authorized to take such steps as it deems appropriate to resolve complaints and enforce any Worker Protection Ordinance, including, but not limited to, establishing a system to receive complaints regarding non-compliance with any Worker Protection Ordinance, investigating alleged violations in a timely manner, and resolving complaints through mediation.

(2) Upon receiving a complaint alleging a violation of a Worker Protection Ordinance, the Enforcement Agency shall investigate such complaint and, if appropriate, attempt to resolve it through mediation. The Enforcement Agency may designate representatives to inspect worksites and access records required to be maintained under the Worker Protection Ordinances. The Enforcement Agency shall keep Complainants reasonably notified regarding the status of their complaint and any resulting investigation and shall notify Complainants of any determination of the Enforcement Agency, including any mediation result, with respect to the complaint.

(3) The Enforcement Agency has the authority to open an investigation on its own initiative, absent a formal complaint, when it has reason to believe that a violation of a Worker Protection Ordinance has occurred or will occur, or when circumstances show that violations are likely to occur within a business or class of businesses.

(4) The Enforcement Agency has authority to expand the scope of any investigation beyond a single individual's claims to include all workers at an employer's business in situations including, but not limited to, when the Enforcement Agency has reason to believe that multiple workers have or are likely to have experienced violations of a Worker Protection Ordinance, when a complaint alleges or suggests that the employer may be engaged in a pattern or practice of violations against multiple workers, or when requested by the Complainant.

(5) Power to Subpoena Records and Testimony. Pursuant to the Philadelphia Home Rule Charter Sections 8-409 and 4-2300, the Enforcement Agency may issue subpoenas for records or testimony. If a recipient of the subpoena fails to timely respond to a subpoena or if the response is deficient, the Enforcement Agency may refer the subpoena to the City of Philadelphia Law Department to initiate proceedings to enforce the subpoena in a court of competent jurisdiction.

(6) Failure to Respond. If a Respondent fails to timely respond to a subpoena or any other investigative request from the Enforcement Agency, or fails to appear at a mediation, the Enforcement Agency may proceed to consider the allegations contained in the complaint as uncontested and enter a Determination that the Respondent has violated the applicable Worker Protection Ordinance(s) based on the available information.

(7) Prior to the issuance of a determination, or during mediation, the Enforcement Agency may encourage the parties to settle the Complaint on terms that are mutually agreeable. Where settlement is successful, the terms of the settlement agreement shall be reduced to writing and signed by the parties.

§ 9-6604. Determinations.

(1) Whenever the Enforcement Agency completes an investigation of a complaint, it shall issue a written Determination to the Respondent(s) and provide a copy to the Complainant, in English and the preferred language of the Complainant.

(2) The Enforcement Agency shall have the power to seek penalties and fines for violations of the Worker Protection Ordinances and to provide or obtain appropriate relief, as set forth in each Worker Protection Ordinance. The Enforcement Agency may also require the Respondent to display written notice of Respondent's violation of and failure to comply with a Worker Protection Ordinance in a conspicuous and accessible place in each establishment where Respondent's employees are employed, in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce, in a form

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and manner determined by the Enforcement Agency.

§ 9-6605. Appeals.

(1) Any party aggrieved by any Determination, and who has a direct interest in such Determination, shall have the right to file an appeal therefrom to the City of Philadelphia Board of Labor Standards within thirty (30) days of the date of service of such Determination. Appeals shall be filed and conducted in the manner and in the form prescribed by any regulations, rules, procedures, policies, and orders adopted and promulgated by the Board of Labor Standards.

(2) Failure to Appeal. Failure of a party aggrieved by any Determination to timely file an appeal to the Board of Labor Standards shall result in the Enforcement Agency's Determination being final and enforceable pursuant to Section 9-6606 of this Chapter.

§ 9-6606. Judicial Enforcement of Determinations.

(1) If the Respondent fails to comply with any Determination, the Enforcement Agency or the City Solicitor shall have the authority to seek judicial enforcement of any relief ordered pursuant to this Chapter, including civil monetary penalties, liquidated damages, presumed damages, or other monetary and injunctive relief, but only after the Respondent has exhausted any appeals available to them under the Pennsylvania Local Agency Law or other applicable law. The Enforcement Agency's final Determination shall constitute prima facie evidence that a violation occurred and shall be admissible without further evidentiary foundation.

(2) Where a court of competent jurisdiction has entered a judgment pursuant to this subsection that includes monetary relief payable to a Complainant, the Complainant, the Enforcement Agency, or the City Solicitor shall have the right to initiate collections proceedings pursuant to Pennsylvania law for such monetary relief that remains unpaid.

§ 9-6607. Notice Requirements.

(1) Employers shall provide notice to Workers setting forth the rights and privileges provided under any applicable Worker Protection Ordinance, including information on how to file a complaint for violations of such rights, stating that retaliation against Workers for exercising such rights is prohibited, and providing such other information as the Worker Protection Ordinance or Enforcement Agency may require.

(2) Employers shall comply with Section 9-6607(1) by, for , all information required under that subsection, either (a) supplying each of their employees with written notice in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce that contains the information required in Section 9-6607(1); or (b) displaying poster(s) in a conspicuous and accessible place in each establishment where such Workers are employed which contains in English and in any language that is the first language spoken by at least five percent (5%) of the employer's workforce.

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(3) The Enforcement Agency may create, and make available to employers, posters that contain the information required under Section 9-6607(1) for each Worker Protection Ordinance for Employers' use in complying with Section 9-6607(2).

(4) Notice and Posting Violations. If the Enforcement Agency determines that an Employer has violated any of the requirements set forth in Section 9-6607(2), the Enforcement Agency is authorized to seek penalties and fines for noncompliance and to provide or obtain other appropriate remedies to or for the worker or workers. Such remedies may include:

(a) A civil monetary penalty of no more than $2,000 for each violation;

(b) Injunctive or equitable relief, if applicable, such as ordering that the Employer provide the required notice to former and current workers.

(5) Extension of Statute of Limitations for Notice Violations. If an Employer fails to provide notice as required by this Section, the statute of limitations for filing an administrative complaint or civil action under the relevant Worker Protection Ordinance shall be equitably tolled during the time period in which the Employer has failed to comply with this Section. A Worker seeking equitable tolling under this subsection shall have the burden of proving that the required notice was not provided during the period for which the statute of limitations is extended.

§ 9-6608. Annual Reporting.

(1) An annual report of the Enforcement Agency's enforcement efforts will be transmitted to City Council by May 30th of each year. City Council will publish the report on a publicly available website thereafter. Such information will include:

(a) The number of complaints received by the Enforcement Agency, by Worker Protection Ordinance, including the number of complaints found not actionable (including not eligible due to jurisdictional requirements or administratively closed for other reasons), and the number of complaints referred to other enforcement agencies.

(b) The number of investigations conducted and the average timeframe between receipt of complaint and issuance of a Determination, by Worker Protection Ordinance.

(c) The total number of violations found, by Worker Protection Ordinance and type of violation.

(d) The total amount of monetary damages awarded to Complainants, including the average amount and range of remedies awarded to Complainants, and kinds of injunctive relief awarded, by Worker

Protection Ordinance.

(e) The total amount of fines paid to the City, by Worker Protection Ordinance.

(f) The number of complaints appealed to the Board of Labor Standards, by Worker Protection Ordinance.

(g) The number of business licenses referred to L&I for denial, suspension, or revocation.

(h) The number of cases in which a Respondent failed to comply with a final Determination (after exhaustion of appeal rights), by Worker Protection Ordinance.

(i) The number of civil actions filed in court by the Enforcement Agency to enforce a final Determination, by Worker Protection Ordinance.

(j) The number of cases resolved via mediation, including the total amount of monetary damages recovered by Complainants via settlement, by Worker Protection Ordinance.

(k) The total amount contributed to the worker justice fund in the fiscal year.

(l) The number of requests to the worker justice fund based on economic, physical, or emotional harm and the total amount provided to workers for requests from the worker justice fund.

(m) The number of requests made to and approved by the certifying official of the Enforcement Agency for immigrant worker relief.

(n) The number and type of outreach efforts conducted by the Enforcement Agency, by zip code.

(2) Bad Actors Database. The Enforcement Agency will publish on a publicly available website and transmit to the President of City Council and the Chair of the Committee on Labor and Civil Service the following information by May 30th of each year:

(a) The information listed in 9-6608(2)(b), below, for any Employer who:

(.1) Has been issued three or more of the following from separate incidents or circumstances:

(.a) a Determination, for which all appeal rights have been exhausted, finding the Employer to have violated any Worker Protection Ordinance;

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(.b) a final order by the Board of Labor Standards, for which all appeal rights have been exhausted, finding the Employer to have violated any Worker Protection Ordinance; and/or

(.c) a final order by a court, for which all appeal rights have been exhausted, finding the Employer liable for violation of any Worker Protection Ordinance.

(.2) Has failed to comply with any remedies applicable to the Complainant by the deadlines set forth in a Determination for which all appeal rights have been exhausted, or in a final decision by the Board of Labor Standards for which all appeal rights have been exhausted, or in a final order by a court for which all appeal rights have been exhausted.

(.3) Has been issued a Determination for which all appeal rights have been exhausted, a final decision by the Board of Labor Standards for which all appeal rights have been exhausted, or a final order by a court for which all appeal rights have been exhausted, finding the Employer to have violated any Worker Protection Ordinance after having previously satisfied obligations leading to the Employer's removal from the Bad Actors Database under subsection 9-6608(2)(d).

(b) The following information for each Employer who meets the qualifications of 9-6608(2)(a)

(.1) name of the Employer;

(.2) location of the workplace and type of workplace involved;

(.3) the number of complaints filed against the Employer;

(.4) the Worker Protection Ordinance that was violated; and

(.5) the date on which the relevant Determination, order of the Board of Labor Standards, or court order became final.

(c) Petition for addition to the Bad Actors Database. Any Worker or representative of a Worker may petition the Enforcement Agency to add any Employer to the database who meets the criteria for the database in subsection 9-6608(2)(a). The Enforcement Agency should respond in writing to the worker or representative of a worker within 30 days.

(d) Application for Removal from the Bad Actors Database. An Employer has the right to be removed from the Bad Actors Database upon application to the Enforcement Agency by providing the following:

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(.1) For Employers placed on the Bad Actors list pursuant to subsections 9-6608(2)(a)(.1):

(.a) A showing that two (2) years have passed since the date on which the most recent Determination, decision, or order finding the Employer in violation of any Worker Protection Ordinance became final;

(.b) A written certification that the Employer provided its Workers with notification of their rights under the applicable Worker Protection Ordinances in accordance with Section 9-6607; and

(.c) A written certification that the Employer will not violate any applicable Worker Protection Ordinance going forward.

(.2) For Employers placed on the Bad Actors list pursuant to subsection 9-6608(2)(a)(.2):

(.a) Proof that the Employer has complied with the relevant Determination, order of the Board of Labor Standards, or court order under subsection 9-6608(2)(a)(.2) and has paid all restitution owed to the Complainant;

(.b) A written certification that the Employer has provided its Workers with notification of their rights under any applicable Worker Protection Ordinances in accordance with Section 9-6607; and

(.c) A written certification that the Employer will not violate any Worker Protection Ordinance going forward.

(.3) Certification that the ownership of the Employer has meaningfully changed.

§ 9-6609. License Revocation and Procurement.

(1) The Enforcement Agency is authorized to notify the Philadelphia Department of Licenses and Inspections and the Philadelphia Department of Procurement about any employer who meets the criteria set forth in subsection 9-6608(2)(a).

(2) Upon notice from the Enforcement Agency, the Department of Licenses and Inspections shall have the authority to deny an application for or revoke a commercial activity license or any other license of any employer who meets the criteria set forth in subsection 9-6608(2)(a). The Department of Licenses and Inspections will follow all procedures required by Section 9-103.

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(3) If an employer or person meets the criteria set forth in subsection 9-6608(2)(a), the Department of Procurement shall have the authority to deem that employer or person to be ineligible for any future City contract.

(4) All City contracts shall contain a provision that the contract shall be revocable at the City's option if the person entering into the contract with the City shall meet the criteria set forth in subsection 9-6608 (2)(a).

§ 9-6610. Immigrant Worker Relief.

(1) The Enforcement Agency is authorized to certify and submit statements of interest on behalf of immigrant workers, including those subject to unlawful retaliation, who may be eligible for a U Visa or T Visa under the Victims of Trafficking and Violence Protection Act (2000), or for the Deferred Action Program under 6 U.S.C. § 202(5) and 8 U.S.C. § 1103.

(2) Designation of Certifying Official. The Enforcement Agency will designate at least one certifying official to issue certifications on behalf of the Enforcement Agency, and who will have publicly available contact information for certification requests.

(3) Criteria. In accordance with current U.S. Citizenship and Immigration Services ("USCIS") requirements, filing of criminal charges, prosecution, or conviction is not required for a worker to request and obtain certification.

(4) Denial Explanation. In the event of a denial of any request, the worker is entitled to receive a written explanation including the grounds for the denial. After receiving a denial, the worker may submit additional evidence to the Enforcement Agency for reconsideration of their request.

§ 9-6611. Severability.

If any provision of this Chapter or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared severable.

Section 2. This Ordinance shall become effective immediately

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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