Changes to Indiana's Wage Statutes Welcomed by Employers

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Effective July 1, 2015, Indiana's laws governing the payment of wages will be amended to minimize employer exposure for violations and expand allowable wage deductions.

The first change affects the damages available for an employer's failure to pay wages within a required timeframe or when an improper deduction was made from wages. Previously, the wage law provided for an automatic steep penalty to employers for any unpaid wages — the damages accrued at 10% of the unpaid amount due per day, capped at double the amount of the unpaid wages. This was in addition to the original amount of unpaid wages due. This meant that after 10 days had passed since the wages were due, employers faced automatic damages amounting to three times the amount of unpaid wages, plus attorney's fees and costs.

Under the new amendments, an employer is still liable for the amount of unpaid wages. The statute also still states that if an employer recovers an amount of unpaid wages, the court shall order as costs a reasonable fee for the plaintiff's attorney and court costs. However, liquidated damages are no longer automatic and do not accrue at 10% per day. Liquidated damages are now only awarded if the court determines the employer was not acting in "good faith." Also, if awarded, liquidated damages are set as two times the amount of wages due the employee. See Ind. Code § 22-2-5-2. Good faith is not defined by the statute, and it is expected that future court decisions will define that term.

The second set of changes expands the list of wage deductions — called wage assignments in Indiana — that are allowable under Indiana law. To be lawful, a wage assignment must be (1) in writing, (2) signed by the employee personally, (3) by its terms revocable at any time by the employee upon written notice to the employer, (4) agreed to in writing by the employer and (5) be one of the listed valid wage assignments found in Ind. Code § 22-2-6-2. The new amendments **[in bold below]** add the following as valid wage assignments:

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- The purchase price of merchandise, goods, or **food offered** by the employer **and sold** to the employee, **for the employee's benefit, use, or consumption**, at the written request of the employer;
- **The purchase of uniforms and equipment necessary for the job (subject to a cap of the lesser of $2,500 per year or 5% of the employee's weekly disposable earnings);**
- **Reimbursement of education or employee skills training costs (unless the education or training were provided, in whole or in part, through an economic development incentive from a federal, state, or local program); and**
- **An advance for payroll or vacation pay.**

Finally, the law now caps the interest an employer may charge an employee for amounts loaned or advanced to the employee and repaid through a wage assignment at 4% above the prime interest rate.

Frost Brown Todd would like to thank the Indiana Chamber of Commerce for its role in working to achieve these positive changes for Indiana employers.

For more information on the wage statute amendments, please contact Heather Wilson or Amy Wilson, or any other attorney in the Frost Brown Todd Labor and Employment practice group.

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