

Labor Commissioner Publishes Template for Employer-Required Notice to California New Hires

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California's new Wage Theft Protection Act, which took effect Jan. 1, 2012, requires employers (except the government) to provide written notice of certain information to every newly-hired non-exempt employee excluding those covered by union contracts that meet certain criteria. In compliance with the act, on Dec. 29, 2011, the Labor Commissioner published a template implementing this new law. The template is available on-line at:

- http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf (PDF version)
- http://www.dir.ca.gov/dlse/LC_2810.5_Notice.doc (Microsoft Word version)

Note: The Labor Commissioner's template specifies several new pieces of information not expressly stated in the Act, but which the Labor Commissioner apparently considers "material and necessary." Presumably, employers will be expected to include this additional information in the notice.

The notice template

The Act does not mandate that employers use the template so long as they provide all of the requisite information. The catch-22 is that the Act includes a provision that the employer-provided notice must include not only the information specified in the Act, but also "any other information the Labor Commissioner considers material and necessary." And, in fact, the Commissioner added the following categories of information to the template:

- Whether the employer is a sole proprietor, corporation, limited liability company, general partnership, other type of entity, or staffing agency;
- The name, address, telephone number, and type of business (professional employer organization, leasing company, temporary agency, or other) of any entity that the employer uses to hire employees or to administer wages and benefits;
- Whether the employee's "employment agreement" is oral or written; and
- The policy number if the employer is insured for workers' compensation, or certificate number if self-insured.

The template provides for both the employer and the employee to sign the notice, confirming delivery and receipt.

The law

The template is otherwise a reflection of the Act itself, A.B. 469, which requires employers to provide the following information in writing "at the time of hiring":

- The employer's name, including any "doing business as" names, physical address of the main office or principal place of business and mailing address if different, and telephone number;
- All of the employee's rate or rates of pay, including overtime rates, and the basis of the employee's pay (that is, by the hour, shift, day, week, piece, commission, or otherwise);
- Any allowances claimed by the employer against the minimum wage, including meal or lodging;
- The employer's regularly established payday; and

The name, address, and telephone number of the employer's workers' compensation insurance carrier.

Employees who receive the notice are to be notified in writing of any change to any of the information contained in

the notice, either within seven calendar days of the change or on a “timely” wage statement furnished in accordance with previously existing paycheck requirements.

The Act will be added to the Labor Code as a new section, Section 2810.5. We anticipate that the numerous questions raised by the template as well as by the Act itself will be addressed in future Labor Commissioner guidance and by the courts.

California has passed a number of other laws that will impact employers in 2012 and 2013. For a review of these laws, please see our [New California Employment Laws for 2012 and 2013 advisory](#) published on Nov. 10, 2011.

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