

One Minute Memo[®]



Jersey City Enacts Wage Theft Prevention Ordinance

By Christopher Lowe and Maria Papasevastos

Jersey City Mayor Steven Fulop has signed into law a wage theft prevention ordinance that gives the City the power to deny or suspend an employer's Jersey City-issued business license if the employer is found liable of violating any federal, state or local wage and hour law and fails to cure the violation.

Under the ordinance, "wage theft" is defined as "having been found guilty, liable or responsible in any judicial or administrative proceeding for unpaid wages" in violation of federal, state or local wage and hour laws related to the payment of wages or the collection of debt owed due to unpaid wages. An employer found liable for wage theft has 90 days from the final judgment, inclusive of any appeal, to cure the violation by complying with the order or decision.

An employer need not affirmatively report that it has cured a wage theft violation unless and until it applies for a Jersey City business license or renewal of the same. The City may, however, after the 90-day compliance period, request that the employer provide documentation showing that the wage theft violation has been cured. If the employer is unable to provide such documentation within 30 days, the employer's business license will be suspended or an application for a license or renewal will be denied until the employer cures the violation and provides documentation that it has done so.

The ordinance also provides that an applicant for a business license will have to certify under penalty of perjury whether it has been found liable of wage theft during the prior 24 months, as well as disclose the circumstances of any violation and efforts to cure. If an applicant makes a false statement or fails to report information, the City may revoke any previously issued license or deny an application for a license or renewal. The City will also perform an annual review of wage theft violations to ensure that all employers currently holding business licenses are in compliance.

Importantly, the City can only suspend or refuse to issue or renew a license that Jersey City itself has the power to issue. The ordinance has no impact on business licenses issued by any federal or state department or agency. Thus, this ordinance is most likely to impact businesses such as hotels, restaurants, bars, taxis/limos and grocery stores, which require Jersey City licenses; and not likely to have any impact on financial services and other companies with operations in Jersey City.

The ordinance will take effect on October 1, 2015.

Christopher Lowe is a partner in Seyfarth's New York office and *Maria Papasevastos* is an associate in the firm's New York office. If you would like further information, please contact your Seyfarth Shaw LLP attorney, Christopher Lowe at clowe@seyfarth.com or Maria Papasevastos at mpapasevastos@seyfarth.com.

www.seyfarth.com

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