

# Employment Practice Update

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## “Wage Theft” Legislation Is Moving Forward

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For the third consecutive year, Representative Tom Goodson (R) has proposed a bill that would create a new civil cause of action for wage theft, which is defined as an employer’s underpayment or nonpayment of compensation pursuant to any agreed upon pay schedule with the affected employees. Prior iterations of the wage theft legislation have come close to passing, and [House Bill 1125](#) and related [Senate Bill 1216](#) (Bradley – R) are moving steadily toward enactment this legislative session.

The bill is not Florida’s first effort to establish “wage theft” claims. In fact, two Florida counties have already enacted similar legislation. Currently Miami-Dade and Broward County have enacted wage theft ordinances, which provide an alternative route for workers to seek redress. According to a report issued by the Miami Office of the Commission Auditor, which accompanied Miami-Dade’s wage theft ordinance, the ordinance was “intended to be a tool to root out violations of U.S. labor laws.” In effect, municipal ordinances like those in Miami-Dade and Broward could result in employer liability in situations that fall through the cracks of federal and state legislation. The bills pending before the Florida Legislature create a catch-all remedy, however, by creating a statutory claim which would require actions to be filed in the small claims division of county courts, regardless of the amount in controversy.

Proponents of the legislation caution that permitting counties to implement individualized systems to respond to wage theft would result in a patchwork of ordinances and inconsistency. Opponents of the proposed legislation trumpet the efficiency with which counties can combat wage theft and the success Miami-Dade’s wage theft ordinance has achieved thus far, recovering hundreds of thousands of dollars to date.

With the passage of the proposed wage theft legislation, employers could face newfound state liability for *delayed* employee compensation. The House and Senate bills limit the liability an employer may face to twice the amount of compensation due and owing. The bills also prohibit the award of punitive damages, pain and suffering, and attorney’s fees. Under both bills, claimants must file their wage theft actions within one year of the alleged unlawful activity, after first notifying the employer of the alleged wage theft and providing the employer seven days to pay the total unpaid compensation.

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We will continue to monitor the legislation as it is shaped into its final form. In the meantime, employers should abide by their established pay schedules and note the increased legislative activity that focuses on the delay in payment. If you have any questions regarding this legislation, please contact our office at (850) 425-6654.

*This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.*