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October 19, 2015

California's Governor Jerry Brown recently signed into law a bill that allows employers to "cure" certain technical defects in employee wage statements. Effective immediately, employers have 33 days to remedy those defects before an employee may seek to recover civil penalties under California's Private Attorney General Act (PAGA).

Background on PAGA and Labor Code Section 226

PAGA gives individual employees the right to recover civil penalties on behalf of themselves and other "aggrieved" employees for certain violations of the Labor Code, including violations of Labor Code Section 226. Before doing so, however, an employee must first provide written notice to his or her employer and the Labor and Workforce Development Agency (LWDA) detailing the alleged violation.

Section 226 of the Labor Code requires employers to furnish certain information on employee wage statements. Section 226(a)(6) mandates that each wage statement shall include "the name and address of the legal entity that is the employer." Section 226(a)(8) further requires employers to specify "the inclusive dates of the period for which the employee is paid."

Effect of the new law

The new law amends PAGA to provide employers 33 days to cure any violation of Sections 226(a)(6) & (8). The cure period runs from the postmarked date of an employee's written notice to the LWDA of the alleged violation. To cure a violation, the employer must provide to each affected employee a "fully compliant, itemized wage statement to each aggrieved employee for each pay period for the three-year period prior to the date of the written notice."

Under the new law, employers may only cure such violations once within a 12-month period. Employers should also note that the new law only limits the recovery of PAGA penalties. It does not affect an employee's right to seek statutory penalties under Labor Code Section 226(e) for violations of Section 226(a)(6) & (8).

Next steps for employers

Employers who receive a written notice alleging violations of Sections 226(a)(6) or (8) should immediately consult with counsel to determine whether the employer should seek to cure the alleged violation(s). To discuss these issues further or pose questions about this *alert*, please contact one of the attorneys listed above.

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