

# MEMORANDUM

Agenda Item No. 7(A)

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**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

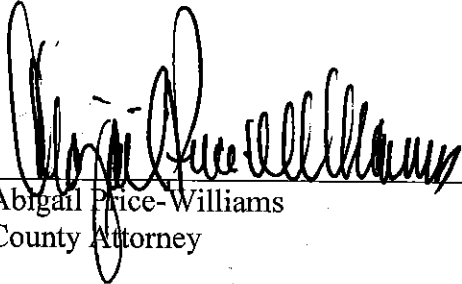
**DATE:** (Second Reading 3-7-17)  
January 24, 2017

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance relating to wage  
theft; amending section 22-5  
of the Code; enhancing penalties  
for failure to comply with wage  
theft orders

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Jose "Pepe" Diaz and Co-Sponsors Commissioner Daniella Levine Cava, Commissioner Sally A. Heyman, Commissioner Barbara J. Jordan and Commissioner Senator Javier D. Souto.

  
Abigail Price-Williams  
County Attorney

APW/lmp

# Memorandum



**Date:** March 7, 2017

**To:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", written over a horizontal line.

**Subject:** Fiscal Impact Statement for Ordinance Relating to Wage Theft

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The proposed ordinance amends section 22-5 of the Code of Miami-Dade County to include a provision that will enhance penalties on employers that fail to satisfy administrative wage theft orders. There is no fiscal impact to the County with the enactment of this proposed ordinance as no additional staffing or operational resources are necessary.

A handwritten signature in black ink, appearing to read "Jack Osterholt", written over a horizontal line.

Jack Osterholt  
Deputy Mayor

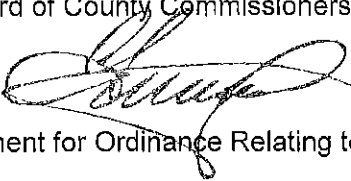
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# Memorandum



**Date:** March 7, 2017

**To:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Social Equity Statement for Ordinance Relating to Wage Theft

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The proposed ordinance amends the Code to include a provision that will make employers that fail to satisfy the obligations of a wage theft order liable for the attorneys' fees and costs incurred by the claimant in trying to collect on such order.

This Code change is intended to further assist individuals that have been victims of wage theft. Currently, a claimant must go through the wage recovery process outlined in Chapter 22 of the Code in order to end up with an administrative final order directing an employer to pay the claimant. However, if the employer does not pay, the claimant must take legal action to enforce the order, which can be a difficult process. In instances where wage amounts due may be small, it may not be cost effective to hire an attorney and take legal action. With the additional provision in the proposed ordinance, claimants will be eligible to recover the costs and fees associated with hiring an attorney. This can incentivize attorneys to take these types of cases as a court would be able to award attorneys' fees and costs, while also increasing the number of claimants that can successfully pursue the funds owed under the wage theft order.

  
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Jack Osterholt  
Deputy Mayor

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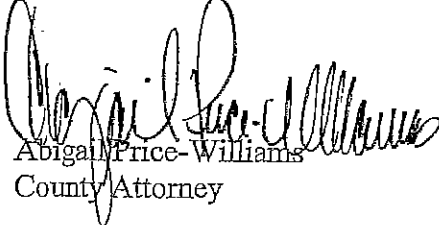


# MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

DATE: March 7, 2017

FROM:   
Abigail Price-Williams  
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(A)  
3-7-17

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO WAGE THEFT; AMENDING SECTION 22-5 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; ENHANCING PENALTIES FOR FAILURE TO COMPLY WITH WAGE THEFT ORDERS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, the victims of wage theft that have pursued the exclusive administrative process provided by Chapter 22 of the County Code to vindicate instances of wage theft may be unable to collect on those judgments from respondents who are unwilling to pay or are evading the judgments duly entered pursuant to the Chapter 22 hearing process; and

**WHEREAS**, the original intent of Chapter 22 was to provide for an exclusive administrative process that would result in final judgments that would be paid by respondents so that the wage theft victims would be made whole; and

**WHEREAS**, where victims of wage theft have complied with the County's process and obtained a judgment, that judgment must be paid for the objectives of Chapter 22 to be fully realized; and

**WHEREAS**, adding an attorney's fees and costs provision to Chapter 22 when a wage theft victim is further victimized by a respondent that does not pay a judgment, is a reasonable means to vindicate the objectives of Section 22 and is in the best interest of the public,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 22-5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Section 22-5 . - Enforcement of wage theft violations.**

- (1) *Order Issued.* At the conclusion of a hearing and upon a finding of a wage violation, the Hearing Examiner shall issue a written order as follows:
  - (a) If the preponderance of the evidence demonstrates a wage theft violation, the Hearing Examiner shall order the employer to pay wage restitution to the affected employee in an amount equal to three times the amount of back wages that the respondent employer is found to have unlawfully failed to pay the complainant employee; this treble amount shall include the back wages in addition to liquidated damages as compensation for the economic losses suffered by reason of the employee not receiving their wage at the time it was due; and
  - (b) The County shall order the employer to pay to the Board of County Commissioners an assessment of costs in an amount not to exceed actual administrative processing costs and costs of the hearing.
- (2) *Failure to Comply with Initial Order.* If the County finds that any respondent employer has failed to comply with the Hearing Examiner's order within forty-five (45) days after written notice from the County, the County shall issue a further written order on the respondent employer as follows:

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- (a) The County may, upon request of the respondent, grant the respondent an additional forty-five (45) days to comply with any portion of the order, unless such an extension has previously been granted; and
- (b) The County shall order the employer, in addition to wage restitution ordered, to pay the prevailing complainant employee an amount equal to the applicable interest rate which accrues on the full amount of treble damages from the date upon which the finding of wage violation was made until the date upon which the amount is paid in full; and
- (c) The County shall order the employer, in addition to assessment of costs ordered, to pay to the Board of County Commissioners an amount equal to the applicable interest rate which accrues on the assessment of costs from the date upon which the Hearing Examiner's order is issued until the date upon which the amount is paid in full.
- >>(d) Respondents that fail to comply with and satisfy in full the obligations of an Initial Order within 45 days of its issuance or that fail to comply with and satisfy in full the obligations of any subsequent order, shall be liable for the assessment of reasonable attorney's fees and costs incurred to collect any amounts under the Initial Order and any subsequent order upon a request for payment of such attorney's fees and costs by a claimant pursuant to this Section.<<

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**Section 2.**

If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.


**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Eric A. Rodriguez

Prime Sponsor:	Commissioner Jose "Pepe" Diaz
Co-Sponsors:	Commissioner Daniella Levine Cava
	Commissioner Sally A. Heyman
	Commissioner Barbara J. Jordan
	Senator Javier D. Souto

