

# TEXAS WORKFORCE COMMISSION

## INSTRUCTIONS FOR EMPLOYER RESPONSE TO WAGE CLAIM TEXAS PAYDAY LAW

ENCLOSED IS A SWORN WAGE CLAIM ALLEGING THAT YOU FAILED TO PAY EARNED WAGES. PLEASE READ THE WAGE CLAIM AND RESPOND BY FILLING OUT THE "EMPLOYER RESPONSE TO WAGE CLAIM" WHICH IS ALSO ENCLOSED. YOUR RESPONSE SHOULD BE FILED NO LATER THAN THE FOURTEENTH (14TH) DAY AFTER THE DATE THAT THIS INVESTIGATION NOTICE WAS MAILED TO YOU. AFTER AN INVESTIGATION, A DETERMINATION WILL BE MAILED NOTIFYING YOU OF OUR DECISION.

Mail your response to: **Texas Workforce Commission, Labor Law Section, 101 East 15th Street, Room 124T, Austin TX 78778-0001**

If you have any questions, please call **1-800-832-9243** or **1-512-475-2670**  
**TDD 1-800-735-2989 (Hearing Impaired); Fax 1-512-475-3025**

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### TEXAS PAYDAY LAW INFORMATION

Chapter 61 of the Texas Labor Code assigns the Texas Workforce Commission responsibility for administration of the Texas Payday Law. The law provides rules for the payment of wages, a process for determining liability for unpaid wages and avenues for the collection of those wages. Although filed wage claims are not always valid, you need to be aware that the law provides severe penalties for employers that do not deal in good faith with their employees.

1. After ordering payment of wages, the Commission may file an **Administrative Lien** to enforce collection of wages.
2. An employer commits a third degree felony if at the time of hiring, the employer intends to avoid payment of wages, and if the employer fails, after a demand, to pay those wages.
3. If an employer acts in bad faith by not paying wages, in addition to ordering the payment of wages, the Commission may assess an administrative penalty in an amount not to exceed the amount of wages in question and not to exceed \$1,000.
4. If an employer is convicted of two violations of the Payday Law, or if a final order of the Commission against an employer for nonpayment of wages remains unsatisfied for 10 or more days after the date on which the time to appeal from that order has expired and an appeal is not pending, the Commission may require the employer to deposit a bond in an amount approved and considered by the Commission as sufficient and adequate under the circumstances.

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### TEXAS PAYDAY LAW REQUIREMENTS

1. Employers must pay their employees at least once a month if the employee is not subject to the overtime provisions of the Fair Labor Standards Act. All others must be paid at least semimonthly.
2. Employers must designate paydays and must post those paydays in conspicuous areas of the workplace.
3. Wages paid on a commission basis or bonuses are due in a timely manner, according to the terms of agreement between employee and employer.
4. Employees absent on payday are entitled to be paid upon request on a regular business day.
5. If separated from work for a reason other than discharge, an employee must be paid in full not later than the next regularly scheduled payday.
6. Discharged employees must be paid in full not later than the sixth day after termination.
7. Employees may be entitled to unused fringe benefits (vacation, holiday, sick leave, parental leave, or severance pay) only if the employer provides for these benefits in a written policy or agreement.
8. Employee wages may be withheld only of the employer:
  - a. is ordered to do so by court;
  - b. is authorized by state or federal law (e.g. payroll taxes); or
  - c. has the employee's written authorization to make deductions.

*Completed forms, inquiries, or corrections to the individual information contained in this form shall be sent to the TWC Labor Law Section, 101 E. 15th St., Rm. 124T, Austin, TX 78778-0001, (512) 475-2670. Individuals may receive and review information that TWC collects about the individual by emailing to [open\\_records@twc.state.tx.us](mailto:open_records@twc.state.tx.us) or writing to TWC Open Records, 101 E. 15th St., Rm. 266, Austin, TX 78778-0001.*

**EMPLOYER RESPONSE TO WAGE CLAIM**

DATE MAILED

Claimant:  
Identification Nbr. No:  
Wage Claim No:

Your written response should be filed no later than fourteen (14) days after the date this notice was mailed (see postmark).

\* Please use the above Wage Claim Number for all inquiries regarding this wage claim.

In accordance with the Texas Labor Code, Chapter 61, the individual named above has filed a sworn wage claim for unpaid wages (copy enclosed). This notice is an opportunity for you to respond. Failure to respond may result in a decision favorable to the claimant ordering you to pay the amount claimed. Please complete all sections of the form (SSN's are optional). By responding to this form, you are not filing an appeal. Please submit relevant supporting documents such as true copies of related pay records, copies of canceled checks (front and back), employment agreements, contracts, signed authorizations, job descriptions, and handbooks or written policies relevant to the wages or benefits during the period(s) claimed. This investigation will result in a Determination Order being issued to both parties. If you disagree with the Determination Order you receive, you may file an appeal by following the instructions on the reverse side of the Order.

If subsequent to the wage claim being filed, you paid this individual all of the claimed wages: Complete the EMPLOYER INFORMATION section and use question 16 to write the gross amount paid, the date(s) paid, and check number(s). Enclose copies of endorsed checks (front and back), cash receipts, etc.

**EMPLOYER INFORMATION**

1. What is your **TWC (TEC) Account** Number? \_\_\_\_\_ What is your **Federal Tax ID** Number? \_\_\_\_\_
2. If other than the above address, to what address do you want correspondence mailed concerning this claim? \_\_\_\_\_  
\_\_\_\_\_
3. What is the full legal name and address of your business?  
Name \_\_\_\_\_ Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_
4. If business is a **Sole Proprietorship**, provide your full legal name and SSN \_\_\_\_\_

5. a) Is your business a Partnership? ( )Yes ( )No **If yes**, specify type of partnership \_\_\_\_\_  
Go to 5c below and list the General Partners' Names, Social Security Numbers, Phone Numbers and Addresses (**omit the Service Dates field**).
- b) Is your business **Incorporated**? ( ) Yes ( ) No **If yes**, incorporated in what state? \_\_\_\_\_  
Corporate Charter Number \_\_\_\_\_ Qualified to do business in Texas? ( )Yes ( )No  
List below Directors' / Officers' Names, Social Security Numbers, Addresses and Service Dates.
- c) Name \_\_\_\_\_ SSN \_\_\_\_\_ Phone( ) \_\_\_\_\_  
Address \_\_\_\_\_ Service Dates \_\_\_\_\_  
Name \_\_\_\_\_ SSN \_\_\_\_\_ Phone( ) \_\_\_\_\_  
Address \_\_\_\_\_ Service Dates \_\_\_\_\_  
Name \_\_\_\_\_ SSN \_\_\_\_\_ Phone( ) \_\_\_\_\_  
Address \_\_\_\_\_ Service Dates \_\_\_\_\_  
Name \_\_\_\_\_ SSN \_\_\_\_\_ Phone( ) \_\_\_\_\_  
Address \_\_\_\_\_ Service Dates \_\_\_\_\_

(If necessary, use additional sheets)

6. Is the business still operating? ( )Yes ( )No Is the business in Bankruptcy? ( )Yes ( )No  
**If in Bankruptcy:** Bankruptcy Filing Date \_\_\_\_\_ Case No. \_\_\_\_\_ Where Filed? \_\_\_\_\_  
Bankruptcy Attorney's Name, Address and Phone Number \_\_\_\_\_
7. List any other businesses operated by the employer \_\_\_\_\_

**EMPLOYMENT AGREEMENT**

8. Beginning date of claimant's employment \_\_\_\_\_ Job title and duties \_\_\_\_\_  
 Current employment status (complete one): Still employed \_\_\_\_\_ Quit Date \_\_\_\_\_ Termination Date \_\_\_\_\_
9. Claimant's Pay Schedule ( ) Daily ( ) Weekly ( ) Biweekly ( ) Semi-Monthly ( ) Monthly ( ) Other \_\_\_\_\_  
 Scheduled Payday(s) \_\_\_\_\_ Claimant's rate of pay \_\_\_\_\_  
 \_\_\_\_\_ Paid by ( ) Check ( ) Cash ( ) Other \_\_\_\_\_
10. Did you deduct Social Security and Withholding taxes from the claimant's paycheck(s)? ( ) Yes ( ) No
11. Was claimant's employment covered under the overtime provisions of the Fair Labor Standards Act? ( ) Yes ( ) No ( ) Don't Know  
 If you don't know:  
 a. Does your business have an annual gross volume of sales or business equal to or greater than \$500,000.00? ( ) Yes ( ) No  
 b. Is your business or this employee engaged in interstate commerce, producing goods for interstate commerce, or otherwise working on goods or materials that have been moved in or produced for such commerce? Please explain. \_\_\_\_\_

**WAGES CLAIMED**

The claimant provided a breakdown of the types of wages claimed. Please fill in the items below, giving the gross wage amounts you believe are currently due and owing to the claimant for each wage type claimed.

Regular \$ \_\_\_\_\_ Commissions \$ \_\_\_\_\_ \*Fringe Benefits \$ \_\_\_\_\_ Pay Deductions \$ \_\_\_\_\_  
 Overtime \$ \_\_\_\_\_ Unpaid Bonus \$ \_\_\_\_\_ Paid Below Minimum Wage \$ \_\_\_\_\_ Miscellaneous \$ \_\_\_\_\_  
 TOTAL UNPAID WAGES DUE TO THE CLAIMANT \$ \_\_\_\_\_

\* The only fringe benefits that can be claimed are vacation pay, holiday pay, severance, sick leave or parental leave (these benefits cannot be claimed unless provided for in a written agreement or a written policy of the employer).

12. If a fringe benefit was claimed, do you have a written benefits policy/agreement? ( ) Yes ( ) No **If yes**, please attach a copy.
13. If a bonus was claimed, was the bonus based on performance, or was it a gift? \_\_\_\_\_ Please attach a copy of the bonus agreement.
14. If wages were deducted or withheld, did the claimant sign any documents authorizing the deduction? ( ) Yes ( ) No **If yes**, please attach a copy of the authorization.
15. Are you aware of any agreement that exists that would preempt the Commission from ruling on this wage claim (e.g. arbitration, collective bargaining agreement, union contract, ERISA, Service Contract Act)? **If yes**, please attach a copy of the agreement.
16. The section below is for your explanation of why you believe the Wage Claim is incorrect. Please be specific. For instance, if you are disputing vacation pay, label your response "vacation pay", and indicate why you disagree with the claim. Use this space to explain copies of records (payroll, written policies, etc.) that you are submitting to support your response. If necessary use additional sheets.

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**UNDER PENALTIES OF PERJURY, I HEREBY CERTIFY THAT THIS IS A COMPLETE, TRUE, AND ACCURATE STATEMENT OF THE FACTS RELATING TO THE CLAIM TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

\_\_\_\_\_ Date \_\_\_\_\_ Print Employer Representative's Name \_\_\_\_\_ Employer Representative's Signature \_\_\_\_\_ Title

What is your direct Phone Number? ( ) \_\_\_\_\_ EXT. \_\_\_\_\_ Fax Number? ( ) \_\_\_\_\_

**THIS DOCUMENT IS AN INQUIRY AND IS NOT REQUESTING PAYMENT. HOWEVER, IF YOU AGREE THAT WAGES ARE DUE, PAYMENT TO THE TEXAS WORKFORCE COMMISSION CONSTITUTES PAYMENT TO THE EMPLOYEE FOR ALL INTENTS AND PURPOSES.**

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