



## Wage Theft in Florida: A Real Problem with Real Solutions

### What is Wage Theft?

Wage theft is when workers are paid below the minimum wage, not paid for overtime, forced to work off the clock, have their time cards altered, are misclassified as independent contractors, or are simply not paid a wage for work performed. Certain types of workers are more vulnerable to wage theft violations, such as low-wage workers and immigrant workers, who encompass a large scope of Florida's workforce. These workers include, for example, restaurant and other tipped workers, construction workers, day laborers, domestic workers, agricultural workers, security guards, and child care workers. A report entitled, *Wage Theft in Florida: A Real Problem with Real Solutions*, by the [Research Institute on Social and Economic Policy](#) (RISEP) for the *Florida Wage Theft Task Force (WTF)*, found that wage theft has also been documented in professional and higher salary occupations, such as legal service providers, architecture and accounting firm employees, public and private school employees, and medical professionals.

### Does Wage Theft Occur Often?

Yes! RISEP's report analyzed wage violations from two community-based organizations and the Wage and Hour Division (WHD) of the U.S. Department of Labor. The two community-based organizations in Miami-Dade and Palm Beach County had documented 347 wage violations, totaling over \$400,000 dollars while the WHD in Miami-Dade and Palm Beach County documented 3350 wage violations totaling over \$3,567,524.41 dollars from September 2008 to March 2010.

**That's a total of 3697 wage violations in Miami-Dade and Palm Beach  
and a loss of \$3,632,721.13 in unpaid wages!**

### Who does Wage Theft Impact?

The negative effects of shortchanging workers' wages ripple across communities and the economy. Families suffer when earnings are too low to meet basic needs. Local businesses and economies are denied vital stimulus that would flow from the additional spending of workers had they been paid all that they had earned. Honest businesses are undermined by unscrupulous competitors who practice wage theft. And governments at all levels take a hit, because they are denied tax revenues generated by higher earnings and because many working families must resort to public programs to meet basic needs when wages fall short.

### What Can be Done to Prevent Wage Theft from Occurring in Our Communities?

The *Florida Wage Theft Task Force (WTF)* is comprised of several organizations including faith based, legal advocates, unions, immigrant rights, and RISEP, a university research institute. In February of 2010, the *WTF* successfully worked with Miami-Dade County commissioners to pass the first countywide **Wage Theft Ordinance** in Florida. The ordinance is enforced by the Miami-Dade County Department of Small Business Development (SBD), the agency responsible for overseeing and enforcing the county's Living Wage Ordinance. Since the Wage Theft Ordinance passed in February of 2010, the SBD has logged 402 wage claims, some of which were referred to the U.S. Department of Labor; processed over 280 intake forms; moved approximately 57 complaints forward to a hearing examiner; and collected nearly **\$40,000, the majority of which was collected in less than five months** as the ordinance only became fully implemented in September 2010.

## **Are There Other Solutions to Eliminate Wage Theft?**

The report *Wage Theft in Florida: A Real Problem with Real Solutions* outlines five concrete solutions critical to reducing and eliminating wage and hour violations in the state of Florida. Some recommendations focus on existing laws and regulations while others propose to reform current legislation. The Wage Theft Task Force believes that public policy, as implemented by Florida's state and local governments, has a fundamental responsibility to protect Florida's workers against wage and other workplace violations.

### **The Creation of Other Wage Theft Ordinances at the Local Level**

The U.S. Department of Labor's Wage and Hour Division cannot be the sole enforcement mechanism in the state of Florida because of its limited jurisdiction, whereas the Miami-Dade Wage Theft Ordinance covers all workers, including those who are not covered under the Fair Labor Standards Act. Other county agencies need to create local wage theft ordinances, such as the Miami-Dade ordinance, to protect their county budgets, ethical employers, residents, and communities from the effects of wage theft.

### **Encourage the Florida Attorney General to Improve the Enforcement of the Minimum Wage and other Workplace Protections**

The Florida Attorney General may bring an enforcement action to enforce the state minimum wage; however, to our knowledge, this has never been done. In an effort to protect Florida's workforce from wage theft and other labor violations, the state attorney general must enforce Florida's labor laws and be allotted the resources to do so.

### **Encourage the Right to Organize**

Empirical research has shown that unions improve wages and benefits to workers, especially minority and low-wage workers. Wage theft becomes almost impossible in unionized workplaces, because the wages specified in a union collective bargaining agreement are legally enforceable and are guaranteed through union enforcement procedures. Employers must allow for workers to negotiate contracts through unionization because increased unionization is a strong step towards protecting workers against wage theft.

### **Labor Education and Protection to all Workers Regardless of Immigration Status**

Federal and state labor laws do not exclude undocumented workers and, thus, are enforced and administered regardless of immigration status. However, many undocumented workers rarely speak out against workplace abuses to avoid threats, harassment, unemployment, or even deportation. Undocumented workers are the most susceptible to workplace violations, but their abuse also has a ripple effect amongst other workers. One of the most comprehensive responses to wage violations is to have workers who, regardless of immigration status, know their labor rights and are not afraid to speak out against offending employers. Consequently, workers should not be penalized for speaking out and employers must not retaliate against an employee, if they demand or file an unpaid wage claim. In addition, undocumented immigrants should be protected from deportation throughout the process of any wage violation filed on their behalf. Employers must be familiar with labor laws and must be aware that the penalties for breaking them will be strict.

### **Expand FLSA to cover all Workers**

The Fair Labor Standards Act (FLSA) does not cover many workers who are the most marginalized and vulnerable to workplace violations like day laborers, agricultural workers, and domestic workers. FLSA needs to be expanded to cover all workers who do not currently have labor protections.

Florida must find the political will to protect workers and honest employers from wage theft, a growing illegal practice with negative implications for local and state level economic health and growth.

#### **Want to Know More?**

Contact [Cynthia S Hernandez](mailto:Cynthia.Hernandez1@fiu.edu), RISEP Research Associate, at [Cynthia.Hernandez1@fiu.edu](mailto:Cynthia.Hernandez1@fiu.edu) or (305)348-2614

[www.risep-fiu.org](http://www.risep-fiu.org)

