

e-Alert

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Maine Amends Vacation Payout Law

Background

Governor Janet Mills amended Maine's final wages statute, to require that all unused paid vacation, which accrued (based on company policy) on and after January 1, 2023, must be paid to an employee when their employment ends. Maine is the first state with a mandatory job-protected paid leave law to require a payout at the time of separation.

Summary

Effective July 19, 2022, the amended final wages statute requires private employers with 11 or more employees in Maine, to pay in full all unused vacation to a separating employee no later than the employee's next payday. If employees are covered under a collective bargaining agreement, with a clear vacation payout policy, the payout is dictated by the collective bargaining agreement, not the final wages statute. Public employers are not required to payout vacation to separated employees.

Currently, the [Maine DOL](#) website indicates the following:

- If employers currently have a vacation policy that states the unused balance of vacation time will be paid at the time of separation (and don't have a separate Earned Paid Leave policy) then the employer will be required to pay the unused

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vacation and Earned Paid Leave balances.

If employers have a vacation policy that states the unused vacation balance is not paid at the time of separation, then the Earned Paid Leave balance will not need to be paid.

However, this conflicts with the final wages statute regarding how unused time is to be paid out at the time of separation. We anticipate [Maine DOL](#) will provide further clarification and guidance regarding EPLL vs. the final wages statute payout shortly.

Employer Next Steps

- Employers should stay up to date with the [Maine DOL](#) for any changes to the [EPLL rules and FAQs](#).
- Employers should review and update their existing paid time off, vacation, and EPLL policies to ensure compliance with the new law.
- Employers should educate their supervisors/managers on this update and communicate to employees about the importance of using their vacation time throughout the year.
- If you are a Full-Service or Virtual HR client and would like our assistance with updating your policy, please [email us](#).

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