ANALYSIS

This ordinance adds Chapter 8.301 to Title 8 – Consumer Protection, Business, and Wage Regulations of the Los Angeles County Code. The ordinance requires employers to provide each employee who works in the unincorporated areas of the County with a form allowing the employee to designate a third person to receive any final paychecks due and payable to the employee in the event the employee is unable to collect them. The ordinance also requires employers to provide notice of these rights, retain related records, and deliver paychecks to the designated person. The ordinance authorizes the Department of Consumer and Business Affairs to enforce, investigate violations, issue fines, and promulgate rules and regulations as necessary to implement the Chapter.

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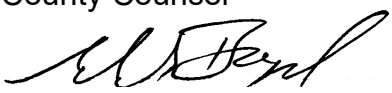

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ORDINANCE NO._____

An ordinance amending Title 8 – Consumer Protection, Business and Wage Regulations of the Los Angeles County Code, relating to employee paycheck recipient designations.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Chapter 8.301 is hereby added to read as follows:

CHAPTER 8.301 Employee Paycheck Designations.

8.301.010 Purpose.

The purpose of this Chapter is to ensure, for employers that pay wages by means of an order, check, draft, note, or other method of payment that is physically issued to employees, timely access to earned wages for employees working in the unincorporated areas of the County by allowing employees to designate a person to receive any such paychecks due and payable to the employee in the event the employee's employment has concluded and the employee does not collect their final paycheck in time.

8.301.020 Definitions.

For purposes of this Chapter:

A. "Aggrieved Person" means an Employee who is the object of harm caused by a Responsible Person committing a violation of this Chapter.

B. "Correction Order" means the notice issued by the Department to a Responsible Person as described in Section 8.301.060.

C. "Department" means the County of Los Angeles Department of Consumer and Business Affairs.

D. "Designation Form" means a written form issued by the Department or a substantially equivalent form that allows an Employee to designate a Designee.

E. "Designee" means the person selected by the Employee on the Designation Form authorized to receive any final paychecks due and payable to the Employee.

F. "Director" means the Director of the Department or their designee.

G. "Enforcement Order" means the order issued by the Department to a Responsible Person as described in Section 8.301.060.

H. "Employee" means an individual employed by an Employer to perform work within the unincorporated areas of the County.

I. "Employer" means any person, as defined in section 18 of the California Labor Code, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of any Employee.

J. "Hearing Officer" for purposes of this Chapter shall have the same meaning as provided in Los Angeles County Code Section 1.25.020.D or a hearing officer assigned by the Office of County Hearing Officer as provided in Los Angeles County Code Section 2.14.030.

K. "Responsible Person" means a person responsible for, or alleged to be responsible for, a violation of this Chapter. There may be more than one Responsible Person for a code violation. A Responsible Person may include:

1. A person who causes or materially contributes to the causation of the code violation;

2. A person who maintains or allows the code violation to continue by the person's action or inaction;

3. A person whose agent, employee, or independent contractor causes or materially contributes to the causation of the code violation; and

4. An on-site manager of a business premises who is responsible for the activities at the premises.

L. "Service" or "Serve" for purposes of this Chapter means personal delivery or delivery through first class mail, postage pre-paid, to the person to be served. If served via personal service, service shall be effective on the date personal service is executed; if served via first class mail, service shall be effective on the date of mailing. All notices that must be served under this Chapter shall include a proof of service stating the date of service.

8.301.030 Employer Obligations.

This Section establishes minimum requirements for Employers and should not be construed as prohibiting Employers from providing more generous benefits or protections to Employees than set forth in this Section.

A. Provision of Designation Form.

1. Employers shall provide a Designation Form to each existing Employee, within 60 days of the Effective Date, and thereafter to each new Employee, within 15 days of the date of hire.

2. The Designation Form shall be provided in English and the Employee's primary language, to the extent such language versions are made available by the Department.

3. Employers shall allow each Employee to complete the Designation Form free from coercion, intimidation, or retaliation.

B. Notice of Final Paycheck Availability. If an Employee's final paycheck is not claimed within 15 calendar days after expiration of the applicable deadline for payment of final wages under State law, including sections 201 and 202 of the California Labor Code, the Employer shall, within five calendar days thereafter:

1. Mail notice to the Employee at their last known address and, if a Designee is identified on the Employee's current Designation Form, to the Designee at the address stated on the form. The notice shall state that Employee's final paycheck is available to be claimed, provide the Employer's contact information, identify the location and hours for collection, and explain that Designee may claim the paycheck upon presentation of proof of identity by the Designee; and

2. If an Employee provides an email address or phone number of a Designee on the Designation Form, the Employer shall make at least three good faith

attempts to contact the Designee using each available contact method to inform the Designee that the Employee's final paycheck is available to be claimed.

C. Delivery of Paycheck to Designee. Upon presentation of reasonable proof of identity by the Designee, the Employer shall deliver any unclaimed paychecks due and payable to the Employee to the Designee, unless the Employer has received notice that the designation has been modified or revoked.

D. Modification or Revocation of Designee. An Employee may establish, modify, or revoke a designation of Designee through the submission of a new Designation Form at any time during employment and for up to one year following separation from employment with an Employer.

E. Notice of Rights. At least once annually, Employers shall provide a written notice to each Employee of their rights under this Chapter, including the right to designate a person to receive their final paycheck and the option to modify or revoke an existing designation.

F. Record Retention. Employers shall retain completed Designation Forms, modifications and revocations, and notices required by this Chapter including Notices of Final Paycheck Availability, and Notices of Rights for at least one year following the Employee's separation from employment.

G. Cooperation with Administrative Investigations. All Employers subject to this Chapter shall cooperate with investigations by the Department.

H. Rebuttable Presumption of Violation. An Employer's failure to retain records or refusal to allow the Department access to the Employer's records creates a rebuttable presumption of a violation of this Chapter.

8.301.040 Retaliation Prohibited.

It shall be unlawful for any person to discriminate in any manner or take adverse action against any person in retaliation for reporting a potential violation of this Chapter. Rights protected by this Chapter include but are not limited to: (1) the right to file a complaint or inform any person about any other person's alleged noncompliance with this Chapter; and (2) the right to inform any person of their potential rights under this Chapter and to assist in asserting such rights. Protections of this Chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this Chapter. Taking adverse action against a person within 90 days of the Person's exercise of rights protected under this Chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

8.301.050 Department of Consumer and Business Affairs—Powers and Duties.

A. Enforcement and Investigations. The Department is authorized to take appropriate steps to enforce this Chapter, including to investigate possible violations and issue administrative fines pursuant to Section 8.301.090. The Department may conduct site inspections, interview witnesses to alleged violations, take depositions, review documents and records, and utilize any other investigatory method reasonably necessary to determine whether a violation of this Chapter occurred. The Department

may issue a Correction Order at any time during the course of an investigation. Upon completion of an investigation, if the Department determines a violation of this Chapter was committed, the Department shall issue an Enforcement Order to the Responsible Person for the violation.

B. Access to Records. The Department shall have access to records of Employers subject to this Chapter during business hours to inspect books and records, to interview persons, including employees, and to investigate such matters necessary or appropriate to determine whether a person has violated any provisions of this Chapter.

C. Subpoenas and Examination of Witnesses. The Director shall have the authority to issue subpoenas for documents and to conduct examinations of persons as witnesses pursuant to Government Code sections 25170 and 53060.4 for the purpose of enforcing this Chapter and other consumer protection laws. This also includes the power to administer oaths pursuant to Government Code section 25057 and to take all actions necessary to enforce subpoenas, including, but not limited to, reporting noncompliance thereof to the Superior Court.

D. Rulemaking Authority. The Department shall establish rules, policies, and procedures governing the administration and enforcement of this Chapter and will provide a copy of the rules, policies, and procedures to the Board of Supervisors.

E. Confidentiality. The Department shall encourage reporting and cooperation with investigations by keeping confidential, to the maximum extent permitted by law, the name, address, and other identifying information of any person reporting a violation or aiding an investigation by the Department. Provided, however,

that with the authorization of such person, the Department may disclose the person's name and identifying information as necessary to enforce this Chapter or for other appropriate purposes. The Department shall also protect proprietary business information to the maximum extent permitted by law.

F. Settlement Authority.

1. The Department is authorized to negotiate and approve settlements with Responsible Persons, in consultation with County Counsel, where the Department determines settlement is in the best interest of the County. Settlement agreements shall be in writing and signed by the Director and the Responsible Person(s). Settlements may provide a Responsible Person(s) with a repayment plan to be paid over time.

2. The Department may waive administrative fines owed to the County imposed under this Chapter, in whole or in part, if the Department determines the violation was not willful and that enforcement of the administrative fines would not further the purposes of this Chapter.

3. The Department shall not reduce any amount of restitution owed to an Aggrieved Person pursuant to this Chapter that a Responsible Person is determined to owe without the written consent of the Aggrieved Person.

G. Authority for Contracts. The Department shall have the authority to enter into contracts with consultants, non-profits, community-based organizations, and other persons in accordance with the County's contracting rules and procedures, to enforce and/or provide education and outreach as necessary to perform the Department's responsibilities under this Chapter.

8.301.060 Notices of Violation.

A. Correction Order. At any time during an investigation, the Department may issue and Serve a Correction Order on the Responsible Person. The Correction Order shall identify the violation to be corrected and a reasonable amount of time to correct the violation. Failure to comply with the Correction Order may be included in a subsequent Enforcement Order.

B. Enforcement Order.

1. If the Department determines a Responsible Person has violated a provision of this Chapter, including, but not limited to, a failure to comply with a Correction Order, the Department shall prepare and Serve an Enforcement Order on the Responsible Person.

2. An Enforcement Order contains the Department's determination concerning whether a Responsible Person violated this Chapter, the administrative fine for each violation as specified in Section 8.301.090, and any determination that an amount is due and owing to either an Aggrieved Person, the County, or both. An Enforcement Order shall include information as required in a notice of violation pursuant to Section 1.25.050.C, and may also contain the following, as applicable:

a. A statement explaining that each day of a continuing violation may constitute a new and separate violation;

b. The amount of administrative fines imposed for the violation(s);

c. A statement informing the Responsible Person(s) that the administrative fines shall be paid to the County of Los Angeles, the date by which the Department requires the administrative fines to be paid, the procedure for payment, and the consequences of failure to pay;

d. Restitution to be paid to Aggrieved Person(s), if any;

e. Requirements for posting the Enforcement Order at any place of business and/or internet websites of the Responsible Person(s) and mailing the Enforcement Order to Aggrieved Persons; and

f. The name and signature of the Director.

C. Posting Requirement. The Responsible Person shall, within three business days after receipt of an Enforcement Order, post the Enforcement Order for a minimum of 60 days as specified by the Department in the Enforcement Order and further specified in the rules, policies, and procedures promulgated by the Department.

D. Mailing Requirement. The Responsible Person shall, within three business days after receipt of an Enforcement Order, mail an exact copy of the Enforcement Order to all Aggrieved Persons as specified by the Department in the Enforcement Order and further specified in the rules, policies, and procedures promulgated by the Department. The Responsible Person shall retain evidence of mailings for a minimum of four years from the date of mailing.

E. Stay of Enforcement. At the Department's discretion, a stay of any action required by an Enforcement Order may be issued in the event of good faith settlement negotiations.

8.301.070 Reconsideration of Enforcement Order.

A. Reconsideration by Director. Any interested party, including a Responsible Person or an Aggrieved Person, that is the subject of an Enforcement Order may file a written request for reconsideration of an Enforcement Order with the Department. A request for reconsideration of an Enforcement Order by a Responsible Person shall be filed with the Department within 20 days from the date the Enforcement Order is Served, unless extended by the Director upon a showing of good cause. To be considered timely, the request for reconsideration shall be postmarked or actually received by the Department on or before the twentieth day following the Service of the Enforcement Order on the Responsible Person or the last day of any extension granted by the Director, whichever is later. A request for reconsideration by an Aggrieved Person or other interested party shall be filed with the Department within 20 days of posting and mailing of the Enforcement Order by the Responsible Person pursuant to Section 8.301.060. The request for reconsideration shall be in writing and filed with the Department and include the following information:

1. The alleged violation(s) being contested;

2. The reason, in detail, why each violation being contested should be reconsidered;

3. Any new facts or law not considered in the course of the Department's investigation that would aid in issuing a final determination;

4. The signature of the Person requesting reconsideration, under penalty of perjury; and

5. The return address where the Person requesting reconsideration shall receive Service of a Reconsideration Determination.

B. Stay of Enforcement. If administrative fines owed to the County are the subject of a timely request for reconsideration, then accrual of such administrative fines shall be stayed upon receipt of the request for reconsideration, until the determination of such reconsideration is final.

C. Reconsideration Determination. Within 20 days of receipt of the written request for reconsideration, unless extended by the Department, the Director shall respond to a request for reconsideration by issuing a written Reconsideration Determination. The Director may uphold or reject the Enforcement Order, in whole or in part, or reduce, waive, or conditionally reduce the administrative fines stated in an Enforcement Order if mitigating circumstances are shown. The Director may impose conditions and deadlines for the correction of violations or the payment of administrative fines and may include instructions for notifying Aggrieved Persons of the Reconsideration Determination. The Reconsideration Determination shall be Served by mail to the Responsible Person and any other Persons requesting notice. A Reconsideration Determination shall be final unless timely appealed pursuant to Section 8.301.080.

8.301.080 Appeals.

A. Administrative Appeal. After receiving a Reconsideration Determination from the Department, any person may request an administrative appeal of the Reconsideration Determination by submitting a request for hearing to the Director

pursuant to Section 1.25.080. Upon receiving a timely request, the Director shall appoint a Hearing Officer pursuant to Chapter 1.25 or refer the request to the Office of the County Hearing Officer pursuant to Chapter 2.14. No person may request an administrative appeal unless such person has first timely filed a request for reconsideration and received a Reconsideration Determination from the Director.

B. Judicial Review of Hearing Officer Decision. Pursuant to Chapter 1.25, any person may seek judicial review of a Hearing Officer's decision pertaining to the imposition of an administrative fine by filing an appeal with the Superior Court in accordance with the time periods, procedures, and other requirements set forth in Government Code section 53069.4. If no appeal of the Hearing Officer's written decision is filed within the time period set forth in Government Code section 53069.4, the Hearing Officer's decision shall be deemed confirmed and final.

8.301.090 Fines for Violations.

Administrative Fines. An administrative fine payable to the County may be assessed for a violation of any provision of this Chapter as specified below. The administrative fine may be assessed through an Enforcement Order issued to the Responsible Person by the Department.

VIOLATION AND ADMINISTRATIVE FINE AMOUNT		
Violation	County Code Section	Administrative Fine Payable to the County per Violation per Day

Failure to provide Employee or Designee with Notice of Paycheck Availability	8.301.030.B	Up to $1,000
Failure to Deliver Paycheck to Designee	8.301.030.C	Up to $1,000
Failure to Allow Employee to Modify Designation for up to one year after employment ends	8.301.030.D	Up to $1,000
Failure to Provide Employee with Notice of Rights	8.301.030.E	Up to $1,000
Failure to Retain collected completed Designation Forms and related records	8.301.030.F	Up to $1,500
Failure to comply with Department Investigation	8.301.030.G	Up to $1,500
Retaliation	8.301.040	Up to $20,000
Non-compliance with requirement to post Enforcement Order	8.301.060.C	Up to $1,000

Non-compliance with requirement to mail Enforcement Order	8.301.060.D	Up to $1,000

B. Calculation of Administrative Fines. Each and every day that a violation exists constitutes a separate and distinct violation. The maximum administrative fine that may be imposed by an Enforcement Order in a calendar year for each type of violation listed above shall be $10,000 per employee per violation, with the exception of a retaliation violation, in which case the maximum fine shall be $200,000 per violation. The maximum administrative fine may be increased cumulatively by 50 percent for each subsequent violation of the same provision by the same Responsible Person within a three-year period.

C. Payments to the County; Due Date; Late Payment Fee. Administrative fines payable to the County of Los Angeles are due within 30 days from the date of the Enforcement Order, if applicable. The failure of any Responsible Person to pay an administrative fine within 30 days shall result in the assessment of an additional late fee. The additional late fee shall be ten percent of the total amount of the administrative fine assessed for each month the amounts are unpaid, compounded to include already accrued late administrative fines that remain unpaid. The County may exercise its discretion regarding the fines, penalties, and fees levied based on the severity of the violation, the length of the violation, and whether the violation was the first of its kind for the Responsible Person.

D. Collections of Amounts Due. The failure of any Responsible Person to pay amounts owed to the County under this Chapter when due shall constitute a debt to the County. The County may file a civil action or, to the extent feasible under State law, create and impose a lien against any property owned or operated by a Responsible Person or other person who fails to pay an administrative fine assessed by the Department, or pursue any other legal remedy to collect such amounts due.

E. Successor Liability. If any Responsible Person ceases its business operations, sells, exchanges, or otherwise disposes of the Responsible Person's business or stock of goods, then any person who becomes a successor to the business shall become liable for the unpaid amount of the remedies defined in the Enforcement Order if, at the time of the conveyance of the business, the successor knew or should have known of the fact and amount of the Enforcement Order.

8.301.100 Additional Penalties.

A. County Contracts, Disqualification, or Termination. The Department shall provide notice to all County departments of Responsible Person(s) that are subject to an Enforcement Order, Reconsideration Determination, or Hearing Officer's decision that finds the Responsible Person violated this Chapter. To the extent permitted by applicable law, Responsible Persons determined to be in violation of this Chapter may be subject to penalties affecting their current or potential contractual relationships with the County. Penalties shall be set forth in the Department's rules, policies, and procedures, and may include, but are not limited to, disqualification from contracting with the County and termination of existing contracts.

B. County Licenses. The Director may recommend that any license issued by the County or any departments thereof, or the application for, or renewal or transfer of, a license of a Responsible Person determined to be in violation of this Chapter be suspended, revoked, or denied. In evaluating whether a license should be recommended for suspension, revocation, or denial, the Director may take into consideration factors including, but not limited to: (1) whether the Responsible Person's violation was an inadvertent or clerical error; (2) whether the violation was the first violation by that Responsible Person; (3) whether any violation was corrected timely; and; (4) whether any amounts due to an Aggrieved Person or the County as a result of the violation were timely paid. The decision to suspend, revoke, or deny a license based on a recommendation from the Director shall be made by the Department issuing the license and done in accordance with applicable law.

8.301.110 Severability.

If any provision of this Chapter is held invalid, the remainder shall not be affected and shall continue in full force and effect.

8.301.120 Effective Date.

This Chapter shall take effect on July 1, 2027, except that no fine shall be issued or owed for violations of this Chapter occurring prior to January 1, 2028.

[CH8301MBCC]