

CHAPTER 821. TEXAS PAYDAY RULES

ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

ON **NOVEMBER 14, 2017**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Estimated date of publication in the *Texas Register*: **December 1, 2017**

The rules will take effect: **December 4, 2017**

The Texas Workforce Commission (TWC) adopts amendments to the following sections of Chapter 821, relating to Texas Payday Rules, *without* changes, as published in the September 8, 2017, issue of the Texas Register (42 TexReg 4595):

Subchapter C. Wage Claims, §821.41 and §821.42

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

PART I. PURPOSE, BACKGROUND, AND AUTHORITY

The purpose of the adopted Chapter 821 rule change is to facilitate implementation of [House Bill \(HB 2443\)](#), 85th Texas Legislature, Regular Session (2017), relating to the electronic filing of wage claims under the Texas Payday Act (Act).

PART II. EXPLANATION OF INDIVIDUAL PROVISIONS

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

SUBCHAPTER C. WAGE CLAIMS

TWC adopts the following amendments to Subchapter C:

§821.41. Validity of Claim/Filing and Investigative Procedures

Section 821.41 is amended to add electronic submission of wage claims, through methods approved by TWC, as an additional way that a worker can file a claim for unpaid wages. Currently, Texas workers can submit claims for unpaid wages to TWC in person at their nearest Workforce Solutions Office, by mailing a wage claim form to TWC at a designated address, or by faxing a claim to a fax number designated by TWC. [HB 2443](#) envisioned that, with advances in technology, TWC would better serve Texans by offering an electronic option for the public to submit wage claims. The adopted rule amendment comports with the intent of the statute to afford electronic wage claim submittal to Texas workers seeking that option while allowing TWC flexibility in the future to leverage as yet undeveloped or under-developed technologies related to electronic wage claim filing and management.

§821.42. Timeliness

Section 821.42 is amended to conform the timeliness requirements of wage claim filing to the new electronic submission mechanism mandated in [HB 2443](#). Since TWC will be required to accept wage claims submitted electronically on or after January 1, 2018, it will be necessary to adopt §821.42 to stipulate that a wage claim submitted electronically is deemed timely when it is received by TWC.

No comments were received.

The Agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the Agency's legal authority to adopt.

The rules are adopted under Texas Labor Code §61.002 and §301.0015, which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rules affect Texas Labor Code, Chapter 61.

CHAPTER 821. TEXAS PAYDAY RULES

SUBCHAPTER C. WAGE CLAIMS

§821.41. Validity of Claim/Filing and Investigative Procedures.

- (a) A wage claim may be filed in person at an office of the Commission, by mailing the claim to an address designated by the Commission, by faxing the claim to a fax number designated by the Commission, or by electronic submission by way of web-based submission points identified through the Commission's Internet pages related to filing a wage claim.
- (b) A wage claim must be filled out completely, legibly, and sufficiently to identify and allow the Commission to attempt contact with the employer.

§821.42. Timeliness.

- (a) The Commission shall determine the filing date of a wage claim as the date delivered in person to the Commission, the date faxed to and received by the Commission at a fax number designated by the Commission, the date received by the Commission through electronic submission, or the date of a mailed wage claim based on the following:
 - (1) The postmark date of a wage claim properly addressed shall establish by a rebuttable presumption, the date upon which the wage claim was filed unless the party opposing this presumption presents evidence to establish some other filing date.
 - (2) Absent a postmark or evidence establishing some other filing date, the date of receipt by the Commission shall control.
- (b) The Commission shall suspend the time limit for filing a wage claim only for those reasons required by law including, but not limited to, bankruptcy stays.