

A BILL

21-120

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



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To amend An Act To provide for the payment and collection of wages in the District of Columbia to clarify that Office of Administrative Hearings judges will hear wage theft cases, to exempt an employer from being required to pay wages to bona fide executive, administrative, and professional employees at least twice during each calendar month, to clarify that subcontractors include intermediate subcontractors, to clarify that general contractors and clients of temporary staffing agencies may waive their right to indemnification, to clarify that the Attorney General can bring civil enforcement actions in court and inspect business records, to incorporate record-keeping requirements from the Minimum Wage Act Revision Act, to allow businesses to challenge a demand for business records before a neutral decision-maker, to revise criminal penalties for violations of the act, to clarify the remedies and processes for civil and administrative actions to enforce wage theft laws, to clarify deadlines pertaining to service of wage theft complaints and that membership organizations may bring civil actions on behalf of their members, to clarify the Mayor’s authority to issue rules, to require the Mayor to issue rules identifying relevant prevailing federal standards for record keeping requirements, to amend the Minimum Wage Act Revision Act of 1992 to remove the exclusion of parking lot and garage attendants from receiving the protections of the District’s minimum and overtime laws, to require the Mayor to issue rules identifying relevant prevailing federal standards for record keeping requirements, to exempt employers from keeping precise time records for bona fide executive, administrative, professional non-hourly employees, to allow businesses to challenge a demand for business records before a neutral decision-maker, to clarify when an employer or a temporary staffing firm must provide notices to an employee in a second language, to require the Mayor to publish translations of notices and sample templates online in all the languages required by the Language Access Act, to clarify how the Mayor shall make certain information available to employers, to clarify that general contractors and clients of temporary staffing agencies may waive their right to indemnification, to clarify the remedies and procedures available in civil and administrative actions; to repeal an obsolete provision of the Wage Theft Prevention Amendment Act of 2014; to amend the Accrued Sick and Safe Leave Act of 2008 and the Living Wage Act of 2006 to require the Mayor to issue rules identifying relevant prevailing federal standards for record keeping requirements; and to provide that all rules, forms, and regulations issued pursuant to the Wage Theft Prevention Amendment Act of

42 2014 and to any emergency and temporary amendments to that act shall remain in force
43 until repealed or superseded.

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45 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
46 act may be cited as the “Wage Theft Prevention Clarification and Overtime Fairness Amendment
47 Act of 2016”.

48 Sec. 2. An Act To provide for the payment and collection of wages in the District of
49 Columbia, approved August 3, 1956 (70 Stat 976; D.C. Official Code § 32-1301 *et seq.*), is
50 amended as follows:

51 (a) Section 1 (D.C. Official Code § 32-1301) is amended as follows:

52 (1) Paragraph (1) is designated paragraph (1B).

53 (2) New paragraphs (1) and (1A) are added to read as follows:

54 “(1) “Administrative Law Judge” means an administrative law judge of the Office
55 of Administrative Hearings, established by section 5 of the Office of Administrative Hearings
56 Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; 2-1831.02).

57 “(1A) “Attorney General” means the Attorney General for the District of
58 Columbia, as established by section 435 of the District of Columbia Home Rule Act, effective
59 May 28, 2011 (D.C. Law 18-160A; D.C. Official Code § 1-204.35).”.

60 (b) Section 2 (D.C. Official Code § 32-1302) is amended by striking the phrase “Every
61 employer shall pay all wages earned to his employees at least twice during each calendar month,
62 on regular paydays designated in advance by the employer;” and inserting the phrase “An
63 employer shall pay all wages earned to his or her employees on regular paydays designated in
64 advance by the employer and at least twice during each calendar month; except, that all bona fide

65 administrative, executive, and professional employees (those employees employed in a bona fide
66 administrative, executive, or professional capacity, as defined in section 7-999.1 of the District
67 of Columbia Municipal Regulation (7 DCMR 999.1), shall be paid at least once per month;” in
68 its place.

69 (c) Section 3 (D.C. Official Code § 32-1303) is amended as follows:

70 (1) Paragraph 5 is amended to read as follows:

71 “(5) A subcontractor, including any intermediate subcontractor, and the general
72 contractor shall be jointly and severally liable to the subcontractor’s employees for the
73 subcontractor’s violations of this act, the Living Wage Act, and the Sick and Safe Leave Act.
74 Except as otherwise provided in a contract between the subcontractor and the general contractor,
75 the subcontractor shall indemnify the general contractor for any wages, damages, interest,
76 penalties, or attorneys’ fees owed as a result of the subcontractor’s violations of this act, the
77 Living Wage Act, and the Sick and Safe Leave Act, unless those violations were due to the lack
78 of prompt payment in accordance with the terms of the contract between the general contractor
79 and the subcontractor.”.

80 (2) Paragraph 6 is amended by striking phrase “Unless otherwise agreed to by the
81 parties, the temporary staffing firm shall indemnify the employer as a result of the temporary
82 staffing firm’s violations” and inserting the phrase “Except as otherwise provided in a contract
83 between the temporary staffing firm and its client, the temporary staffing firm shall indemnify its
84 client for any wages, damages, interest, penalties, or attorneys’ fees owed as a result of the
85 temporary staffing firm’s violations” in its place.

86 (d) Section 6 (D.C. Official Code § 32-1306) is amended as follows:

87 (1) Subsection (a)(2) is amended to read as follows:

88 “(2)(A) The Attorney General, acting in the public interest, including the need to
89 deter future violations, may bring a civil action in a court of competent jurisdiction against an
90 employer or other person violating this act, the Minimum Wage Revision Act, the Sick and Safe
91 Leave Act, or the Living Wage Act for restitution, injunctive, compensatory, and other
92 authorized relief for any individual or for the public at large. Upon prevailing in court, the
93 Attorney General shall be entitled to:

94 “(i) Reasonable attorneys’ fees and costs;

95 “(ii) Statutory penalties equal to any administrative penalties
96 provided by law; and

97 “(iii) On behalf of an aggrieved employee, the payment of back
98 wages unlawfully withheld, additional liquidated damages equal to treble the back wages
99 unlawfully withheld, and equitable relief as may be appropriate.

100 “(B) The Attorney General shall not, in any action brought pursuant to this
101 section, be awarded an amount already recovered by an employee.”.

102 (2) Subsection (b) is amended as follows:

103 (i) The existing text is designated paragraph (1).

104 (ii) A new paragraph (2) is added to read as follows:

105 “(2) The Attorney General shall have the power to investigate whether there are
106 violations of this act, the Living Wage Act, the Sick and Safe Leave Act, and the Minimum

107 Wage Revision Act, and administer oaths and examine witnesses under oath, issue subpoenas,
108 compel the attendance of witnesses, and the production of papers, books, accounts, records,
109 payrolls, documents, and testimony and to take depositions and affidavits in connection with any
110 such investigation.”.

111 (2) Subsection (c) is amended to read as follows:

112 “(c) Any person to whom a subpoena authorized by this section has been issued shall
113 have the opportunity to move to quash or modify the subpoena in the Superior Court of the
114 District of Columbia. In case of failure of any person to comply with any subpoena lawfully
115 issued under this section, or on the refusal of any witness to testify to any matter regarding which
116 he or she may be lawfully interrogated, it shall be the duty of the Superior Court of the District of
117 Columbia or any judge thereof, on application by the Mayor or the Attorney General, to compel
118 obedience by attachment proceedings for contempt, as in the case of disobedience of the
119 requirements of a subpoena issued from such Court or a refusal to testify therein.”.

120 (3) New subsections (d) and (e) are added to read as follows:

121 “(d)(1) Every employer subject to any provision of this act or of any regulation or order
122 issued pursuant to this act shall make, keep, and preserve, for a period of not less than 3 years or
123 the prevailing federal standard at the time the record is created, which shall be identified in rules
124 issued pursuant to this act, whichever is greater, a record of:

125 “(A) The name, address, and occupation of each employee;

126 “(B) A record of the date of birth of any employee under 19 years of age;

127 “(C) The rate of pay and the amount paid each pay period to each
128 employee;

129 “(D) The precise time worked each day and each workweek by each
130 employee, except for employees who are not paid on an hourly basis and who are exempt from
131 the minimum wage and overtime requirements under section 5(a) of the Minimum Wage Act
132 Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-
133 1004(a)); and

134 “(E) Any other records or information as the Mayor shall prescribe by
135 regulation as necessary or appropriate for the enforcement of the provisions of this act or of the
136 regulations issued pursuant to this act.

137 “(2)(A) Any records shall be open and made available for inspection or
138 transcription by the Mayor, the Mayor’s authorized representative, or the Office of Attorney
139 General upon demand at any reasonable time. An employer shall furnish to the Mayor, the
140 Mayor’s authorized representative, or the Office of the Attorney General on demand a sworn
141 statement of records and information upon forms prescribed or approved by the Mayor or
142 Attorney General.

143 “(B) No employer may be found to be in violation of subparagraph (A) of
144 this paragraph unless the employer had an opportunity to challenge the Mayor or Attorney
145 General’s demand before a judge, including an administrative law judge.

146 “(e) Every employer shall furnish to each employee at the time of payment of wages an
147 itemized statement showing the date of the wage payment, gross wages paid, deductions from

148 and additions to wages, net wages paid, hours worked during the pay period, and any other
149 information as the Mayor may prescribe by regulation.”.

150 (e) Section 7(a) (D.C. Official Code § 32-1307(a)) is amended to read as follows:

151 “(a)(1) An employer who negligently fails to comply with the provisions of this title or
152 the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall be fined:

153 “(A) For the first offense, an amount per affected employee of not more
154 than \$2,500;

155 “(B) For any subsequent offense, an amount per affected employee of not
156 more than \$5,000.

157 “(2) An employer who willfully fails to comply with the provisions of this title or
158 the Living Wage Act shall be guilty of a misdemeanor and, upon conviction, shall:

159 “(A) For the first offense, be fined not more than \$5,000 per affected
160 employee, or imprisoned not more than 30 days; or

161 “(B) For any subsequent offense, be fined not more than \$10,000 per
162 affected employee, or imprisoned not more than 90 days.

163 “(3) The fines set forth in paragraphs (1) and (2) of this subsection shall not be
164 limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective
165 June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).”.

166 (f) Section 8 (D.C. Official Code § 32-1308) is amended as follows:

167 (1) Subsection (a)(1) is amended to read as follows:

168 “(a)(1)(A) Subject to subparagraph (B) of this paragraph, a person aggrieved by a
169 violation of this act, the Minimum Wage Revision Act, the Sick and Safe Leave Act, or the
170 Living Wage Act may bring a civil action in a court of competent jurisdiction against the
171 employer or other person violating this act, the Minimum Wage Revision Act, the Sick and Safe
172 Leave Act, or the Living Wage Act and, upon prevailing, shall be awarded reasonable attorneys’
173 fees and costs and entitled to restitution including:

174 “(i) The payment of any back wages unlawfully withheld;

175 “(ii) Liquidated damages equal to treble the amount of unpaid
176 wages;

177 “(iii) Statutory penalties; and

178 “(iv) Such legal or equitable relief as may be appropriate,
179 including reinstatement of employment, and other injunctive relief.

180 “(B) No person in any action brought pursuant to this section shall be
181 awarded any amount already recovered by an employee.

182 “(C) Actions may be maintained by one or more employees, who may
183 designate an agent or representative to maintain the action for themselves, or on behalf of all
184 employees similarly situated as follows:

185 “(i) Individually by an aggrieved person;

186 “(ii) Jointly by one or more aggrieved persons;

187 “(iii) Consistent with the collective action procedures of the Fair
188 Labor Standards Act, 29 U.S.C. § 216(b);

189 “(iv) As a class action;

190 “(v) Initially as a collective action pursuant to the procedures of
191 the Fair Labor Standards Act, 29 U.S.C. § 216(b), and subsequently as a class action;

192 “(vi) By a labor organization or association of employees whose
193 member is aggrieved by a violation of this act, the Minimum Wage Revision Act, the Sick and
194 Safe Leave Act, or the Living Wage Act; or

195 “(vii) By the Office of Attorney General for the District of
196 Columbia, pursuant to section 6.”.

197 (2) Subsection (b)(4) is amended by striking the word “Mayor” and inserting the
198 word “District” in its place.

199 (g) Section 8a (D.C. Official Code § 32-1308.01) is amended as follows:

200 (1) Subsection (a) is amended by striking the phrase “A signed complaint” and
201 inserting the phrase “A physically or electronically signed complaint” in its place.

202 (2) Subsection (c) is amended as follows:

203 (A) Paragraph (1) is amended by striking the word “deliver” and inserting
204 the word “serve” in its place.

205 (B) Paragraph (2) is amended by striking the word “receipt” and inserting
206 the phrase “receipt of service” in its place.

207 (C) Paragraph (3) is amended by striking the word “mailed” and inserting
208 the word “served” in its place.

209 (D) Paragraph (4) is amended to read as follows:

210 “(4) If a respondent admits the allegation, the Mayor shall issue an administrative
211 order requiring the respondent to provide restitution, including the payment of any back wages
212 unlawfully withheld, liquidated damages equal to the amount of unpaid wages, reasonable
213 attorney fees and costs, and such other legal or equitable relief as may be appropriate, including
214 reinstatement in employment, and other injunctive relief, and which may include statutory
215 penalties. The Mayor or Attorney General may also proceed with any audit or subpoena to
216 determine if the rights of employees other than the complainant have also been violated.”.

217 (E) Paragraph (5) is amended by striking the word “mailed” and inserting
218 the word “served” in its place.

219 (F) Paragraph (6) is amended as follows:

220 (i) Strike the word “delivered” and insert the word “served” in its
221 place.

222 (ii) Strike the phrase “pay any unpaid wages, compensation,
223 liquidated damages, and fine or penalty owed and requiring the respondent to cure any
224 violations.” and insert the phrase “provide restitution including the payment of any back wages
225 unlawfully withheld, liquidated damages equal to treble the amount of unpaid wages, statutory
226 penalties, reasonable attorney fees and costs, such other legal or equitable relief as may be
227 appropriate, including reinstatement in employment, and other injunctive relief.” in its place.

228 (G) Paragraph (7) is amended to read as follows:

229 “(7) The Mayor shall issue an initial determination within 60 days after the date
230 the complaint is served. The initial determination shall set forth a brief summary of the evidence

231 considered, the findings of fact, the conclusions of law, and an order requiring the respondent to
232 provide restitution, including the payment of any back wages unlawfully withheld, liquidated
233 damages equal to treble the amount of unpaid wages, statutory penalties, reasonable attorney fees
234 and costs, such other legal or equitable relief as may be appropriate, including reinstatement in
235 employment, and other injunctive relief. The initial determination shall be provided to both
236 parties and set forth the losing party's right to appeal under this section or to seek other relief
237 available under this act.”.

238 (H) Paragraph (9) is amended by striking the word “filing” and inserting
239 the word “serving” in its place.

240 (3) Subsection (e)(1) is amended by striking the phrase “administrative law judge
241 shall issue an order based on the findings from the hearing. The”.

242 (4) Subsection (f)(2) is amended read as follows

243 “(2) Appropriate relief shall include the payment of any back wages unlawfully
244 withheld, liquidated damages equal to treble the amount of unpaid wages, statutory penalties,
245 reasonable attorney fees and costs, such other legal or equitable relief as may be appropriate,
246 including reinstatement in employment, and other injunctive relief.”.

247 (5) Subsection (m)(4) is amended by striking the word “Mayor” and inserting the
248 word “District” in its place.

249 (6) A new subsection (n) is added to read as follows:

250 “(n) Appeals of any order issued or fine assessed under this act, the Minimum Wage
251 Revision Act, the Sick and Safe Leave Act, or the Living Wage Act shall be made to the District
252 of Columbia Court of Appeals.”.

253 (h) A new section 8b is added to read as follows:

254 “Sec. 8b. Interpretation of fees.

255 No inference shall be drawn, or precedent established, based on the provisions in section
256 8 or section 8a that provide that attorney fees shall be calculated pursuant to the matrix approved
257 in *Salazar v. District of Columbia*, 123 F.Supp.2d 8 (D.D.C. 2000) that such fees are reasonable
258 for any law other than this act, the Minimum Wage Revision Act, the Sick and Safe Leave Act,
259 or the Living Wage Act.”.

260 (i) A new section 10b is added to read as follows:

261 “Sec. 10b. Rules.

262 “The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure
263 Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue
264 rules to implement the provisions of this title.”.

265 (j) Section 212(a) (D.C. Official Code § 32-1331.12(a)) is amended by striking the phrase
266 “3 years, in or about its place of business,” and inserting the phrase “3 years or the prevailing
267 federal standard at the time the record is created, which shall be identified in rules issued
268 pursuant to this act, whichever is greater, in or about its place of business,” in its place.

269 Sec. 3. The Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C.
270 Law 9-248; D.C. Official Code § 32-1001 *et seq.*), is amended as follows:

271 (a) Section 5(b) (D.C. Official Code § 32-1004(b)) is amended as follows:

272 (1) Paragraph (3) is amended by adding the word “or” at the end.

273 (2) Paragraph (5) is repealed.

274 (b) Section 8 (D.C. Official Code § 32-1007) is amended to read as follows:

275 “The Mayor and the Attorney General shall each have the power to administer oaths and
276 require by subpoena the attendance and testimony of witnesses, the production of all books,
277 registers, and other evidence relative to any matters under investigation, at any public hearing, or
278 at any meeting of any committee or for the use of the Mayor or the Attorney General in securing
279 compliance with this act. In case of disobedience to a subpoena, the Mayor or the Attorney
280 General may invoke the aid of the Superior Court of the District of Columbia to require the
281 attendance and testimony of witnesses and the production of documentary evidence. In case of
282 contumacy or refusal to obey a subpoena, the Court may issue an order to require an appearance
283 before the Mayor or the Attorney General, the production of documentary evidence, and the
284 giving of evidence. Any person or entity to whom a subpoena has been issued may move to
285 quash or modify the subpoena, and any failure to obey the order of the Court may be punished by
286 the Court as contempt.”.

287 (c) Section 9 (D.C. Official Code § 32-1008) is amended as follows:

288 (1) Subsection (a) is amended as follows:

289 (A) Paragraph (1) is amended as follows:

290 (i) The lead-in language is amended striking the phrase “or
291 whatever the prevailing federal standard is,” and inserting the phrase “or the prevailing federal

292 standard at the time the record is created, which shall be identified in rules issued pursuant to this
293 act,” in its place.

294 (ii) Subparagraph (D) is amended to read as follows:

295 “(D) The precise times worked each day and each workweek by each
296 employee, except for employees who are not paid on an hourly basis and who are exempt from
297 the minimum wage and overtime requirements under section 5(a); and”.

298 (B) Paragraph (2) is amended to read as follows:

299 “(2)(A) Any records shall be open and made available for inspection or
300 transcription by the Mayor, the Mayor’s authorized representative, or the Office of Attorney
301 General upon demand at any reasonable time. An employer shall furnish to the Mayor, the
302 Mayor’s authorized representative, or the Office of the Attorney General on demand a sworn
303 statement of records and information upon forms prescribed or approved by the Mayor or
304 Attorney General.

305 “(B) No employer may be found to be in violation of subparagraph (A) of
306 this paragraph unless the employer had an opportunity to challenge the Mayor or Attorney
307 General’s demand before a judge, including an administrative law judge.”.

308 (2) Subsection (c) is amended by striking the phrase “shall furnish to each
309 employee at the time of hiring a written notice, both in English and in the employee’s primary
310 language, containing the following information:” and inserting the phrase “shall furnish to each
311 employee at the time of hiring, and whenever any of the information contained in the written
312 notice changes, a written notice in English; provided, that if the Mayor has made a sample

313 template available in a language other than English that the employer knows to be the
314 employee’s primary language or that the employee requests, the employer shall furnish the
315 written notice to the employee in that other language also. The notice required by this subsection
316 shall contain:” in its place.

317 (3) Subsection (d) is amended as follows:

318 (A) Paragraph (1) is amended to read as follows:

319 “(1)(A) Within 90 days of February 26, 2015, and within 30 days of any change to
320 the information contained in the prior written notice, an employer, except in those instances
321 where notice is provided pursuant to section 9a, shall furnish each employee with an updated
322 notice containing the information required under subsection (c) of this section in English and in
323 any additional language required by subsection (c) of this section.

324 “(B) To show proof of compliance with these notice requirements, an
325 employer shall retain either copies of the written notice furnished to employees that are signed
326 and dated by the employer and by the employee acknowledging receipt or electronic records
327 demonstrating that the employee received and acknowledged the notice via email or other
328 electronic means.”.

329 (B) Paragraph (3) is amended by striking the phrase “subsections (b) and
330 (c) of”.

331 (4) Subsection (e) is amended adding a sentence at the end to read as follows:

332 “On or before February 26, 2017, the Mayor also shall publish online a translation of the
333 sample template in any languages required for vital documents pursuant to section 4 of the

334 Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code §
335 2-1933). The Mayor shall also publish online translations of the sample template in any
336 additional languages the Mayor considers appropriate to carry out the purposes of this section.”.

337 (d) Section 9a (D.C. Official Code § 32-1008.01) is amended as follows:

338 (1) Section (a)(1) is amended by adding a sentence at the end to read as follows:

339 “The notice shall be provided in English and, if the Mayor has made available a
340 translation of the sample template in a language that is known by the temporary staffing firm to
341 be the employee’s primary language or that the employee requests, the temporary staffing firm
342 shall furnish written notice to the employee in that other language also.”.

343 (2) The lead-in language to subsection (b) is amended to read as follows:

344 “(b) When a temporary staffing firm assigns an employee to perform work at, or provide
345 services for, a client, the temporary staffing firm shall furnish the employee a written notice in
346 English, and in another language that the employer knows to be the employee’s primary
347 language or that the employee requests, if a sample template has been made available pursuant to
348 subsection (c) of this section, of:”.

349 (3) Subsection (c) is amended to read as follows:

350 “(c) On or before February 26, 2017, the Mayor shall publish online a translation of the
351 sample template of the notice required by this section in any language required for vital
352 documents pursuant to section 4 of the Language Access Act of 2004, effective June 19, 2004
353 (D.C. Law 15-167; D.C. Official Code § 2-1933). The Mayor shall also publish online

354 translations of the sample template in any additional languages the Mayor considers appropriate
355 to carry out the purposes of this section.”.

356 (e) Section 12(d)(1)(C) (D.C. Official Code § 32-1011(d)(1)(C)) is amended by striking
357 the phrase “or whatever the prevailing federal standard is, whichever is greater” and inserting the
358 phrase “or the prevailing federal standard at the time the record is created, which shall be
359 identified in rules issued pursuant to this act, whichever is greater,” in its place.

360 (f) Section 12a (D.C. Official Code § 32-1011.01) is amended by striking the phrase
361 “liquidated damages of not less than \$1,000 and not more than \$10,000” and inserting the phrase
362 “all appropriate relief provided for under section 10a of An Act To provide for the payment and
363 collection of wages in the District of Columbia, approved August 3, 1956 (70 Stat 979; D.C.
364 Official Code § 32-1311)” in its place.

365 (g) Section 13 (D.C. Official Code § 32-1012) is amended as follows:

366 (1) Subsection (a) is amended by striking the phrase “according to” and inserting
367 the phrase “according to, and with all the remedies provided under,” in its place.

368 (2) Subsection (b)(2) is amended by striking the phrase “The court may award an
369 amount of liquidated damages less than treble the amount of unpaid wages, but not less than the
370 amount of unpaid wages. In any action commenced to recover unpaid wages or liquidated
371 damages, the employer shall demonstrate” and inserting the phrase “The court may award an
372 additional amount of liquidated damages less than treble the amount of unpaid wages, but not
373 less than the amount of unpaid wages, only if the employer demonstrates” in its place.

374 (3) Subsection (c) is amended to read as follows:

375 “(c) A subcontractor, including any intermediate subcontractor, and the general
376 contractor shall be jointly and severally liable to the subcontractor’s employees for the
377 subcontractor’s violations of this act. Except as otherwise provided in a contract between the
378 subcontractor and the general contractor, the subcontractor shall indemnify the general contractor
379 for any wages, damages, interest, penalties, or attorneys’ fees owed as a result of the
380 subcontractor’s violations of this act, unless those violations were due to the lack of prompt
381 payment in accordance with the terms of the contract between the general contractor and the
382 subcontractor.”.

383 (4) Subsection (f) is amended to read as follows:

384 “(f)(1) When a temporary staffing firm employs an employee who performs work on
385 behalf of or to the benefit of a client pursuant to a temporary staffing arrangement or contract for
386 services, both the temporary staffing firm and the client shall be jointly and severally liable for
387 violations of this act to the employee and to the District.

388 “(2) The District, the employee, or the employee’s representative shall notify the
389 temporary staffing firm of the alleged violations at least 30 days before filing a claim for these
390 violations against a client who was not the employee’s direct employer.

391 “(3) Except as otherwise provided in a contract between the temporary staffing
392 firm and its client, the temporary staffing firm shall indemnify its client for any wages, damages,
393 interest, penalties, or attorneys’ fees owed as a result of the temporary staffing firm’s violations
394 of this act.”.

395 (h) Section 13a (D.C. Official Code § 32-1012.01) is amended to read as follows

396 “Administrative complaints filed for violations of this act shall be considered under the
397 same procedures and with all the same legal and equitable remedies available for violations of
398 Title I of An Act To provide for the payment and collection of wages in the District of Columbia,
399 approved August 3, 1956 (70 Stat 976; D.C. Official Code § 32-1301 *et seq.*).”.

400 Sec. 4. Conforming amendments.

401 (a) Section 11b(a) of the Accrued Sick and Safe Leave Act, effective February 22, 2014
402 (D.C. Law 20-89; D.C. Official Code § 32-131.10b(a)), is amended by striking the phrase “3
403 years” and inserting the phrase “3 years or the prevailing federal standard at the time the record
404 is created, which shall be identified in rules issued pursuant to this act, whichever is greater,” in
405 its place.

406 (b) Section 107 of the Living Wage Act, effective June 8, 2006 (D.C. Law 16-118; D.C.
407 Official Code § 2-220.07), is amended by striking the phrase “3 years from the payroll date” and
408 inserting the phrase “3 years or the prevailing federal standard at the time the record is created,
409 which shall be identified in rules issued pursuant to this act, whichever is greater, from the
410 payroll date” in its place.

411 (c) Paragraph 11 of section 105.3 of Title 12A of the District of Columbia Municipal
412 Regulations (12A DCMR 105.3(11)) is amended as follows:

413 (1) Strike the phrase “general contractor or construction manager,” and insert the
414 phrase “general contractor, construction manager, and each subcontractor,” in its place.

415 (2) Strike the phrase “general constructor or construction manager is selected”
416 and insert the phrase “general contractor, construction manager, or any subcontractor is selected”
417 in its place.

418 Sec. 5. Continuation of rules, forms, and regulations.

419 All rules, forms, and regulations issued pursuant to the Wage Theft Prevention
420 Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-157; 61 DCR 10157),
421 (“act”) and any rules, forms, and regulations issued pursuant to the act, including the Wage Theft
422 Prevention Clarification Temporary Amendment Act of 2016, effective April 6, 2016 (D.C. Law
423 21-101; 63 DCR 2220), or the Wage Theft Prevention Correction and Clarification Temporary
424 Amendment Act of 2016, enacted on October 4, 2016 (D.C. Act 21-493; 63 DCR 12600), or any
425 like succeeding emergency and temporary acts, shall continue in effect according to their terms
426 until lawfully amended, repealed, or superseded.

427 Sec. 6. Repealers.

428 (a) Section 7 of the Wage Theft Prevention Amendment Act of 2014, effective February
429 26, 2015 (D.C. Law 20-157; 61 DCR 10157), is repealed.

430 (b) The Wage Theft Prevention Correction and Clarification Temporary Amendment Act
431 of 2016, enacted on October 4, 2016 (D.C. Act 21-493; 63 DCR 12600), is repealed.

432 (c) The Revised Wage Theft Prevention Clarification Emergency Amendment Act of
433 2016, passed on an emergency basis on November 1, 2016 (Enrolled Bill 21-928), is repealed.

434 (d) The Revised Wage Theft Prevention Clarification Temporary Amendment Act of
435 2016, passed on an emergency basis on November 1, 2016 (Engrossed Bill 21-929), is repealed.

436 Sec. 7. Fiscal impact statement.

437 The Council adopts the fiscal impact statement in the committee report as the fiscal
438 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
439 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

440 Sec. 8. Effective date.

441 This act shall take effect following approval by the Mayor (or in the event of veto by the
442 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
443 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
444 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)) and publication in the District of
445 Columbia Register.