

2016 -- H 8026

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

Introduced By: Representatives Maldonado, McKiernan, Amore, Winfield, and
Marshall

Date Introduced: April 01, 2016

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-14-1 of the General Laws in Chapter 28-14 entitled "Payment of
2 Wages" is hereby amended to read as follows:

3 **28-14-1. Definitions.** -- Whenever used in this chapter:

4 (1) "Director" means the director of the department of labor and training or his or her
5 duly authorized representative.

6 (2) "Employee" means any person suffered or permitted to work by an employer, except
7 that independent contractors or subcontractors shall not be considered employees.

8 (3) "Employer" means any individual, firm, partnership, association, joint stock
9 company, trust, corporation, receiver, or other like officer appointed by a court of this state, and
10 any agent or officer of any of the previously mentioned classes, employing any person in this
11 state.

12 (4) "Lien for unpaid wages" means a lien for the amount of wages owed to an employee
13 and penalties authorized under this title or other provisions of law against real or personal
14 property owned by an employer.

15 ~~(4)~~(5) "Wages" means all amounts at which the labor or service rendered is recompensed,
16 whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other
17 method of calculating the amount.

18 SECTION 2. Chapter 28-14 of the General Laws entitled "Payment of Wages" is hereby
19 amended by adding thereto the following sections:

1 **28-14-32. Lien for unpaid wages.** -- When an employer fails or refuses to make wage
2 payments as prescribed by law or agreement between the parties, the employee who has
3 performed the service may establish a lien for unpaid wages.

4 **28-14-33. Prerequisites for a lien for unpaid wages.** -- To establish a lien for unpaid
5 wages under §28-14-35 of this chapter, an employee shall first provide to the employer personally
6 or by prepaid registered or certified mail, in either case return receipt requested, a written wage
7 lien notice that:

8 (1) States the amount due to the employee for the service; and

9 (2) Contains a general description of the property to be charged with the lien for unpaid
10 wages sufficient for identification.

11 **28-14-34. Challenging a lien for unpaid wages.** -- (a) An employer may dispute a lien
12 for unpaid wages by filing in the superior court for the county in which the employee's services
13 were rendered, within thirty (30) days after receipt of such notice as described in §28-14-33, a
14 complaint that contains:

15 (1) The name of the employer that owes the employee the wages and the name of the
16 employee to whom the wages are owed;

17 (2) A copy of the notice that was provided to the employer pursuant to §28-14-32;

18 (3) A statement of any defense to the lien for unpaid wages; and

19 (4) An affidavit containing a statement of facts in support of defenses raised.

20 (b) The employer or employee may request an evidentiary hearing.

21 (c) If an employer files a complaint, the court shall establish a temporary lien on the
22 identified property and determine, within thirty (30) days of the filing of the complaint, whether
23 to issue an order establishing a lien for unpaid wages as described in §28-14-35 based upon the
24 preponderance of the evidence.

25 (d) If the court issues an order establishing a lien for unpaid wages, the employee shall be
26 entitled to court costs and reasonable attorney's fees.

27 (e) If the court determines the effort to establish a lien for unpaid wages to have been
28 frivolous, made in bad faith, or with the purpose of harassing the employer, the court may, in its
29 discretion, award court costs and reasonable attorney's fees to the employer.

30 **28-14-35. Establishing a lien for unpaid wages.** -- (a) If no complaint is filed disputing
31 a lien for unpaid wages, such lien is established thirty (30) days after service of notice as
32 described in §28-14-32.

33 (b) If a complaint is filed disputing the lien for unpaid wages, such lien is established
34 pursuant to an order of the superior court establishing the lien.

1 **28-14-36. Recordation of lien for unpaid wages.** -- (a) If the employer fails to file a
2 timely complaint disputing the notice of a wage lien, or if the superior court orders the
3 establishment of a lien for unpaid wages, the employee may record the lien for unpaid wages by
4 filing wage lien notice, described in §28-14-32, in the land evidence records in the city or town in
5 which the services were rendered within one-hundred eighty (180) days after the lien for unpaid
6 wages is established.

7 (b) A lien for unpaid wages filed under this section shall be considered a secured claim
8 that has priority for the date of delivery of the wage lien notice.

9 **28-14-37. Satisfaction of a lien for unpaid wages.** -- If payment is made for the amount
10 of wages and penalties claimed in the wage lien notice or order of the superior court establishing
11 the lien for unpaid wages, the recorded lien shall be released.

12 **28-14-38. Enforcement of a lien for unpaid wages.** -- (a) A lien for unpaid wages shall
13 be enforced in the same manner as any other judgment under state law.

14 (b) An action to enforce a lien for unpaid wages shall be brought within ten (10) years of
15 the date of filing of the lien notice.

16 **28-14-39. Contract provisions in contravention of this section void.** -- Any provision
17 of an employment contract that violates this section is void as against public policy of the state.

18 **28-14-40. Director initiated for unpaid wages.** -- In addition to the foregoing
19 provisions, the director may seek to establish a lien for unpaid wages on behalf of an employee.

20 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

1 This act would establish a procedure for employees to secure liens against employers for
2 unpaid wages. Contested claims would be decided by the superior court. Contracts of
3 employment in contravention of this chapter would be void as against public policy.

4 This act would take effect upon passage.

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