

**2017 -- S 0192 SUBSTITUTE A**

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LC000486/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2017**

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

Introduced By: Senators Ruggerio, Goodwin, Ciccone, Lombardi, and Nesselbush

Date Introduced: February 01, 2017

Referred To: Senate 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.**

4           Whenever used in this chapter:

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

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

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

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

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

19           SECTION 2. Chapter 28-14 of the General Laws entitled "Payment of Wages" is hereby

1 amended by adding thereto the following sections:

2 **28-14-32. Lien for unpaid wages.**

3 When an employer fails or refuses to make wage payments as prescribed by law or  
4 agreement between the parties, the employee who has performed the service may establish a lien  
5 for unpaid wages.

6 **28-14-33. Prerequisites for a lien for unpaid wages.**

7 To establish a lien for unpaid wages under §28-14-35, an employee shall first provide to  
8 the employer personally or by prepaid registered or certified mail, in either case return receipt  
9 requested, a written wage lien notice that:

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

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

13 **28-14-34. Challenging a lien for unpaid wages.**

14 (a) An employer may dispute a lien for unpaid wages by filing in the superior court for  
15 the county in which the employee's services were rendered, within ninety (90) days after receipt  
16 of such notice as described in §28-14-33, a complaint that contains:

17 (1) The name of the employer that is alleged to owe the employee the wages and the  
18 name of the employee to whom the wages are allegedly owed;

19 (2) A copy of the notice that was provided to the employer pursuant to §28-14-33;

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

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

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

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

26 (d) If the court issues an order authorizing a lien for unpaid wages, the employee shall be  
27 entitled to court costs and reasonable attorneys' fees.

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

31 **28-14-35. Establishing a lien for unpaid wages.**

32 (a) A lien for unpaid wages may be recorded ninety (90) days after service of notice as  
33 described in §28-14-33 if no complaint is filed by the employer disputing the lien.

34 (b) If a complaint is filed disputing the lien for unpaid wages, such lien may only be

1 recorded if an order authorizing the lien is entered by the superior court.

2 **28-14-36. Recordation of lien for unpaid wages.**

3 (a) If the employer fails to file a timely complaint disputing the notice of a wage lien, or  
4 if the superior court authorizes a lien for unpaid wages, the employee may record the lien for  
5 unpaid wages by filing wage lien notice, described in §28-14-33, in the land evidence records in  
6 the city or town in which the services were rendered within one-hundred eighty (180) days after  
7 either the expiration of the period for filing a complaint to dispute the lien, or the issuance of an  
8 order by the superior court authorizing the recordation of a lien for unpaid wages.

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

11 (c) Within ten (10) days of the recording of the lien, the employee must notify the  
12 employer by prepaid registered or certified mail, in either case return receipt requested, of the  
13 date of recordation and the city or town in which the lien was recorded.

14 **28-14-37. Satisfaction of a lien for unpaid wages.**

15 If payment is made for the amount of wages and penalties claimed in the wage lien notice  
16 or order of the superior court establishing the lien for unpaid wages, the recorded lien shall be  
17 released.

18 **28-14-38. Enforcement of a lien for unpaid wages.**

19 (a) A lien for unpaid wages shall be enforced in the same manner as any other judgment  
20 under state law.

21 (b) An action to enforce a lien for unpaid wages shall be brought within three (3) years of  
22 the date of filing of the lien notice.

23 **28-14-39. Contract provisions in contravention of this section void.**

24 Any provision of an employment contract that violates §§28-14-32 through 28-14-38 is  
25 void as against the public policy of the state.

26 **28-14-40. Director initiated for unpaid wages.**

27 In addition to the foregoing provisions, the director or the director's designee, shall have  
28 the discretion to seek to establish a lien for unpaid wages on behalf of an employee.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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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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