

2023 -- H 5747

LC001673

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

Introduced By: Representatives Morales, McNamara, Felix, Speakman, Henries, J. Brien,
Alzate, Fellela, Cruz, and Cardillo

Date Introduced: February 21, 2023

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 28-14 of the General Laws entitled "Payment of Wages" is hereby
2 amended by adding thereto the following section:

3 **28-14-32. Construction industry wage theft.**

4 (a) As used in this section:

5 (1) "Benefits" means any and all benefits, including paid vacations, holidays, sick leave,
6 employer contributions and reimbursements to health insurance and/or any other retirement
7 benefits, and any other similar benefits that are incidents of employment.

8 (2) "Construction" means the alteration, building, maintenance, reconstruction, moving or
9 demolition of any building, structure or improvement on, connected with, or on or beneath the
10 surface of any real property, or relating to the excavation, clear, grade, fill, or landscape of any real
11 property, or any other development or improvement to land. "Construction" also includes any
12 design or other professional or skilled services rendered by architects, engineers, land surveyors,
13 landscape architects, and construction managers.

14 (3) "Construction contract" means a written or oral agreement for the construction,
15 reconstruction, alteration, maintenance, moving or demolition of any building, structure or
16 improvement on, connected with, or on or beneath the surface of any real property, or relating to
17 the excavation, clear, grade, fill, or landscape of any real property, or any other development or
18 improvement to land.

19 (4) "Contractor" means any person, firm, partnership, corporation, association, company,

1 organization or other entity, including a construction manager, general or prime contractor, joint
2 venture, or any combination thereof, which enters into a construction contract with an owner.

3 (5) "Person" means, and shall include, any natural person, corporation, municipality,
4 partnership, unincorporated association, or other legal entity.

5 (6) "Owner" means any person, firm, partnership, corporation, company, association or
6 other organization or other entity, or a combination of any thereof, (with an ownership interest,
7 whether the interest or estate is in fee, as vendee under a contract to purchase, as lessee or another
8 interest or estate less than fee) that causes a building, structure or improvement, new or existing, to
9 be constructed, altered, repaired, maintained, moved or demolished or that causes land to be
10 excavated or otherwise developed or improved. "Owner" includes successors interest of the owner
11 and agents of the owner acting within their authority or on the owner's behalf.

12 (7) "Subcontractor" means any person, firm, partnership, corporation, company,
13 association, organization or other entity, or any combination thereof, which is a party to a contract
14 with a contractor, and/or the contractor's subcontractors to perform any portion of work within the
15 scope of the contractor's construction contract with the owner, including where the subcontractor
16 has no direct privity of contract with the contractor.

17 (b) A contractor making or taking a construction contract shall assume liability for any debt
18 resulting from an action under §§ 28-14-19, 28-14-19.1, 28-14-19.2, 37-13-14.1, or 37-13-17 owed
19 to a wage claimant or third party on the wage claimant 's behalf, incurred by a subcontractor at any
20 tier acting under, by, or for the contractor or its subcontractors for the wage claimant's performance
21 of labor.

22 (c) No agreement or release by an employee or subcontractor to waive liability assigned to
23 a contractor under this section shall be valid. The provisions of this section shall not be deemed to
24 impair the rights of a contractor to maintain an action against a subcontractor for owed wages that
25 are paid by a contractor pursuant to this section.

26 (d) Notwithstanding any other provision of law, the remedies available for a claim pursuant
27 to subsection (b) of this section shall only be civil and administrative actions.

28 (e) In the case of a private civil action brought by an employee under §§ 28-14-19.2 and
29 37-13-17, such employee may authorize and designate any person, organization or collective
30 bargaining agent to file a complaint with the director to make a wage claim on their behalf.

31 (f) In the case of an action against a subcontractor, the contractor shall be considered jointly
32 and severally liable for any unpaid wages, benefits, wage supplements, penalties, liquidated
33 damages, attorneys' fees and any other costs resulting from such action in addition to any other
34 damages and penalties specified in §§ 28-14-17, 28-14-19, 28-14-19.1, 37-13-16, and 37-13-12.4

1 that are applicable.

2 (g) Nothing in this section shall preclude the attorney general from bringing a civil action
3 to collect unpaid wages and penalties on behalf of employees pursuant to this section.

4 (h) A contractor or any other person shall not evade, or commit any act that negates, the
5 requirements of this section; provided, however, that this section shall not be deemed to prohibit a
6 contractor or subcontractor from establishing by contract or enforcing any other lawful remedies
7 against a subcontractor it hires for liability created by violation of this section; provided, that such
8 contract or arrangement does not diminish the right of employees to bring an action under the
9 provisions of this section.

10 (i) Severability. If any provision of this section, or any application of any provision of this
11 section, is held to be invalid, that shall not affect the validity or effectiveness of any other provision
12 of this section, or of any other application of any provision of this section, which can be given
13 effect without that provision or application; and to that end, the provisions and applications of this
14 section are severable.

15 SECTION 2. This act shall take effect on September 1, 2023, and shall apply to
16 construction contracts entered into, renewed, modified or amended on or after the effective date of
17 this act.

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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 make contractors liable and/or jointly liable for any claims of wage theft or
2 nonpayment from an employee against the contractor, its subcontractors and any subcontractor
3 involved in the performance of the contract. This act would authorize only administrative and/or
4 civil actions to recover the claimed wages.

5 This act would take effect on September 1, 2023, and would apply to construction contracts
6 entered into, renewed, modified or amended on or after the effective date of this act

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