

2023 -- S 0036

=====
LC000013
=====

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: Senators Kallman, McKenney, Goodwin, Gallo, Burke, Ruggerio, and
LaMountain

Date Introduced: January 18, 2023

Referred To: Senate 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. Contractor liability.**

4 (a) A contractor making or taking a construction contract shall be liable for any debt
5 resulting from an action under this title, owed to an employee or third party on the wage claimant's
6 behalf, incurred by a subcontractor at any tier acting under, by, or for the contractor or its
7 subcontractors for the employee's performance of labor. The provisions of this section shall not be
8 deemed to limit the liability of a subcontractor under § 28-14-19.2 or any other provision of law.

9 (b) No agreement or release by an employee or subcontractor to waive liability, assigned
10 to a contractor under this section, shall be valid. The provisions of this section shall not be deemed
11 to impair the rights of a contractor to maintain an action against a subcontractor for owed wages,
12 that are paid by a contractor, pursuant to this section.

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

15 (d) In the case of a private civil action by an employee, such employee may designate any
16 person, organization or collective bargaining agent authorized to file a complaint on his or her
17 behalf pursuant to § 28-14-19.2, to make a wage claim on his or her behalf.

18 (e) In the case of an action against a subcontractor, the contractor shall be considered jointly
19 and severally liable for any unpaid wages benefits, wage supplements, penalties, liquidated

1 damages, attorneys' fees and any other costs resulting from such action.

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

4 (g) Before bringing a civil action pursuant to this section, an employee, or third party on
5 such employee's behalf, must give the contractor notice of the alleged violation. The notice need
6 only describe the general nature of the claim and shall not limit the liability of the contractor or
7 preclude subsequent amendments of an action, to encompass additional employees employed by
8 the subcontractor. An employee or third party on such employee's behalf, may not bring a civil
9 action until ten (10) business days after giving the contractor notice of the alleged violation and
10 may not bring a civil action if the contractor has corrected the alleged violation. An employee or
11 third party on such employee's behalf, is not required to give notice to a contractor, pursuant to this
12 subsection, before bringing a civil action pursuant to this section, if any employee, or third party
13 on any employee's behalf, previously has given notice to such contractor of the same alleged
14 violation or a prior alleged violation by the same subcontractor.

15 (h) The provisions of this section shall not be deemed to diminish, impair, or otherwise
16 infringe on any other rights of an employee, provided pursuant to this chapter, including the right
17 of an employee to bring an action against any employer under the provisions of § 28-14-19.2.

18 (i) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies
19 of any employee under any collective bargaining agreement. On behalf of an employee,
20 subject to a collective bargaining agreement, the provisions of this section may be waived by
21 a collective bargaining agreement with a bona fide building and construction trade labor
22 organization, which has established itself, and/or its affiliates, as the collective bargaining
23 representative for persons performing work on a project; provided that, for such waiver to be
24 valid, it shall explicitly reference this section. Provided, however, that such waiver shall not
25 diminish or impair the rights of an employee provided under any other section of this chapter.

26 (j) As used in this section:

27 (1) "Construction contract" means a written or oral agreement for the construction,
28 reconstruction, alteration, maintenance, moving or demolition of any building, structure or
29 improvement, or relating to the excavation of or other development or improvement to land.

30 (2) "Contractor" means any person, firm, partnership, corporation, association, company,
31 organization or other entity, including a construction manager, general or prime contractor, joint
32 venture, or any combination thereof, which enters into a construction contract with an owner.

33 (3) "Owner" means any person, firm, partnership, corporation, company, association or
34 other organization or other entity, or a combination of any thereof, with an ownership interest,

1 whether the interest or estate is in fee, as vendee under a contract to purchase, as lessee or another
2 interest or estate less than fee, that causes a building, structure or improvement, new or existing, to
3 be constructed, altered, repaired, maintained, moved or demolished or that causes land to be
4 excavated or otherwise developed or improved.

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

10 (k) 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 (l) This section shall take effect one hundred and twenty days (120) after the passage date
16 and shall apply to construction contracts entered into, renewed, modified or amended on or after
17 such effective date and shall only apply to wages, benefits, and/or wage supplements earned on or
18 after such effective date.

19 SECTION 2. This act shall take effect one hundred twenty days (120) after passage.

=====
LC000013
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

1 This act would provide for contractor liability for debts owed to an employer or third party,
2 on the wage claimants' behalf, incurred by a subcontractor.

3 This act would take effect one hundred twenty days (120) after passage.

=====
LC000013
=====