

2019 -- S 0371

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- PAYMENT OF WAGES

Introduced By: Senators McCaffrey, Goodwin, Ciccone, Cano, and Lawson

Date Introduced: February 13, 2019

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 or attachment for the amount of wages owed to
14 an employee and penalties authorized under this title or other provisions of law against property
15 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 seek to
5 establish a lien on the employer's interest in property for unpaid wages.

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

7 (a) To request a lien for unpaid wages under § 28-14-35, an employee shall file a
8 complaint in superior court which shall include the following:

9 (1) The employee's name and address;

10 (2) The employer's name and address;

11 (3) The amount due to the employee for the service;

12 (4) An affidavit stating the facts to support the complaint; and

13 (5) A general description of the property the employee wishes charged with the lien for
14 unpaid wages, sufficient for identification.

15 (b) Upon filing, an employee shall serve notice of the complaint to the employer in
16 accordance with the superior court rules of civil procedure.

17 **28-14-34. Challenging a lien for unpaid wages.**

18 (a) An employer may dispute the claim for unpaid wages by filing an answer to the
19 complaint in the superior court within twenty (20) days of receipt of notice of the complaint. If no
20 answer is filed with the court within twenty (20) days, the employee may seek a default judgment
21 against the employer and the court may order a lien on the employer's property in the amount of
22 the wages due plus filing fees and a reasonable attorneys' fee.

23 (b) If an employer files an answer to the complaint the court may, if it deems it
24 appropriate, establish a temporary lien on the employer's interest in the identified property and
25 determine thereafter whether to issue an order establishing a lien for unpaid wages as described in
26 § 28-14-35 based upon the preponderance of the evidence.

27 (c) If the court issues an order establishing a lien for unpaid wages, the employee shall be
28 entitled to court costs and a reasonable attorneys' fee.

29 (d) If the court determines the effort to establish a lien for unpaid wages to have been
30 frivolous, made in bad faith, or with the purpose of harassing the employer, the court may, in its
31 discretion, award court costs and a reasonable attorneys' fee to the employer.

32 **28-14-35. Enforcement of a lien for unpaid wages.**

33 A lien for unpaid wages shall be enforced in the same manner as any other judgment lien
34 under state law.

1 **28-14-36. Satisfaction of a lien for unpaid wages.**

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

5 **28-14-37. Contract provisions in contravention of this section void.**

6 Any provision of an employment contract that violates §§ 28-14-32, 28-14-33, 28-14-34,
7 28-14-35, and 28-14-36 is void as against public policy of the state.

8 SECTION 3. This act shall take effect on January 1, 2020.

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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 allow an employee to establish a lien against an employer's property to aid
2 the employee in collecting unpaid wages from the employer.

3 This act would take effect on January 1, 2020.

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