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**SENATE BILL 5567**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senators Keiser, Hasegawa, Conway, Frockt, Darneille, Rolfes, Kohl-Welles, Jayapal, Lias, Ranker, Nelson, McCoy, Chase, McAuliffe, Fraser, and Billig

Read first time 01/23/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to establishing wage liens; and adding a new  
2 chapter to Title 60 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This act may be known and cited as the  
5 Washington wage recovery act.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires  
8 otherwise.

9 (1) "Department" means the department of labor and industries.

10 (2) "Director" means the director of labor and industries.

11 (3) "Employ" includes permit to work.

12 (4) "Employee" includes any individual currently or formerly  
13 employed by an employer.

14 (5) "Employer" includes any individual, partnership, association,  
15 corporation, business trust, or any person or group of persons acting  
16 directly or indirectly in the interest of an employer in relation to  
17 an employee.

18 (6) "Maintain" includes to maintain, clean, manage, improve,  
19 protect, repair, monitor, or restore real property at the instance of

1 the owner or tenant or of any person acting by the owner's or  
2 tenant's authority.

3 (7) "Wage claim" means a claim for any unpaid wages owed to the  
4 claimant as an employee of an employer, as well as any other  
5 compensation, interest, statutory damages, liquidated damages, or  
6 statutory penalties that may be owed for violation of a state or  
7 federal wage law, including but not limited to chapters 39.12, 49.12,  
8 49.46, 49.48, and 49.52 RCW, and the fair labor standards act, 29  
9 U.S.C. Sec. 201 et seq.

10 NEW SECTION. **Sec. 3.** (1)(a) A person has a wage lien for wage  
11 claims on:

12 (i) Any property in the state of Washington that is owned or is  
13 subsequently acquired by the person's employer;

14 (ii) Any property in the state of Washington that is owned or is  
15 subsequently acquired by an officer, vice principal, or agent of the  
16 employer who is personally liable for a wage claim under RCW  
17 49.52.070; and

18 (iii) Any real property in the state of Washington that the  
19 person has maintained, for all wage claims for maintenance of that  
20 property.

21 (b) A person does not have a wage lien under this chapter on any  
22 property that is or would be subject to a lien by that person under  
23 chapter 60.04 RCW.

24 (2) A wage lien is not effective against:

25 (a) With respect to goods as defined in RCW 62A.9A-102, a buyer  
26 in the ordinary course of business, as such term is defined in RCW  
27 62A.1-201(a)(9); or

28 (b) Third persons who, prior to the filing of the wage lien  
29 notice required under this chapter, acquired title in good faith, for  
30 value and without actual notice of the wage lien, to property other  
31 than goods.

32 (3) Chapter 62A.9A RCW of the uniform commercial code does not  
33 apply to a wage lien on personal property under this chapter.

34 (4) A person, other than a consumer as defined in RCW 62A.1-201,  
35 who controls or possesses amounts payable to the employer that are  
36 not health-care-insurance receivables as defined in chapter 62A.9A  
37 RCW, and that are properly encumbered by a wage lien upon an account  
38 receivable, is not obligated to pay a lien claimant amounts to which  
39 the wage lien has attached until that person receives written notice

1 of such lien, nor is the person liable to the lien claimant for any  
2 amounts paid out prior to receipt of notice of the wage lien. The  
3 notice required must state that the amount due or to become due has  
4 been assigned and that payment is to be made to the lien claimant,  
5 and it must contain the information described in section 4 of this  
6 act. After receipt of the notice, the person responsible for payment  
7 of such amounts may discharge its obligation by paying the lien  
8 claimant and may not discharge the obligation by paying the employer.  
9 If requested by the person responsible for payment of such amounts,  
10 the lien claimant must, within a reasonable time, furnish reasonable  
11 proof that the wage lien continues to exist, and unless such proof is  
12 furnished, that person has no obligation to pay the lien claimant and  
13 may discharge its obligation by paying the employer. A written,  
14 signed statement from the employee that the wages that form the basis  
15 for the wage lien have not been paid in the time after filing the  
16 wage lien constitutes "reasonable proof" for this purpose. Failure to  
17 furnish any notice as provided in this section does not affect the  
18 status of the wage lien established under this chapter in regard to  
19 the relationship with other creditors.

20 (5) This chapter does not affect the title of the state or other  
21 public ownership, nor does any lien attach to the fee simple title of  
22 the state or other public ownership.

23 NEW SECTION. **Sec. 4.** (1) To establish a wage lien on real  
24 property, the lien claimant must:

25 (a) File for recording a notice of claim of wage lien in the  
26 county where the property is located that includes:

27 (i) The name, telephone number, and address of the lien claimant  
28 and, if the wage lien has been assigned, the name of the person who  
29 assigned the lien;

30 (ii) The name of the employer;

31 (iii) The street address, legal description, or other description  
32 reasonably calculated to identify, for a person familiar with the  
33 area, the location of the real property to be charged with the wage  
34 lien;

35 (iv) The amount for which the wage lien is claimed;

36 (v) The signature of the lien claimant or of a person authorized  
37 to act on his or her behalf; and

38 (vi) An acknowledgment and certification as set forth in  
39 subsection (3) of this section;

1 (b) Pay a filing fee established by the county auditor; and  
2 (c) Mail a copy of the notice filed under this subsection (1) to  
3 the employer's registered agent, the employer's registered business  
4 address, or the address where the employer resides, and to the  
5 property owner if the employer is not the property owner, by  
6 certified mail with return receipt requested.

7 (2) To establish a wage lien on personal property, the lien  
8 claimant must:

9 (a) File for recording a notice of claim of wage lien with the  
10 department of licensing that includes:

11 (i) The name, telephone number, and address of the lien claimant  
12 and, if the wage lien has been assigned, the name of the person who  
13 assigned the lien;

14 (ii) The name of the employer;

15 (iii) A description of the personal property subject to the wage  
16 lien or a statement that the wage lien covers all personal property;

17 (iv) The principal amount for which the wage lien is claimed;

18 (v) The signature of the lien claimant or of a person authorized  
19 to act on his or her behalf; and

20 (vi) An acknowledgment and certification as set forth in  
21 subsection (3) of this section;

22 (b) Pay a filing fee established by the department of licensing;  
23 and

24 (c) Mail a copy of the notice filed under this subsection (2) to  
25 the employer's registered agent, the employer's registered business  
26 address, or the address where the employer resides, by certified mail  
27 with return receipt requested.

28 (3) A notice of claim of wage lien, acknowledgment, and  
29 certificate that is substantially in the following form is sufficient  
30 to satisfy subsections (1)(a) and (2)(a) of this section:

31 CLAIM OF WAGE LIEN

32 . . . . ., claimant, vs. . . . . ., name of person indebted to  
33 claimant:

34 Notice is hereby given that the claimant named below asserts a  
35 wage lien pursuant to chapter 60.-- RCW (the new chapter created in  
36 section 12 of this act). In support of this wage lien the following  
37 information is submitted:

1 1. NAME OF LIEN CLAIMANT: . . . . .  
2 TELEPHONE NUMBER: . . . . .  
3 ADDRESS: . . . . .  
4 2. NAME OF EMPLOYER: . . . . .  
5 3. DESCRIPTION OF THE REAL PROPERTY OR PERSONAL PROPERTY AGAINST  
6 WHICH A WAGE LIEN IS CLAIMED (street address, legal description, or  
7 other information that will reasonably describe the property, or  
8 statement that the wage lien covers all personal property): . . . . .  
9 . . . . .  
10 . . . . .  
11 . . . . .  
12 . . . . .  
13 4. PRINCIPAL AMOUNT FOR WHICH THE WAGE LIEN IS CLAIMED IS:  
14 . . . . .  
15 5. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE  
16 AND STATE THE NAME OF THE ASSIGNOR: . . . . .  
17 . . . . .  
18 6. IF THE PERSON SIGNING THIS CLAIM OF WAGE LIEN IS NOT THE  
19 CLAIMANT, BUT IS AUTHORIZED TO ACT ON THE CLAIMANT'S BEHALF, STATE  
20 THE PERSON'S NAME AND REPRESENTATIVE CAPACITY:  
21 NAME: . . . . .  
22 REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant;  
23 attorney or agent; representative of lien filing service;  
24 administrator, representative, or agent of trustees of employee  
25 benefit plan): . . . . .  
26 . . . . .  
27 ACKNOWLEDGMENT  
28 FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:  
29 STATE OF WASHINGTON, COUNTY OF  
30 . . . . ., ss.

1 . . . . ., being sworn, says: I, .....(name of person).....,  
2 am the claimant. I have read the foregoing claim of wage lien,  
3 believe the claim of wage lien to be true and correct under penalty  
4 of perjury, and believe the claim of wage lien is not frivolous, is  
5 made with reasonable cause, and is not clearly excessive. The  
6 foregoing claim of wage lien is my free and voluntary act for the  
7 uses and purposes stated therein.

8 . . . . .Dated: . . . . .  
9 . . . . .  
10 . . . . .  
11 . . . . .

12 (Signature)

13 FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

14 STATE OF WASHINGTON, COUNTY OF

15 . . . . ., ss.

16 . . . . ., being sworn, says: I, ...(name of person)..., am  
17 authorized to act on behalf of the claimant. I have read the  
18 foregoing claim of wage lien, believe the claim of wage lien to be  
19 true and correct under penalty of perjury, and believe the claim of  
20 wage lien is not frivolous, is made with reasonable cause, and is  
21 not clearly excessive. The foregoing claim of wage lien is the free  
22 and voluntary act of the claimant for the uses and purposes stated  
23 therein.

24 . . . . .Dated: . . . . .  
25 . . . . .  
26 . . . . .  
27 . . . . .

28 (Signature)

29 CERTIFICATE

1 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

2 I certify that I know or have satisfactory evidence that . . .  
3 (name of person) . . . is the person who appeared before me, and said  
4 person acknowledged that he/she signed this instrument and  
5 acknowledged it to be his/her free and voluntary act for the uses and  
6 purposes mentioned in the instrument.

7 . . . . .Dated: . . . . .

8 . . . . .

9 . . . . .

10 . . . . .

11 (Signature)

12 (Seal or stamp)

13 . . . . . Title. . . . .

14 . . . . . My appointment. . . . .

15 . . . . . Expires. . . . .

16 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

17 I certify that I know or have satisfactory evidence that . . .  
18 (name of person) . . . is the person who appeared before me, and said  
19 person acknowledged that he/she signed this instrument, on oath  
20 stated that he/she was authorized to execute the instrument and  
21 acknowledged it as the . . . (type of authority, e.g., officer or  
22 employee, etc.) . . . of . . . (name of party on behalf of whom  
23 instrument was executed) . . . to be the free and voluntary act of  
24 such party for the uses and purposes mentioned in the instrument.

25 . . . . .Dated: . . . . .

26 . . . . .

27 . . . . .

28 (Signature)

29 (Seal or Stamp)

1 . . . . . Title. . . . .  
2 . . . . . My appointment. . . . .  
3 . . . . . Expires. . . . .

4 (4)(a) For a notice of claim of wage lien on real property filed  
5 under this section, the county auditor shall record the notice in the  
6 same manner as deeds and other instruments of title are recorded  
7 under chapter 65.08 RCW. Notices of claim of wage lien for registered  
8 land need not be recorded in the Torrens register.

9 (b) For a notice of claim of wage lien on personal property filed  
10 under this section, the department of licensing shall record the  
11 notice.

12 (5) The notice of claim of wage lien may be filed at any time  
13 prior to the expiration of the statute of limitations for an action  
14 to recover the wages that are the subject of the wage lien.

15 (6) Mistakes or errors in the claimed amount owed do not  
16 invalidate the wage lien unless made with the intent to defraud.

17 (7) A wage lien under this chapter continues in all identifiable  
18 proceeds of the property subject to the wage lien.

19 NEW SECTION. **Sec. 5.** Any wage lien or right of wage lien  
20 created by this chapter and the right of action to recover the wage  
21 lien is assignable so as to vest in the assignee all rights and  
22 remedies of the assignor, subject to all defenses thereto that might  
23 be made.

24 NEW SECTION. **Sec. 6.** (1) An action to foreclose the wage lien  
25 must be filed within one year of the date the wage lien was recorded.

26 (2) A wage lien may be foreclosed by an action in:

27 (a) The superior court in the county in which the real property  
28 is located;

29 (b) The district court in the county in which the personal  
30 property is located if the value of the claim does not exceed the  
31 jurisdictional limit of the court provided in RCW 3.66.020; or

32 (c) The superior court in the county in which the personal  
33 property is located if the value of the claim exceeds the  
34 jurisdictional limit of the district court provided in RCW 3.66.020.



1 (3) A foreclosure action or an action for a wage claim may be  
2 brought by the employee individually, the department, the United  
3 States department of labor, the office of the attorney general, or a  
4 representative of the employee, including a collective bargaining  
5 representative or class representative. Multiple wage claims against  
6 the same employer may be joined in a single proceeding, but the court  
7 may order separate trials or hearings.

8 (4)(a) If the employee pursues the wage claim in an  
9 administrative proceeding before the department, a final and binding  
10 citation issued by the department establishes the amount owed for the  
11 purpose of foreclosure under this chapter only if the department  
12 brings the foreclosure action on behalf of the employee.

13 (b) If the employee obtains a judgment from a federal court, the  
14 judgment establishes the amount owed for the purposes of foreclosure  
15 under this chapter.

16 (5) In the judgment resulting from an action to foreclose on the  
17 wage lien, the court may order the sale at sheriff's auction or the  
18 transfer to the lien claimant of title or possession of any property  
19 subject to the wage lien. Whether or not the court makes such an  
20 order as part of the judgment, a writ of sale may be issued for any  
21 property subject to the wage lien for ten years after a judgment for  
22 a wage claim is issued. A wage lien based on an underlying judgment  
23 continues in force for an additional ten-year period if the period of  
24 execution for the underlying judgment is extended under RCW 6.17.020.

25 (6) A lien claimant who prevails in a foreclosure action is  
26 entitled to costs and reasonable attorneys' fees.

27 NEW SECTION. **Sec. 7.** (1) A wage lien is extinguished:

28 (a) If an action for the underlying wage claim is not brought  
29 within one year of the filing of the wage lien;

30 (b) If the action for the underlying wage claim is dismissed with  
31 prejudice and no appeal is filed within the applicable appeals  
32 period. If an appeal is filed, the wage lien continues in force until  
33 final judgment is rendered; or

34 (c) Upon payment and acceptance of payment for the employee's  
35 wage claim.

36 (2)(a) When the wage lien has been extinguished, the lien  
37 claimant shall, within fifteen days, file a release of the wage lien  
38 at the place where the wage lien was recorded and pay a filing fee  
39 established by the agency where the notice is filed. If a lien

1 claimant fails to file a release of the wage lien, upon demand and  
2 fifteen days' notice by the employer or any affected party, mailed to  
3 the lien claimant's address as indicated on the notice of the wage  
4 lien by certified mail with return receipt requested, the employer or  
5 affected party may petition the court for an order releasing the wage  
6 lien. If the lien claimant acted unreasonably and in bad faith in  
7 refusing to file a release of the wage lien, the employer or affected  
8 party shall be entitled to recover its attorneys' fees and costs  
9 incurred in the action, and the court in its discretion may also  
10 issue a fine not to exceed one thousand dollars.

11 (b) The release must include:

12 (i) the name, telephone number, address, and relationship to the  
13 wage lien of the person filing the notice;

14 (ii) The name, telephone number, and address of the lien  
15 claimant;

16 (iii) The name of the employer;

17 (iv) A description of the property subject to the wage lien;

18 (v) The amount for which the wage lien was claimed;

19 (vi) The signature of the lien claimant, the lien claimant's  
20 assignor, or a person authorized to act on the lien claimant's  
21 behalf; and

22 (vii) A certified acknowledgment as set forth in subsection (4)  
23 of this section.

24 (3) The person filing the notice must mail a copy of the notice  
25 to the person against whom the lien claim was made by first-class  
26 mail within ten days of filing the notice.

27 (4) A release of wage lien substantially in the following form is  
28 sufficient:

29 NOTICE OF RELEASE OF WAGE LIEN

30 . . . . ., claimant, vs. . . . ., name of person indebted to  
31 claimant:

32 Notice is hereby given that the wage lien described below is  
33 released.

34 1. NAME OF PERSON FILING NOTICE OF RELEASE: . . . . .

35 TELEPHONE NUMBER: . . . . .

36 ADDRESS: . . . . .

1 RELATIONSHIP TO WAGE LIEN (lien claimant, representative of lien  
2 claimant, assignee of lien claimant): . . . . .

3 IF THE PERSON SIGNING THIS NOTICE IS NOT THE CLAIMANT, BUT IS  
4 AUTHORIZED TO ACT ON BEHALF OF THE CLAIMANT, STATE THE PERSON'S NAME  
5 AND REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant;  
6 attorney or agent; representative of lien filing service;  
7 administrator, representative, or agent of trustees of employee  
8 benefit plan): . . . . .  
9 . . . . .

10 2. NAME OF LIEN CLAIMANT: . . . . .

11 TELEPHONE NUMBER: . . . . .

12 ADDRESS: . . . . .

13 3. NAME OF EMPLOYER: . . . . .

14 4. DESCRIPTION OF THE REAL PROPERTY OR PERSONAL PROPERTY AGAINST  
15 WHICH A WAGE LIEN IS CLAIMED (street address, legal description, or  
16 other information that will reasonably describe the property, or  
17 statement that the wage lien covers all personal property): . . . . .  
18 . . . . .  
19 . . . . .  
20 . . . . .  
21 . . . . .

22 5. AMOUNT OF WAGE LIEN CLAIM: . . . . .

23 ACKNOWLEDGMENT

24 FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

25 STATE OF WASHINGTON, COUNTY OF

26 . . . . ., ss.

27 . . . . ., being sworn, says: I, ...(name of person)..., am the  
28 (claimant/assignee of the claimant). I have read the foregoing  
29 release of wage lien and believe the notice to be true and correct  
30 under penalty of perjury.

1 . . . . .Dated:. . . . .  
2 . . . . .  
3 . . . . .  
4 (Signature)

5 FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

6 STATE OF WASHINGTON, COUNTY OF

7 . . . . ., ss.

8 . . . . ., being sworn, says: I, ...(name of person)..., am  
9 authorized to act on behalf of (claimant/assignee of the claimant). I  
10 have read the foregoing release of wage lien and believe the notice  
11 to be true and correct under penalty of perjury.

12 . . . . .Dated:. . . . .  
13 . . . . .  
14 . . . . .  
15 (Signature)

16 CERTIFICATE

17 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

18 I certify that I know or have satisfactory evidence that . . .  
19 (name of person) . . . is the person who appeared before me, and said  
20 person acknowledged that he/she signed this instrument and  
21 acknowledged it to be his/her free and voluntary act for the uses and  
22 purposes mentioned in the instrument.

23 . . . . .Dated:. . . . .  
24 . . . . .  
25 . . . . .  
26 (Signature)

27 (Seal or stamp)

1 . . . . . Title. . . . .  
2 . . . . . My appointment. . . . .  
3 . . . . . Expires. . . . .

4 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

5 I certify that I know or have satisfactory evidence that . . .  
6 (name of person) . . . is the person who appeared before me, and said  
7 person acknowledged that he/she signed this instrument, on oath  
8 stated that he/she was authorized to execute the instrument and  
9 acknowledged it as the . . . (type of authority, e.g., officer or  
10 employee, etc.) . . . of . . . (name of party on behalf of whom  
11 instrument was executed) . . . to be the free and voluntary act of  
12 such party for the uses and purposes mentioned in the instrument.

13 . . . . . Dated: . . . . .

14 . . . . .

15 . . . . .

16 (Signature)

17 (Seal or stamp)

18 . . . . . Title. . . . .

19 . . . . . My appointment. . . . .

20 . . . . . Expires. . . . .

21 NEW SECTION. **Sec. 8.** (1) Except as provided in subsections (2)  
22 and (3) of this section, a wage lien recorded under this chapter has  
23 priority over all other debts, judgments, decrees, liens, or security  
24 interests against the property subject to the wage lien, regardless  
25 as to whether these debts, judgments, decrees, liens, or security  
26 interests originated before or after the wage lien, and regardless of  
27 whether these debts, judgments, decrees, liens, or mortgages were  
28 perfected prior to the wage lien. A wage lien recorded under this  
29 chapter has priority over a lien or security interest of a financial

1 institution only as to the first ten thousand dollars of a wage claim  
2 covered under the wage lien.

3 (2) A statutory lien for wages owed, including but not limited to  
4 liens under chapters 60.04, 60.11, 60.16, 60.24, 60.28, 60.34, and  
5 60.76 RCW, ranks according to priority in time of filing.

6 (3)(a) A wage lien recorded under this chapter as to real  
7 property does not have priority over a mortgage or deed of trust that  
8 was recorded prior to the recording of the wage lien.

9 (b) A wage lien recorded under this chapter does not have  
10 priority over a lien for taxes that the department of revenue is  
11 authorized or required to collect and that originates before a lien  
12 recorded under this chapter.

13 (c) A wage lien recorded under this chapter does not have  
14 priority over liens or income withholding for child support  
15 obligations.

16 (4) A wage lien is effective against the estate of the employer.

17 NEW SECTION. **Sec. 9.** A contract between an employer and  
18 employee may not waive or require an employee to waive the right to a  
19 wage lien under this chapter. A provision of a contract made in  
20 violation of this section is void as against the public policy of  
21 this state.

22 NEW SECTION. **Sec. 10.** The claim of wage lien, when filed as  
23 required by this chapter, constitutes notice to the spouse or the  
24 domestic partner of the person who appears on record to be the owner  
25 of the property sought to be charged with the wage lien, and subjects  
26 all the community interest of both spouses or both domestic partners  
27 to the wage lien.

28 NEW SECTION. **Sec. 11.** This chapter is to be liberally construed  
29 to provide security for all persons intended to be protected by its  
30 provisions.

31 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act  
32 constitute a new chapter in Title 60 RCW.

--- END ---