
SECOND SUBSTITUTE HOUSE BILL 1486

State of Washington

65th Legislature

2018 Regular Session

By House Appropriations (originally sponsored by Representatives Gregerson, Ryu, Peterson, Orwall, Sells, Stonier, Dolan, Frame, Chapman, Goodman, Macri, Cody, Appleton, Tarleton, Ormsby, Bergquist, Hudgins, Doglio, and Stanford)

READ FIRST TIME 01/24/18.

1 AN ACT Relating to establishing wage liens; adding a new section
2 to chapter 43.24 RCW; adding a new chapter to Title 60 RCW; and
3 providing an effective date.

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

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

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

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

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

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

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

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

19 (6) "Maintain" includes to maintain, clean, manage, improve,
20 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(b)(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 by operation of this chapter and that payment is to be
5 made to the lien claimant, and it must contain the information
6 described in section 4 of this act. After receipt of the notice, the
7 person responsible for payment of such amounts may discharge its
8 obligation by paying the lien claimant and may not discharge the
9 obligation by paying the employer. If requested by the person
10 responsible for payment of such amounts, the lien claimant must,
11 within a reasonable time, furnish reasonable proof that the wage lien
12 continues to exist, and unless such proof is furnished, that person
13 has no obligation to pay the lien claimant and may discharge its
14 obligation by paying the employer. A written, signed statement from
15 the employee that the wages that form the basis for the wage lien
16 have not been paid in the time after filing the wage lien constitutes
17 "reasonable proof" for this purpose. Failure to furnish any notice as
18 provided in this section does not affect the status of the wage lien
19 established under this chapter in regard to the relationship with
20 other creditors.

21 (5) This chapter does not affect the ownership or title in
22 personal or real property of the state or other public entity or
23 public ownership, nor does any lien attach to the fee simple title of
24 the state or other public ownership.

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

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

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

32 (ii) The name of the employer;

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

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

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

1 (vi) An acknowledgment and certification as set forth in
2 subsection (4) of this section;

3 (b) Pay a filing fee established by the county auditor; and

4 (c) Mail a copy of the notice filed under this subsection (1) to
5 the employer's registered agent, the employer's registered business
6 address, or the address where the employer resides, and to the
7 property owner if the employer is not the property owner, by
8 certified mail with return receipt requested.

9 (2) To establish a wage lien on personal property, other than a
10 vehicle or vessel, the lien claimant must:

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

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

16 (ii) The name of the employer;

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

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

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

22 (vi) An acknowledgment and certification as set forth in
23 subsection (4) of this section;

24 (b) Pay a filing fee established by the department of licensing;
25 and

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

30 (3) To establish a wage lien on a vehicle or vessel, the lien
31 claimant must:

32 (a) File for recording a notice of claim of wage lien with the
33 office of the auditor of the county in which the vessel or vehicle is
34 kept that includes:

35 (i) The name, telephone number, and address of the lien claimant
36 and, if the wage lien has been assigned, the name of the person who
37 assigned the lien;

38 (ii) The name of the employer;

39 (iii) A description of the vehicle or vessel subject to the wage
40 lien;

- 1 (iv) The principal amount for which the wage lien is claimed;
- 2 (v) The signature of the lien claimant or of a person authorized
- 3 to act on his or her behalf; and
- 4 (vi) An acknowledgment and certification as set forth in
- 5 subsection (4) of this section;
- 6 (b) Pay a filing fee established by the county auditor; and
- 7 (c) Mail a copy of the notice filed under subsection (2) of this
- 8 section to the employer's registered agent, the employer's registered
- 9 business address, or the address where the employer resides, by
- 10 certified mail with return receipt requested.
- 11 (4) A notice of claim of wage lien, acknowledgment, and
- 12 certificate that is substantially in the following form is sufficient
- 13 to satisfy subsections (1)(a) and (3)(a) of this section:

14 CLAIM OF WAGE LIEN

15, claimant, vs., name of person indebted to
 16 claimant:

17 Notice is hereby given that the claimant named below asserts a
 18 wage lien pursuant to chapter 60.--- RCW (the new chapter created in
 19 section 14 of this act). In support of this wage lien the following
 20 information is submitted:

21 1. NAME OF LIEN CLAIMANT:

22 TELEPHONE NUMBER:

23 ADDRESS:

24 2. NAME OF EMPLOYER:

25 3. DESCRIPTION OF THE REAL PROPERTY OR PERSONAL PROPERTY AGAINST
 26 WHICH A WAGE LIEN IS CLAIMED (street address, legal description, or
 27 other information that will reasonably describe the property, or
 28 statement that the wage lien covers all personal property):
 29
 30
 31
 32

33 4. PRINCIPAL AMOUNT FOR WHICH THE WAGE LIEN IS CLAIMED IS:

1
2 5. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE
3 AND STATE THE NAME OF THE ASSIGNOR:
4

5 6. IF THE PERSON SIGNING THIS CLAIM OF WAGE LIEN IS NOT THE
6 CLAIMANT, BUT IS AUTHORIZED TO ACT ON THE CLAIMANT'S BEHALF, STATE
7 THE PERSON'S NAME AND REPRESENTATIVE CAPACITY:

8 NAME:

9 REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant;
10 attorney or agent; representative of lien filing service;
11 administrator, representative, or agent of trustees of employee
12 benefit plan):
13

14 ACKNOWLEDGMENT

15 FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

16 STATE OF WASHINGTON, COUNTY OF

17, ss.

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

25Dated:

26

27

28

29 (Signature)

1 FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

2 STATE OF WASHINGTON, COUNTY OF

3, ss.

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

12Dated:.

13

14

15

16 (Signature)

17 CERTIFICATE

18 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

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

24Dated:.

25

26

27

28 (Signature)

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

26 (b) For a notice of claim of wage lien on personal property other
27 than a vehicle or vessel filed under this section, the department of
28 licensing shall record the notice. For a notice of claim of wage lien
29 on a vehicle or vessel, the office of the auditor of the county where
30 the vehicle or vessel is kept shall record the notice.

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

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

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

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

13 NEW SECTION. **Sec. 6.** (1) A wage lien may be foreclosed by an
14 action in:

15 (a) The superior court in the county in which the real property
16 is located;

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

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

23 (2) Except as provided in subsection (3) of this section, if the
24 claimant has instituted an action in a court of this state for the
25 wage claim that is the subject of the wage lien, that action shall be
26 deemed an action to foreclose on any property subject to the lien. An
27 action to foreclose the wage lien must be filed within one year of
28 the date the wage lien was recorded.

29 (3) If the claimant receives a judgment on a wage claim from a
30 court in this state, a municipal court in this state, or a federal
31 court, that does not have jurisdiction over the claimant's wage lien,
32 the action to foreclose the wage lien must be filed within one year
33 of the date of that court's judgment.

34 (4) A foreclosure action may be brought by the employee
35 individually, the department, the United States department of labor,
36 the office of the attorney general, or a representative of the
37 employee, including a collective bargaining representative or class
38 representative. Multiple wage claims against the same employer may be

1 joined in a single proceeding, but the court may order separate
2 trials or hearings.

3 (5)(a) If the employee obtains a judgment from a federal, state,
4 or municipal court, the judgment establishes the amount owed for the
5 purposes of foreclosure under this chapter.

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

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

20 (7) In an action to foreclose on a wage lien on a vehicle or
21 vessel, the lien claimant must comply with the requirements of the
22 department of licensing regarding transferring title and taking
23 ownership of the vehicle or vessel.

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

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

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

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

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

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

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

10 (b) The release must include:

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

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

15 (iii) The name of the employer;

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

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

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

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

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

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

28 NOTICE OF RELEASE OF WAGE LIEN

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

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

33 1. NAME OF PERSON FILING NOTICE OF RELEASE:

34 TELEPHONE NUMBER:

35 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
28 the (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.

1Dated:.
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.

12Dated:.
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.

23Dated:.
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
30 institution only up to four percent of the financial institution's

1 security interest in the property that is encumbered by the wage
2 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 does not have
7 priority over a lien for taxes that the department of revenue is
8 authorized or required to collect and that originates before a lien
9 recorded under this chapter.

10 (b) A wage lien recorded under this chapter does not have
11 priority over liens or income withholding for child support
12 obligations.

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

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

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

25 NEW SECTION. **Sec. 11.** This chapter is to be liberally construed
26 to provide security for all persons intended to be protected by its
27 provisions.

28 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.24
29 RCW to read as follows:

30 For the purposes of implementing the notice and filing provisions
31 under sections 4(2)(a) and 7 of this act that are applicable to the
32 department, the department may, by rule, create wage lien forms
33 specific to the department, so long as the forms include the
34 information described in those sections.

35 NEW SECTION. **Sec. 13.** This act takes effect January 1, 2019.

1 NEW SECTION. **Sec. 14.** Sections 1 through 11 of this act
2 constitute a new chapter in Title 60 RCW.

--- END ---