

2SHB 1514 - H AMD 278

By Representative Gregerson

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

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

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

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

17 (6) "Maintain" includes to maintain, clean, manage, improve,
18 protect, repair, monitor, or restore real property at the instance of
19 the owner or tenant or of any person acting by the owner's or
20 tenant's authority.

21 (7) "Wage claim" means a claim for any unpaid wages owed to the
22 claimant as an employee of an employer, as well as any other
23 compensation, interest, statutory damages, liquidated damages, or
24 statutory penalties that may be owed for violation of a state or
25 federal wage law, including but not limited to chapters 39.12, 49.12,
26 49.46, 49.48, and 49.52 RCW, and the fair labor standards act, 29
27 U.S.C. Sec. 201 et seq.

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

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

3 (ii) Any property in the state of Washington that is owned or is
4 subsequently acquired by an officer, vice principal, or agent of the
5 employer who is personally liable for a wage claim under RCW
6 49.52.070; and

7 (iii) Any real property in the state of Washington that the
8 person has maintained, for all wage claims for maintenance of that
9 property.

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

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

14 (a) With respect to goods as defined in RCW 62A.9A-102, a buyer
15 in the ordinary course of business, as such term is defined in RCW
16 62A.1-201(b) (9); or

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

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

23 (4) A person, other than a consumer as defined in RCW 62A.1-201,
24 who controls or possesses amounts payable to the employer that are
25 not health-care-insurance receivables as defined in chapter 62A.9A
26 RCW, and that are properly encumbered by a wage lien upon an account
27 receivable, is not obligated to pay a lien claimant amounts to which
28 the wage lien has attached until that person receives written notice
29 of such lien, nor is the person liable to the lien claimant for any
30 amounts paid out prior to receipt of notice of the wage lien. The
31 notice required must state that the amount due or to become due has
32 been assigned by operation of this chapter and that payment is to be
33 made to the lien claimant, and it must contain the information
34 described in section 4 of this act. After receipt of the notice, the
35 person responsible for payment of such amounts may discharge its
36 obligation by paying the lien claimant and may not discharge the
37 obligation by paying the employer. If requested by the person
38 responsible for payment of such amounts, the lien claimant must,
39 within a reasonable time, furnish reasonable proof that the wage lien
40 continues to exist, and unless such proof is furnished, that person

1 has no obligation to pay the lien claimant and may discharge its
2 obligation by paying the employer. A written, signed statement from
3 the employee that the wages that form the basis for the wage lien
4 have not been paid in the time after filing the wage lien constitutes
5 "reasonable proof" for this purpose. Failure to furnish any notice as
6 provided in this section does not affect the status of the wage lien
7 established under this chapter in regard to the relationship with
8 other creditors.

9 (5) This chapter does not affect the ownership or title in
10 personal or real property of the state or other public entity or
11 public ownership, nor does any lien attach to the fee simple title of
12 the state or other public ownership.

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

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

17 (i) The name, telephone number, and address of the lien claimant
18 and, if the wage lien has been assigned, the name of the person who
19 assigned the lien;

20 (ii) The name of the employer;

21 (iii) The street address, legal description, and parcel number of
22 the real property to be charged with the wage lien;

23 (iv) The name of the owner or reputed owner of the property, if
24 known, and if not known, a statement saying the name of the owner is
25 not known;

26 (v) The amount for which the wage lien is claimed;

27 (vi) The signature of the lien claimant or of a person authorized
28 to act on his or her behalf; and

29 (vii) An acknowledgment and certification as set forth in
30 subsection (4) of this section;

31 (b) Pay a filing fee to the county auditor as required by RCW
32 36.18.010; and

33 (c) Mail a copy of the notice filed under this subsection (1) to
34 the employer's registered agent, the employer's registered business
35 address, or the address where the employer resides, and to the
36 property owner if known and if the employer is not the property
37 owner, by certified mail with return receipt requested.

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

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

3 (i) The name, telephone number, and address of the lien claimant
4 and, if the wage lien has been assigned, the name of the person who
5 assigned the lien;

6 (ii) The name of the employer;

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

9 (iv) The name of the owner or reputed owner of the property, if
10 known, and if not known, a statement saying the name of the owner is
11 not known;

12 (v) The principal amount for which the wage lien is claimed;

13 (vi) The signature of the lien claimant or of a person authorized
14 to act on his or her behalf; and

15 (vii) An acknowledgment and certification as set forth in
16 subsection (4) of this section;

17 (b) Pay a filing fee established by the department of licensing.
18 All receipts from fees collected under this subsection shall be
19 deposited into the department of licensing wage lien account created
20 under section 15 of this act. Moneys in the fund may be spent only
21 after appropriation and may be used only to administer the wage lien
22 filings in this subsection; and

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

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

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

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

34 (ii) The name of the employer;

35 (iii) A description of the vehicle or vessel subject to the wage
36 lien and the vehicle identification number or hull identification
37 number of the vehicle or vessel;

38 (iv) The name of the registered or legal owner or reputed owner
39 of the property, if known, and if not known, a statement saying the
40 name of the owner is not known;

1 (v) The principal amount for which the wage lien is claimed;
2 (vi) The signature of the lien claimant or of a person authorized
3 to act on his or her behalf; and

4 (vii) An acknowledgment and certification as set forth in
5 subsection (4) of this section;

6 (b) Pay a filing fee to the department of licensing as required
7 under RCW 46.17.005; and

8 (c) Mail a copy of the notice filed under this subsection to the
9 employer's registered agent, the employer's registered business
10 address, or the address where the employer resides, by certified mail
11 with return receipt requested.

12 (4) A notice of claim of wage lien, acknowledgment, and
13 certificate that is substantially in the following form is sufficient
14 to satisfy subsections (1)(a) and (3)(a) of this section, provided it
15 complies with the formatting requirements of RCW 65.04.045 (1)(a) and
16 (b), (2), and (3):

17 When Recorded Return to:

18 CLAIM OF WAGE LIEN

19, claimant, vs., name of person indebted to
20 claimant:

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

25 1. NAME OF LIEN CLAIMANT:

26 TELEPHONE NUMBER:

27 ADDRESS:

28 2. NAME OF EMPLOYER:

29 3. DESCRIPTION OF THE PROPERTY AGAINST WHICH A WAGE LIEN IS
30 CLAIMED (If real property, state the street address, legal
31 description, and parcel number. If personal property, provide
32 information that will reasonably describe the property, or statement
33 that the wage lien covers all personal property. If a vehicle or

1 vessel, the vehicle identification number or hull identification
2 number of the vehicle or vessel):.
3
4
5
6

7 4. NAME OF REGISTERED OR LEGAL OWNER OR REPUTED OWNER (If not
8 known, state "Unknown")
9

10 5. PRINCIPAL AMOUNT FOR WHICH THE WAGE LIEN IS CLAIMED IS:
11

12 6. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE
13 AND STATE THE NAME OF THE ASSIGNOR:.
14

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

18 NAME:.

19 REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant;
20 attorney or agent; representative of lien filing service;
21 administrator, representative, or agent of trustees of employee
22 benefit plan):.
23

24 ACKNOWLEDGMENT

25 FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

26 STATE OF WASHINGTON, COUNTY OF

27, ss.

28, being sworn, says: I,(name of
29 person)., am the claimant. I have read the foregoing claim of
30 wage lien, believe the claim of wage lien to be true and correct
31 under penalty of perjury, and believe the claim of wage lien is not
32 frivolous, is made with reasonable cause, and is not clearly

1 excessive. The foregoing claim of wage lien is my free and voluntary
2 act for the uses and purposes stated therein.

3Dated:.
4
5
6

7 (Signature)

8 FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

9 STATE OF WASHINGTON, COUNTY OF

10, ss.

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

19Dated:.
20
21
22

23 (Signature)

24 CERTIFICATE

25 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

26 I certify that I know or have satisfactory evidence that . . .
27 (name of person) . . . is the person who appeared before me, and said
28 person acknowledged that he/she signed this instrument and

1 acknowledged it to be his/her free and voluntary act for the uses and
2 purposes mentioned in the instrument.

3 Dated:

4

5

6

7 (Signature)

8 (Seal or stamp)

9 Title.

10 My appointment.

11 Expires.

12 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

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

21 Dated:

22

23

24 (Signature)

25 (Seal or Stamp)

26 Title.

27 My appointment.

28 Expires.

1 (4) (a) For a notice of claim of wage lien on real property filed
2 under this section, the notice must comply with the recording
3 standards in chapter 65.04 RCW and the county auditor shall record
4 the notice in the same manner as deeds and other instruments of title
5 are recorded under chapter 65.08 RCW. Notices of claim of wage lien
6 for registered land need not be recorded in the Torrens register.

7 (b) For a notice of claim of wage lien on personal property,
8 including vehicles and vessels, filed under this section, the
9 department of licensing shall record the notice.

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

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

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

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

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

24 (a) The superior court in the county in which the real property
25 is located;

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

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

33 (2) Except as provided in subsection (3) of this section, if the
34 claimant has instituted an action in a court of this state for the
35 wage claim that is the subject of the wage lien, that action shall be
36 deemed an action to foreclose on any property subject to the lien. An

1 action to foreclose the wage lien must be filed within one year of
2 the date the wage lien was recorded.

3 (3) (a) If the claimant receives a judgment on a wage claim from a
4 federal, state, or municipal court, the judgment establishes the
5 amount owed for the purposes of foreclosure under this chapter.

6 (b) If the claimant receives a judgment on a wage claim from a
7 federal, state, or municipal court, that does not have jurisdiction
8 over the claimant's wage lien, the action to foreclose the wage lien
9 must be filed within one year of the date of that court's judgment.

10 (4) (a) A wage lien may also be foreclosed by:

11 (i) The department using the department's collection procedures
12 under RCW 49.48.086 when the claimant has pursued a wage claim in an
13 administrative proceeding and a final and binding citation and notice
14 of assessment has been issued; or

15 (ii) The claimant if a final and binding citation and notice of
16 assessment has been issued by the department and the claimant has
17 timely notified the department that the claimant will pursue
18 foreclosure action on his or her own, without the department's
19 assistance.

20 (b) The citation and notice of assessment issued by the
21 department establishes the amount owed for the purpose of foreclosure
22 under this chapter.

23 (5) A foreclosure action may be brought by the employee
24 individually, the department, the United States department of labor,
25 the office of the attorney general, or a representative of the
26 employee, including a collective bargaining representative or class
27 representative. Multiple wage claims against the same employer may be
28 joined in a single proceeding, but the court may order separate
29 trials or hearings.

30 (6) In the judgment resulting from an action to foreclose on the
31 wage lien, the court may order the sale at sheriff's auction or the
32 transfer to the lien claimant of title or possession of any property
33 subject to the wage lien. Whether or not the court makes such an
34 order as part of the judgment, a writ of sale may be issued for any
35 property subject to the wage lien for ten years after a judgment for
36 a wage claim is issued. A wage lien based on an underlying judgment
37 continues in force for an additional ten-year period if the period of
38 execution for the underlying judgment is extended under RCW 6.17.020.

39 (7) In an action to foreclose on a wage lien on a vehicle or
40 vessel, the lien claimant must comply with the requirements of

1 subsection (1) of this section and any other requirements of the
2 department of licensing regarding transferring title and taking
3 ownership of the vehicle or vessel.

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

6 NEW SECTION. **Sec. 7.** (1) The lien provided by this chapter, for
7 which claims of lien have been recorded, may be foreclosed and
8 enforced as provided under section 6 of this act. The court shall
9 have the power to order the sale of the property. In any action
10 brought to foreclose a lien, the owner shall be joined as a party.
11 The interest in the real property of any person who, prior to the
12 commencement of the action, has a recorded interest in the property,
13 or any part thereof, shall not be foreclosed or affected unless they
14 are joined as a party.

15 (2) A person shall not begin an action to foreclose a lien upon
16 any property while a prior action begun to foreclose another lien on
17 the same property is pending, but if not made a party plaintiff or
18 defendant to the prior action, he or she may apply to the court to be
19 joined as a party thereto, and his or her lien may be foreclosed in
20 the same action. The filing of such application shall toll the
21 running of the period of limitation until disposition of the
22 application or other time set by the court.

23 (3) The court shall grant the application for joinder unless to
24 do so would create an undue delay or cause hardship which cannot be
25 cured by the imposition of costs or other conditions as the court
26 deems just.

27 (4) If a lien foreclosure action is filed during the pendency of
28 another such action, the court may, on its own motion or the motion
29 of any party, consolidate actions upon such terms and conditions as
30 the court deems just, unless to do so would create an undue delay or
31 cause hardship which cannot be cured by the imposition of costs or
32 other conditions. If consolidation of actions is not permissible
33 under this chapter, the lien foreclosure action filed during the
34 pendency of another such action shall not be dismissed if the filing
35 was the result of mistake, inadvertence, surprise, excusable neglect,
36 or irregularity. An action to foreclose a lien shall not be dismissed
37 at the instance of a plaintiff therein to the prejudice of another
38 party to the suit who claims a lien.

1 NEW SECTION. **Sec. 8.** (1) A wage lien is extinguished:

2 (a) If an action for the underlying wage claim is not brought
3 within one year of the date the wage lien was recorded;

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

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

10 (2)(a) When the wage lien has been extinguished, the lien
11 claimant shall, within fifteen days, file a release of the wage lien
12 at the place where the wage lien was recorded and pay a filing fee
13 established by the agency where the notice is filed. If a lien
14 claimant fails to file a release of the wage lien, upon demand and
15 fifteen days' notice by the employer or any affected party, mailed to
16 the lien claimant's address as indicated on the notice of the wage
17 lien by certified mail with return receipt requested, the employer or
18 affected party may petition the court for an order releasing the wage
19 lien. If the lien claimant acted unreasonably and in bad faith in
20 refusing to file a release of the wage lien, the employer or affected
21 party shall be entitled to recover its attorneys' fees and costs
22 incurred in the action, and the court in its discretion may also
23 issue a fine not to exceed one thousand dollars.

24 (b) The release must include:

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

27 (ii) The name, telephone number, and address of the lien
28 claimant;

29 (iii) The name of the employer;

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

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

32 (vi) The signature of the lien claimant, the lien claimant's
33 assignor, or a person authorized to act on the lien claimant's
34 behalf;

35 (vii) A certified acknowledgment as set forth in subsection (4)
36 of this section; and

37 (viii) The reference number of the original or amended wage lien.

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

1 (4) (a) A release of wage lien on real property must comply with
2 the recording standards established in RCW 65.04.045 and the county
3 auditor shall record the release in the same manner as deeds and
4 other instruments of title are recorded under chapter 65.08 RCW.

5 (b) A release of wage lien substantially in the following form is
6 sufficient, provided it complies with the formatting requirements of
7 RCW 65.04.045 (1) (a) and (b), (2), and (3):

8 When Recorded Return to:

9 NOTICE OF RELEASE OF WAGE LIEN

10, claimant, vs., name of person indebted to
11 claimant:

12 Notice is hereby given that the wage lien described below is
13 released.

14 1. NAME OF PERSON FILING NOTICE OF RELEASE:

15 TELEPHONE NUMBER:

16 ADDRESS:

17 RELATIONSHIP TO WAGE LIEN (lien claimant, representative of lien
18 claimant, assignee of lien claimant):

19 IF THE PERSON SIGNING THIS NOTICE IS NOT THE CLAIMANT, BUT IS
20 AUTHORIZED TO ACT ON BEHALF OF THE CLAIMANT, STATE THE PERSON'S NAME
21 AND REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant;
22 attorney or agent; representative of lien filing service;
23 administrator, representative, or agent of trustees of employee
24 benefit plan):
25

26 2. NAME OF LIEN CLAIMANT:

27 TELEPHONE NUMBER:

28 ADDRESS:

29 3. NAME OF EMPLOYER:

1 4. DESCRIPTION OF THE PERSONAL PROPERTY AGAINST WHICH THE LIEN IS
2 CLAIMED OR FOR A LIEN ON REAL PROPERTY: (1) THE REFERENCE NUMBER OF
3 PREVIOUSLY FILED LIEN, (2) AN ABBREVIATED LEGAL DESCRIPTION OF THE
4 PROPERTY AS DESCRIBED IN RCW 65.04.045, AND (3) THE PARCEL NUMBER OF
5 THE REAL PROPERTY:
6
7
8
9

10 5. NAME OF REGISTERED OR LEGAL OWNER OR REPUTED OWNER (If not
11 known, state "Unknown").
12
13
14

15 6. AMOUNT OF WAGE LIEN CLAIM:

16 ACKNOWLEDGMENT

17 FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

18 STATE OF WASHINGTON, COUNTY OF

19, ss.

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

24 Dated:

25

26

27 (Signature)

28 FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

29 STATE OF WASHINGTON, COUNTY OF

30, ss.

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

5 Dated:

6

7

8 (Signature)

9 CERTIFICATE

10 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

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

16 Dated:

17

18

19 (Signature)

20 (Seal or stamp)

21 Title.

22 My appointment.

23 Expires.

24 FOR A CERTIFICATE OF ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

25 I certify that I know or have satisfactory evidence that . . .
26 (name of person) . . . is the person who appeared before me, and said
27 person acknowledged that he/she signed this instrument, on oath
28 stated that he/she was authorized to execute the instrument and

1 acknowledged it as the . . . (type of authority, e.g., officer or
2 employee, etc.) . . . of . . . (name of party on behalf of whom
3 instrument was executed) . . . to be the free and voluntary act of
4 such party for the uses and purposes mentioned in the instrument.

5 Dated:

6

7

8 (Signature)

9 (Seal or stamp)

10 Title.

11 My appointment.

12 Expires.

13 NEW SECTION. **Sec. 9.** (1) Except as provided in subsections (2)
14 and (3) of this section, a wage lien recorded under this chapter has
15 priority over all other debts, judgments, decrees, liens, or security
16 interests against the property subject to the wage lien, regardless
17 as to whether these debts, judgments, decrees, liens, or security
18 interests originated before or after the wage lien, and regardless of
19 whether these debts, judgments, decrees, liens, or security interests
20 were perfected prior to the wage lien. A wage lien recorded under
21 this chapter has priority over a lien or security interest of a
22 financial institution only up to four percent of the financial
23 institution's security interest in the property that is encumbered by
24 the wage lien.

25 (2) A statutory lien for wages owed, including but not limited to
26 liens under chapters 60.04, 60.11, 60.16, 60.24, 60.28, 60.34, and
27 60.76 RCW, ranks according to priority in time of filing.

28 (3) (a) A wage lien recorded under this chapter does not have
29 priority over a lien for taxes that the department of revenue or any
30 other government entity is authorized or required to collect and that
31 originates before a lien recorded under this chapter.

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

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

5 NEW SECTION. **Sec. 10.** A contract between an employer and
6 employee may not waive or require an employee to waive the right to a
7 wage lien under this chapter. A provision of a contract made in
8 violation of this section is void as against the public policy of
9 this state.

10 NEW SECTION. **Sec. 11.** The claim of wage lien, when filed as
11 required by this chapter, constitutes notice to the spouse or the
12 domestic partner of the person who appears on record to be the owner
13 of the property sought to be charged with the wage lien, and subjects
14 all the community interest of both spouses or both domestic partners
15 to the wage lien.

16 NEW SECTION. **Sec. 12.** This chapter is to be liberally construed
17 to provide security for all persons intended to be protected by its
18 provisions.

19 **Sec. 13.** RCW 49.48.086 and 2014 c 210 s 1 are each amended to
20 read as follows:

21 (1) After a final order is issued under RCW 49.48.084, if an
22 employer defaults in the payment of: (a) Any wages determined by the
23 department to be owed to an employee, including interest; or (b) any
24 civil penalty ordered by the department under RCW 49.48.083, the
25 director may file with the clerk of any county within the state a
26 warrant in the amount of the payment plus any filing fees. The clerk
27 of the county in which the warrant is filed shall immediately
28 designate a superior court cause number for the warrant, and the
29 clerk shall cause to be entered in the judgment docket under the
30 superior court cause number assigned to the warrant, the name of the
31 employer mentioned in the warrant, the amount of payment due on it
32 plus any filing fees, and the date when the warrant was filed. The
33 aggregate amount of the warrant as docketed becomes a lien upon the
34 title to, and interest in, all real and personal property of the
35 employer against whom the warrant is issued, the same as a judgment
36 in a civil case docketed in the office of the clerk. The sheriff

1 shall proceed upon the warrant in all respects and with like effect
2 as prescribed by law with respect to execution or other process
3 issued against rights or property upon judgment in a court of
4 competent jurisdiction. The warrant so docketed is sufficient to
5 support the issuance of writs of garnishment in favor of the state in
6 a manner provided by law in case of judgment, wholly or partially
7 unsatisfied. The clerk of the court is entitled to a filing fee which
8 will be added to the amount of the warrant. A copy of the warrant
9 shall be mailed to the employer within three days of filing with the
10 clerk.

11 (2) (a) The director may issue to any person, firm, corporation,
12 other entity, municipal corporation, political subdivision of the
13 state, a public corporation, or any agency of the state, a notice and
14 order to withhold and deliver property of any kind when he or she has
15 reason to believe that there is in the possession of the person,
16 firm, corporation, other entity, municipal corporation, political
17 subdivision of the state, public corporation, or agency of the state,
18 property that is or will become due, owing, or belonging to an
19 employer upon whom a notice of assessment has been served by the
20 department for payments or civil penalties due to the department. The
21 effect of a notice and order is continuous from the date the notice
22 and order is first made until the liability out of which the notice
23 and order arose is satisfied or becomes unenforceable because of
24 lapse of time. The department shall release the notice and order when
25 the liability out of which the notice and order arose is satisfied or
26 becomes unenforceable by reason of lapse of time and shall notify the
27 person against whom the notice and order was made that the notice and
28 order has been released.

29 (b) The notice and order to withhold and deliver must be served
30 by the sheriff of the county or by the sheriff's deputy, by certified
31 mail, return receipt requested, or by the director. A person, firm,
32 corporation, other entity, municipal corporation, political
33 subdivision of the state, public corporation, or agency of the state
34 upon whom service has been made shall answer the notice within twenty
35 days exclusive of the day of service, under oath and in writing, and
36 shall make true answers to the matters inquired of in the notice and
37 order. Upon service of the notice and order, if the party served
38 possesses any property that may be subject to the claim of the
39 department, the party shall promptly deliver the property to the
40 director. The director shall hold the property in trust for

1 application on the employer's indebtedness to the department, or for
2 return without interest, in accordance with a final determination of
3 a petition for review. In the alternative, the party shall furnish a
4 good and sufficient surety bond satisfactory to the director
5 conditioned upon final determination of liability. If a party served
6 and named in the notice fails to answer the notice within the time
7 prescribed in this section, the court may render judgment by default
8 against the party for the full amount claimed by the director in the
9 notice, together with costs. If a notice is served upon an employer
10 and the property subject to it is wages, the employer may assert in
11 the answer all exemptions provided for by chapter 6.27 RCW to which
12 the wage earner is entitled.

13 (c) As an alternative to the methods of service described in this
14 section, the department may electronically serve a financial
15 institution with a notice and order to withhold and deliver by
16 providing a list of its outstanding warrants, except those for which
17 a payment agreement is in good standing, to the department of
18 revenue. The department of revenue may include the warrants provided
19 by the department in a notice and order to withhold and deliver
20 served under RCW 82.32.235(3). A financial institution that is served
21 with a notice and order to withhold and deliver under this subsection
22 (2)(c) must answer the notice within the time period applicable to
23 service under RCW 82.32.235(3). The department and the department of
24 revenue may adopt rules to implement this subsection (2)(c).

25 (3)(a) In addition to the procedure for collection of wages owed,
26 including interest, and civil penalties as set forth in this section,
27 the department may recover wages owed, including interest, and civil
28 penalties assessed under RCW 49.48.083 in a civil action brought in a
29 court of competent jurisdiction of the county where the violation is
30 alleged to have occurred.

31 (b) The department may use the procedures under this section to
32 foreclose wage liens established under chapter 60.--- RCW (the new
33 chapter created in section 17 of this act). When the department is
34 foreclosing on a wage lien, the date the wage lien was originally
35 filed shall be the date by which priority is determined, regardless
36 of the date the warrant is filed under this section. If a claimant
37 has timely notified the department that the claimant will pursue
38 foreclosure on their own, without the department's assistance, the
39 department is not required to file a warrant under this section and

1 is relieved from any liability related to foreclosing on the
2 claimant's wage lien.

3 (4) Whenever any employer quits business, sells out, exchanges,
4 or otherwise disposes of the employer's business or stock of goods,
5 any person who becomes a successor to the business becomes liable for
6 the full amount of any outstanding citation and notice of assessment
7 or penalty against the employer's business under this chapter if, at
8 the time of the conveyance of the business, the successor has: (a)
9 Actual knowledge of the fact and amount of the outstanding citation
10 and notice of assessment or (b) a prompt, reasonable, and effective
11 means of accessing and verifying the fact and amount of the
12 outstanding citation and notice of assessment from the department. If
13 the citation and notice of assessment or penalty is not paid in full
14 by the employer within ten days of the date of the sale, exchange, or
15 disposal, the successor is liable for the payment of the full amount
16 of the citation and notice of assessment or penalty, and payment
17 thereof by the successor must, to the extent thereof, be deemed a
18 payment upon the purchase price. If the payment is greater in amount
19 than the purchase price, the amount of the difference becomes a debt
20 due the successor from the employer.

21 (5) This section does not affect other collection remedies that
22 are otherwise provided by law.

23 NEW SECTION. Sec. 14. A new section is added to chapter 43.24
24 RCW to read as follows:

25 For the purposes of implementing the notice and filing provisions
26 under sections 4(2)(a) and 8 of this act that are applicable to the
27 department of licensing, the department of licensing may, by rule,
28 create wage lien forms specific to the department of licensing, so
29 long as the forms include the information described in those
30 sections.

31 NEW SECTION. Sec. 15. A new section is added to chapter 43.24
32 RCW to read as follows:

33 The department of licensing wage lien account is created in the
34 state treasury. All receipts from wage lien filing fees collected by
35 the department of licensing must be deposited in the account. Moneys
36 in the account may be spent only after appropriation. Expenditures
37 from the account may be used only to administer wage lien filings in
38 section 4 of this act.

1 NEW SECTION. **Sec. 16.** This act takes effect January 1, 2020.

2 NEW SECTION. **Sec. 17.** Sections 1 through 12 and 16 of this act
3 constitute a new chapter in Title 60 RCW.

4 NEW SECTION. **Sec. 18.** If specific funding for the purposes of
5 this act, referencing this act by bill or chapter number, is not
6 provided by June 30, 2019, in the omnibus appropriations act, this
7 act is null and void."

8 Correct the title.

EFFECT: (1) Requires notice of wage liens on vehicle and vessels to be filed with the Department of Licensing, rather than at the county auditor's office.

 (2) Requires the lien claimant to include the vehicle identification number or the hull identification number on the notice of lien.

 (3) Specifies that wage liens do not have priority over liens for taxes from any government entity, not just Department of Revenue, that originated before the wage lien was recorded.

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