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## Labor Committee

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### HB 1518

**Brief Description:** Creating the Washington wage recovery act.

**Sponsors:** Representatives Gregerson, Reykdal, Pollet, Ryu, Goodman, Moscoso, McBride, Sells, Peterson, Fitzgibbon, Wylie, Pettigrew, Cody, Takko, Dunshee, Tharinger, Ormsby, Lytton, Riccelli, Stanford, Hudgins, Kagi, Van De Wege, Ortiz-Self, Bergquist, Santos, Walkinshaw and Farrell.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Creates a statutory wage lien for claims on unpaid wages.</li><li>• Creates procedures for establishing, foreclosing, and extinguishing wage liens.</li></ul>
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**Hearing Date:** 1/27/15

**Staff:** Trudes Tango (786-7384).

**Background:**

Wages.

Various laws, such as the Minimum Wage Act and Wage Payment Act, establish standards for the payment of wages. It is unlawful for an employer to deprive an employee of his or her wages.

An aggrieved employee may file a wage complaint with the Department of Labor and Industries (Department). The Department must investigate wage complaints and has authority to order citations and notices of assessment against employers.

An employee also has the option of bringing a civil action in court to enforce his or her wage claim against the employer. Depending on the circumstances, an employer and the employer's vice principal, officer, or agent may be liable for additional damages if the wage violation was willful and intentional.

Liens.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A lien gives a lien claimant rights to another's property as a means to enforce a debt owed to the lien claimant. There are a variety of liens created by statute. One of the more common liens is the materialmen's lien (or construction lien) that may be used by persons furnishing labor, professional services, materials, or equipment for the improvement of real property. If the person is not paid for services or materials, the person may have a lien on the real property and the improvement. Notice and recording requirements must be met. To foreclose on a lien, the person claiming the lien must file a civil action.

The various statutes creating liens have requirements for filing the liens, notifying affected parties, and foreclosing on liens. Generally, liens on real property must be filed in the county in which the property is located.

### **Summary of Bill:**

A lien for wage claims is created. A wage claim is a claim for any unpaid wages, and any other compensation, interest, statutory damages, liquidated damages, or statutory penalties owed for a violation of state or federal wage laws.

#### Property Affected by Wage Liens.

Property subject to a wage lien include:

- real and personal property in the state that is owned or subsequently acquired by the claimant's employer;
- real and personal property in the state owned or subsequently acquired by the employer's vice principal, officer, or agent, if he or she is personally liable for the wage claim under existing law;
- real property in the state that the person has maintained, for wage claims for maintenance of the real property.

A wage lien does not apply to any property that is or would be subject to a lien by that person under the construction lien statutes. Washington's Uniform Commercial Code on secured transactions (UCC) does not apply to wage liens on personal property. In addition, certain limitations apply regarding wage liens against goods and accounts receivables subject to the UCC. Wage liens do not affect the title of the state or other public ownership and does not attach to the title of the state or other public ownership.

#### Recording Requirements.

Procedures are established for recording wage liens, including requirements to file a wage lien with the appropriate entity (county auditors for wage liens on real property and the Department of Licensing for wage liens on personal property) and to provide notice to the employer. A wage lien may be filed at any time before the expiration of the statute of limitations on the wage claim. Statutory forms for notice are provided.

#### Foreclosure of a Wage Lien.

Procedures are established for foreclosing on a wage lien. An action to foreclose on a wage lien must be filed within one year of the date the wage lien was recorded. A foreclosure action may be brought by the employee, the Department, the United States Department of Labor, the Attorney General's office, or a representative of the employee such as a union representative.

A court's judgment in a foreclosure action may include an order for a sheriff's auction to sell the property subject to the lien or transfer to the lien claimant title or possession of the property. A writ of sale issued for any property subject to the wage lien is enforceable for 10 years after the judgment is issued and maybe extended as provided under existing law regarding extension of court judgments. A lien claimant who prevails in a foreclosure action is entitled to reasonable attorneys' fees and costs.

#### Extinguishing a Wage Lien.

Procedures are also established to extinguish a wage lien. A wage lien is extinguished if an action for the underlying wage claim is not brought within one year of filing the wage lien. A wage lien is also extinguished if the wage claim is dismissed with prejudice or upon payment and acceptance of the wage claim. Requirements, such as notice provisions, to file a release of an extinguished wage lien are provided. Statutory forms to release the wage lien are provided.

#### Priority.

With certain exceptions, wage liens have priority over all other debts, judgments, decrees, liens, or security interests against the property subject to the wage lien, whether or not the other debts originated or were perfected before or after the wage lien.

For security interests held by a financial institution, a wage lien has priority only as to the first \$10,000 of a wage claim covered by the wage lien.

A wage lien does not have priority over:

- any deeds of trusts or mortgages recorded prior to the wage lien's recording;
- tax liens originating before the wage lien; and
- liens or income withholding for child support obligations.

Other specified statutory liens dealing with money owed to employees, such as construction liens, crop liens, and timber liens, rank in priority according to the time the liens were filed.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2015.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.