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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - PAYMENT OF WAGES

Introduced By: Representatives Williams, Morin, Vella-Wilkinson, Walsh, and Hull

Date Introduced: February 28, 2018

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 28 of the General Laws entitled "LABOR AND LABOR
2 RELATIONS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 14.1

4 LIEN FOR FAILURE TO PAY WAGES

5 **28-14.1-1. Definitions.**

6 Whenever used in this chapter:

7 (1) "Director" means the director of the department of labor and training or their duly
8 authorized representative.

9 (2) "Employee" means any person suffered or permitted to work by an employer, except
10 that independent contractors or subcontractors shall not be considered employees.

11 (3) "Employer" means any individual, firm, partnership, association, joint stock
12 company, trust, corporation, receiver, or other like officer appointed by a court of this state, and
13 any agent or officer of any of the previously mentioned classes, employing any person in this
14 state.

15 (4) "Lien for unpaid wages" means a lien for the amount of wages owed to an employee
16 and penalties authorized under this title or other provisions of the general laws against real or
17 personal property owned by an employer and located in the state.

18 (5) "Wages" means all amounts at which the labor or service rendered is recompensed,
19 whether the amount is fixed or ascertained on a time, task, piece, commission basis, or other

1 method of calculating the amount.

2 **28-14.1-2. Lien notice.**

3 To establish a lien for unpaid wages pursuant to this chapter an employee shall first
4 provide written notice to an employer that:

5 (1) Is served on the employer within the statute of limitations period under § 28-14-20(a).

6 (2) Is personally served on the employer pursuant to the general laws.

7 (3) Contains the information required by the director to provide the employer with
8 adequate notice of the wages claimed and the property against which the lien for unpaid wages is
9 sought.

10 **28-14.1-3. Lien for unpaid wages - Filing.**

11 (a) Complaint. An employer may dispute a lien for unpaid wages by filing a complaint in
12 the appropriate court where property of an employer is located.

13 (b) Complaint - Requirements. A complaint filed under this section shall:

14 (1) Be filed within thirty (30) days after notice is served on the employer; and

15 (2) Include:

16 (i) The name of the employer that is alleged to owe the employee the wages and the name
17 of the employee alleges that the wages are owed;

18 (ii) A copy of the notice to establish a lien for unpaid wages served on the employer
19 pursuant to § 28-14.1-2;

20 (iii) A statement of any defense to the lien for unpaid wages; and

21 (iv) An affidavit containing a statement of facts that supports any defenses raised.

22 (c) Hearing. The employer or employee may request an evidentiary hearing.

23 (d) Order establishing lien; burden of proof. If an employer files a complaint, the court
24 shall determine whether to issue an order establishing a lien for unpaid wages:

25 (1) Within forty-five (45) days after the date on which the complaint was filed; and

26 (2) Based on a preponderance of the evidence in which the employee has the burden of
27 proof to establish the lien for unpaid wages.

28 (e) Court costs and attorneys' fees.

29 (1) If an appropriate court issues an order to establish a lien for unpaid wages, the
30 employee is entitled to court costs and reasonable attorneys' fees.

31 (2) If an appropriate court determines the effort to establish a lien for unpaid wages to
32 have been frivolous or made in bad faith, the court may award court costs and reasonable
33 attorneys' fees to an employer.

34 **28-14.1-4. Lien for unpaid wages established.**

1 A lien for unpaid wages is established:

2 (1) After an appropriate court pursuant to this chapter issues an order to establish a lien
3 for unpaid wages; or

4 (2) If no complaint disputing the lien for unpaid wages is filed, within thirty (30) days
5 after a notice is served under § 28-14.1-2.

6 **28-14.1-5. Recording of lien.**

7 (a) Following court order. If an appropriate court orders the establishment of a lien for
8 unpaid wages, the employee may record the lien for unpaid wages by filing a wage lien statement
9 under subsection (c) of this section.

10 (b) Following failure to file complaint by employer. If the employer fails to file a timely
11 complaint disputing the notice of wage lien, the employee may record the lien for unpaid wages
12 by filing a wage lien statement under subsection (c) of this section along with proof of service in
13 accordance with the provisions of § 34-18-10.

14 (c) Method of recording. A wage lien statement may be recorded:

15 (1) For a lien against real property, by filing a wage lien statement, in a form prescribed
16 by the director, with the clerk of the appropriate court for the county where any portion of the
17 property is located; and

18 (2) For a lien against personal property, by filing a wage lien statement in the same
19 manner, form, and place as provided for in chapter 3 of title 9.

20 (d) Failure to record-extinguishment of lien.

21 (1) If an employee does not record a wage lien statement within one hundred eighty (180)
22 days after the lien for unpaid wages is established, a lien for unpaid wages shall be extinguished
23 without prejudice.

24 (2) If payment is made or a bond is filed for the amount of wages and damages stated in
25 the wage lien statement, the recorded lien for unpaid wages shall be released.

26 (e) Priority. A lien for unpaid wages recorded under this section shall be considered a
27 secured claim that has priority:

28 (1) From the date of the court order establishing the lien for unpaid wages; or

29 (2) If no complaint disputing the lien for unpaid wages is filed, from the date that the
30 employee filed the wage lien statement.

31 (f) Recording as constructive notice of lien. Subsequent bona fide purchasers of any
32 property subject to a recorded lien for unpaid wages are deemed to have constructive notice of the
33 lien for unpaid wages from date of recording of a wage lien statement.

34 **28-14.1-6. Empowerment.**

1 (a) In general. An order for a lien for unpaid wages shall be enforced in the same manner
2 as any other judgement under state law.

3 (b) Statute of limitations on action to enforce. An action to enforce an order for a lien for
4 unpaid wages shall be brought within twelve (12) years of the date or recording of a lien for
5 unpaid wages.

6 **28-14.1-7. Contract requiring waiver of right prohibited.**

7 (a) In general. A contract between an employee and an employer may not waive or
8 require the employee to waive the right to seek the establishment of a lien for unpaid wages under
9 this chapter.

10 (b) A contract conditional on payment to employer from a third party does not waive the
11 right to lien. A provision in an executory contract between an employer and an employee that
12 conditions payment of wages to the employee on receipt by the employer of a payment from a
13 property owner or a third party shall not abrogate or waive the right of an employee to seek the
14 establishment of a lien for unpaid wages under this chapter.

15 (c) Provision in violation is void. A provision of a contract that violates this section is
16 void as against the public policy of the state.

17 **28-14.1-8. Director may establish lien.**

18 The director may seek to establish a lien for unpaid wages on behalf of an employee
19 pursuant to this chapter.

20 **28-14.1-9. Rules and regulations.**

21 The director shall adopt regulations to:

22 (1) Establish the content of the notice, complaint, and wage lien statement under this
23 chapter; and

24 (2) Promulgate rules and regulations necessary to implement the provisions of this
25 chapter.

26 **28-14.1-10. Conflict with other law.**

27 Whenever the application of any provisions of any other law of this state conflict with the
28 application of any provision of this chapter, then this chapter shall prevail.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS - PAYMENT OF WAGES

1 This act would enable employees to file a lien against their employers personal or real
2 property for unpaid wages.

3 This act would take effect upon passage.

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