

# HOUSE BILL REPORT

## HB 1518

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**As Reported by House Committee On:**  
Labor

**Title:** An act relating to establishing wage liens.

**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.

**Brief History:**

**Committee Activity:**

Labor: 1/27/15, 2/3/15 [DP].

**Brief Summary of Bill**

- Creates a statutory wage lien for claims on unpaid wages.
- Creates procedures for establishing, foreclosing, and extinguishing wage liens.

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### HOUSE COMMITTEE ON LABOR

**Majority Report:** Do pass. Signed by 4 members: Representatives Sells, Chair; Gregerson, Vice Chair; Moeller and Ormsby.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Manweller, Ranking Minority Member; G. Hunt, Assistant Ranking Minority Member; McCabe.

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

**Background:**

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.

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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.*

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.

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.

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### **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; and
- 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.

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 lien claimant who prevails in a foreclosure action is entitled to reasonable attorneys' fees and costs.

Extinguishing 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.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) The average wage claim is not very large, about \$1,800, but workers need that money and cannot wait for long periods to get the wages that are owed to them. Even if a worker wins a wage claim, collecting the wages after winning is a problem. There are very real consequences for waiting to collect on unpaid wages. This bill makes sure that the employer's assets are still available so a worker can recover against those assets when it

comes time to collect wages. Other states have passed similar laws. Employers in certain industries have a pattern and practice of hiring workers and not paying them or issuing bad checks and then moving on to another set of workers. It is difficult for workers to exercise their legal rights to recover their wages. There is a cost to the worker every time the worker has to recover their wages. Businesses who engage in unfair wage practices should not benefit financially. Wage theft traditionally targets those people who are marginalized in society. This bill is not designed to punish employers; it is designed to do right by employees. When wages are paid, the state also recovers taxes it is owed.

(Opposed) There are other ways to collect what is owed. Small businesses are concerned that this bill is too blunt of an instrument. The legal implications of having a lien on equipment and facilities are very complex and can create a hardship on small businesses.

**Persons Testifying:** (In support) Representative Gregerson, prime sponsor; Elizabeth Hanley, Washington State Association for Justice; Seth Goldstein, Faith Action Network; Cariño Baragan, Casa Latino; and Andrea Schmitt, Columbia Legal Services.

(Opposed) Gary Smith, Independent Business Association.

**Persons Signed In To Testify But Not Testifying:** None.