

House Bill 2818

Sponsored by Representative FAHEY; Representatives ALONSO LEON, REARDON, WILDE, WITT (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows payment from Wage Security Fund to be made to wage claimant for wages earned and unpaid in event that Commissioner of Bureau of Labor and Industries has obtained judgment in action or has issued final order in administrative proceeding for collection of wage claim.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1 Relating to employment; amending ORS 652.414; and prescribing an effective date.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** ORS 652.414 is amended to read:

4 652.414. Notwithstanding any other provision of law:

5 (1) When an employee files a wage claim under this chapter for wages earned and unpaid, and
6 the Commissioner of the Bureau of Labor and Industries:

7 (a) Determines that the employer against whom the claim was filed has ceased doing business
8 and is without sufficient assets to pay the wage claim and the wage claim cannot otherwise be fully
9 and promptly paid, the commissioner, after determining that the claim is valid, shall pay the claim-
10 ant, to the extent provided in subsection (2) of this section:

11 [(a)] (A) The unpaid amount of wages earned within 60 days before the date of the cessation of
12 business; or

13 [(b)] (B) If the claimant filed a wage claim before the cessation of business, the unpaid amount
14 of wages earned within 60 days before the last day the claimant was employed[.]; or

15 (b) **Obtains a judgment or issues a final order, including an order of determination that
16 has become final, under ORS 652.332 on the wage claim, the commissioner shall pay the
17 claimant, to the extent provided in subsection (2) of this section, the amount of wages due
18 pursuant to the judgment or the final order.**

19 (2) The commissioner shall pay the unpaid amount of wages earned as provided in subsection (1)
20 of this section only to the extent of \$10,000 from such funds as may be available pursuant to ORS
21 652.409 (2).

22 (3) The commissioner may commence an appropriate action, suit or proceeding to recover from
23 the employer, or other persons or property liable for the unpaid wages, amounts paid from the Wage
24 Security Fund under subsection (1) of this section. In addition to costs and disbursements, the com-
25 missioner is entitled to recover reasonable attorney fees at trial and on appeal, together with a
26 penalty of 25 percent of the amount of wages paid from the Wage Security Fund or \$200, whichever
27 amount is the greater. All amounts recovered by the commissioner under this subsection and sub-
28 section (4) of this section are appropriated continuously to the commissioner to carry out the pro-
29 visions of this section.
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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (4) The commissioner has a lien on the personal property of the employer for the benefit of the
2 fund when the claim is paid under subsection (1) of this section for the amount so paid and the
3 penalty referred to in subsection (3) of this section. The commissioner may cause to be filed a veri-
4 fied written notice of claim of lien with the recording officer of the county in which the employer
5 has its principal place of business no later than 30 days after the date the claim was paid under
6 subsection (1) of this section. The notice of claim of lien shall contain:

7 (a) A true statement of the sums paid to wage claimants and the amount of the penalty provided
8 for in subsection (3) of this section;

9 (b) The name of the owner of the personal property to be charged with the lien;

10 (c) A description of the personal property to be charged with the lien sufficient for identifica-
11 tion. If a lien is being claimed against all personal property of the employer, the description is suf-
12 ficient if it states that all personal property of the employer is covered; and

13 (d) The date the wage claim was paid.

14 (5) Liens created by subsection (4) of this section shall be recorded in the same manner as pro-
15 vided for in ORS 87.246 and may be foreclosed in the manner provided for in ORS 87.262.

16 (6) Liens created by subsection (4) of this section shall have priority over any other liens or
17 security interests perfected after the date the notice of claim is filed with the county recording of-
18 ficer under subsections (4) and (5) of this section.

19 (7) The commissioner shall promulgate rules to carry out the provisions of this section that in-
20 clude, but are not limited to, prescribing procedures for a timely and cost efficient method for the
21 payment of wage claims from the Wage Security Fund and procedures for prorating wage claims if
22 insufficient funds are available for payment.

23 (8) Nothing in this section is intended to require the commissioner to pay wage claims for which
24 moneys are not available under ORS 652.409 (2).

25 **SECTION 2. This 2021 Act takes effect on the 91st day after the date on which the 2021**
26 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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