S T A T E O F N E W Y O R K

481

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, GREENE -- read once and referred to the Committee on Ways and Means

AN ACT to amend the civil practice law and rules, in relation to money judgments in satisfaction of actions brought by employees for unpaid or underpaid wages; to amend the state finance law, in relation to creating the employee wage safety fund; and to require dissemination of certain information by the division of labor standards

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "wage safety act".

S 2. The civil practice law and rules is amended by adding a new section 5020-b to read as follows:

S 5020-B. JUDGMENTS; TAXES PAID IN CERTAIN CASES. IN CASES OF MONEY JUDGMENTS IN SATISFACTION OF ACTIONS BROUGHT BY EMPLOYEES FOR UNPAID OR UNDERPAID WAGES, THE JUDGMENT DEBTOR SHALL BE REQUIRED TO PAY AN AMOUNT EQUAL TO TEN PERCENT OF SUCH JUDGMENT INTO THE EMPLOYEE WAGE SAFETY FUND ESTABLISHED IN SECTION NINETY-NINE-T OF THE STATE FINANCE LAW. MONIES IN SUCH FUND SHALL BE AVAILABLE TO MAKE FULL OR PARTIAL PAYMENTS ON JUDGMENTS FOR UNPAID OR UNDERPAID WAGES WHERE SUCH JUDGMENTS REMAIN UNSATISFIED FOR A PERIOD OF TIME TO BE SPECIFIED BY THE COMMISSIONER OF LABOR.

S 3. The state finance law is amended by adding a new section 99-t to read as follows:

S 99-T. THE EMPLOYEE WAGE SAFETY FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A FUND TO BE KNOWN AS THE "EMPLOYEE WAGE SAFETY FUND."

2. THE FUND SHALL CONSIST OF THE ADDITIONAL FEE OR SUCH CHARGE ON MONEY JUDGMENTS ENTERED AGAINST EMPLOYERS ON CLAIMS FOR UNPAID OR UNDER-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PAID WAGES PURSUANT TO SECTION FIVE THOUSAND TWENTY-B OF THE CIVIL PRACTICE LAW AND RULES.

3. MONIES FROM THIS FUND SHALL BE PAYABLE TO EMPLOYEES WHO MEET THE REQUIREMENTS SET FORTH IN SUBDIVISION FOUR OF THIS SECTION ON THE AUDIT AND WARRANT OF THE COMPTROLLER BASED ON VOUCHERS CERTIFIED BY THE COMMISSIONER OF LABOR.

4. THE COMMISSIONER OF LABOR SHALL CERTIFY VOUCHERS FOR PAYMENTS SET FORTH IN SUBDIVISION THREE OF THIS SECTION UPON APPROVAL OF APPLICATIONS BY EMPLOYEES FOR COMPENSATION OR PAYMENTS BY THE FUND FOR UNSATISFIED MONEY JUDGMENTS WHICH WERE ENTERED AGAINST EMPLOYERS FOR UNPAID OR UNDERPAID WAGES. THE COMMISSIONER OF LABOR MAY AUTHORIZE FULL OR PARTIAL PAYMENT ON CLAIMS BASED UPON CRITERIA SET FORTH IN REGULATIONS TO BE ADOPTED AND IN CONSIDERATION OF THE AMOUNTS AVAILABLE THEREFOR. A JUDGMENT SHALL BE CONSIDERED UNSATISFIED WHERE THE DIVISION OF LABOR STANDARDS IS UNABLE, AFTER REASONABLE EFFORTS ARE MADE, TO COLLECT SUCH JUDGMENT AMOUNT FROM AN EMPLOYER OR FORMER EMPLOYER. AN EMPLOYEE MAKING A CLAIM THROUGH THE DIVISION SHALL COOPERATE FULLY IN SUCH EFFORTS.

S 4. The department of labor, by and through the division of labor standards shall require all applicants filing a complaint for unpaid wages with the division to provide either his or her social security number or, in case of a noncitizen or undocumented immigrant, his or her tax identification number. The division shall inform each applicant of his or her duty to report his or her income to the department of taxation and finance and shall provide him or her with an I-1099 tax form. The division shall make available to all applicants instruction and assistance in completing such forms, including but not limited to, translation of such instructions for non-English speaking individuals or those with limited English proficiency.

S 5. The commissioner of taxation and finance is hereby directed to implement procedures to provide for the payment or partial payment of income taxes due on judgments for unpaid or underpaid wages at the time that the division of labor standards distributes an award to an eligible employee.

S 6. The commissioner of labor is hereby authorized to promulgate any rules or regulations necessary for the implementation of this act on or before its effective date.

S 7. This act shall take effect immediately and shall apply to taxable years beginning on and after January 1, 2009.