

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

5925--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "wage safety act".
3 S 2. The civil practice law and rules is amended by adding a new
4 section 5020-b to read as follows:
5 S 5020-B. JUDGMENTS; TAXES PAID IN CERTAIN CASES. IN CASES OF MONEY
6 JUDGMENTS IN SATISFACTION OF ACTIONS BROUGHT BY EMPLOYEES FOR UNPAID OR
7 UNDERPAID WAGES, THE JUDGMENT DEBTOR SHALL BE REQUIRED TO PAY AN AMOUNT
8 EQUAL TO TEN PERCENT OF SUCH JUDGMENT INTO THE EMPLOYEE WAGE SAFETY FUND
9 ESTABLISHED IN SECTION NINETY-NINE-U OF THE STATE FINANCE LAW. MONIES
10 IN SUCH FUND SHALL BE AVAILABLE TO MAKE FULL OR PARTIAL PAYMENTS ON
11 JUDGMENTS FOR UNPAID OR UNDERPAID WAGES WHERE SUCH JUDGMENTS REMAIN
12 UNSATISFIED FOR A PERIOD OF TIME TO BE SPECIFIED BY THE COMMISSIONER OF
13 LABOR.
14 S 3. The state finance law is amended by adding a new section 99-u to
15 read as follows:
16 S 99-U. THE EMPLOYEE WAGE SAFETY FUND. 1. THERE IS HEREBY ESTABLISHED
17 IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF
18 TAXATION AND FINANCE A FUND TO BE KNOWN AS THE "EMPLOYEE WAGE SAFETY
19 FUND."

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

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1 2. THE FUND SHALL CONSIST OF THE ADDITIONAL FEE OR SUCH CHARGE ON
2 MONEY JUDGMENTS ENTERED AGAINST EMPLOYERS ON CLAIMS FOR UNPAID OR UNDER-
3 PAID WAGES PURSUANT TO SECTION FIVE THOUSAND TWENTY-B OF THE CIVIL PRAC-
4 TICE LAW AND RULES.

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

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

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

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

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

39 S 7. This act shall take effect immediately and shall apply to taxable
40 years beginning on and after January 1, 2012.