

STATE OF NEW YORK

9008

IN ASSEMBLY

January 10, 2020

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Judiciary

AN ACT to amend the lien law, in relation to employee liens; to amend the labor law, in relation to employee complaints; to amend the civil practice law and rules, in relation to grounds for attachment; to amend the business corporation law, in relation to streamlining procedures where employees may hold shareholders of non-publicly traded corporations personally liable for wage theft; and to amend the limited liability company law, in relation to creating a right for victims of wage theft to hold the ten members with the largest ownership interests in a company personally liable for wage theft

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 2 of the lien law is amended by adding three new
2 subdivisions 21, 22 and 23 to read as follows:

3 21. Employee. The term "employee", when used in this chapter, shall
4 have the same meaning as "employee" pursuant to articles one, six, nine-
5 teen and nineteen-A of the labor law, as applicable, or the Fair Labor
6 Standards Act, 29 U.S.C. § 201 et. seq., as applicable.

7 22. Employer. The term "employer", when used in this chapter, shall
8 have the same meaning as "employer" pursuant to articles one, six, nine-
9 teen and nineteen-A of the labor law, as applicable, or the Fair Labor
10 Standards Act, 29 U.S.C. § 201 et. seq., as applicable, except that the
11 term "employer" shall not include a governmental agency.

12 23. Wage claim. The term "wage claim", when used in this chapter,
13 means a claim that an employee has suffered a violation of sections one
14 hundred seventy, one hundred ninety-three, one hundred ninety-six-d, six
15 hundred fifty-two or six hundred seventy-three of the labor law or the
16 related regulations and wage orders promulgated by the commissioner, a
17 claim for wages due to an employee pursuant to an employment contract
18 that were unpaid in violation of that contract, or a claim that an
19 employee has suffered a violation of 29 U.S.C. § 206 or 207.

20 § 2. Section 3 of the lien law, as amended by chapter 137 of the laws
21 of 1985, is amended to read as follows:

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

LBD00946-07-0

1 § 3. Mechanic's lien and employee's lien on [~~real~~] property. 1.
2 Mechanic's lien. A contractor, subcontractor, laborer, materialman,
3 landscape gardener, nurseryman or person or corporation selling fruit or
4 ornamental trees, roses, shrubbery, vines and small fruits, who performs
5 labor or furnishes materials for the improvement of real property with
6 the consent or at the request of the owner thereof, or of his agent,
7 contractor or subcontractor, and any trust fund to which benefits and
8 wage supplements are due or payable for the benefit of such laborers,
9 shall have a lien for the principal and interest, of the value, or the
10 agreed price, of such labor, including benefits and wage supplements due
11 or payable for the benefit of any laborer, or materials upon the real
12 property improved or to be improved and upon such improvement, from the
13 time of filing a notice of such lien as prescribed in this chapter.
14 Where the contract for an improvement is made with a husband or wife and
15 the property belongs to the other or both, the husband or wife contract-
16 ing shall also be presumed to be the agent of the other, unless such
17 other having knowledge of the improvement shall, within ten days after
18 learning of the contract give the contractor written notice of his or
19 her refusal to consent to the improvement. Within the meaning of the
20 provisions of this chapter, materials actually manufactured for but not
21 delivered to the real property, shall also be deemed to be materials
22 furnished.

23 2. Employee's lien. An employee who has a wage claim as that term is
24 defined in subdivision twenty-three of section two of this chapter shall
25 have a lien on his or her employer's interest in property for the value
26 of that employee's wage claim arising out of the employment, including
27 liquidated damages pursuant to subdivision one-a of section one hundred
28 ninety-eight, section six hundred sixty-three or section six hundred
29 eighty-one of the labor law, or 29 U.S.C. § 216 (b), from the time of
30 filing a notice of such lien as prescribed in this chapter. An employ-
31 ee's lien based on a wage claim may be had against the employer's inter-
32 est in real property and against the employer's interest in personal
33 property that can be sufficiently described within the meaning of
34 section 9-108 of the uniform commercial code, except that an employee's
35 lien shall not extend to deposit accounts or goods as those terms are
36 defined in section 9-102 of the uniform commercial code. The department
37 of labor and the attorney general may obtain an employee's lien for the
38 value of wage claims of the employees who are the subject of their
39 investigations, court actions or administrative agency actions.

40 3. As used in this article and unless otherwise specified, a lien
41 shall mean an employee's lien or a mechanic's lien.

42 § 3. Subdivisions 1 and 2 of section 4 of the lien law, subdivision 1
43 as amended by chapter 515 of the laws of 1929 and subdivision 2 as added
44 by chapter 704 of the laws of 1985, are amended to read as follows:

45 (1) [~~Such~~] A mechanic's or employee's lien and employee's lien against
46 real property shall extend to the owner's right, title or interest in
47 the real property and improvements, existing at the time of filing the
48 notice of lien, or thereafter acquired, except as hereinafter in this
49 article provided. If an owner assigns his interest in such real property
50 by a general assignment for the benefit of creditors, within thirty days
51 prior to such filing, the lien shall extend to the interest thus
52 assigned. If any part of the real property subjected to such lien be
53 removed by the owner or by any other person, at any time before the
54 discharge thereof, such removal shall not affect the rights of the
55 lienor, either in respect to the remaining real property, or the part so
56 removed. If labor is performed for, or materials furnished to, a

1 contractor or subcontractor for an improvement, the mechanic's lien
2 shall not be for a sum greater than the sum earned and unpaid on the
3 contract at the time of filing the notice of lien, and any sum subse-
4 quently earned thereon. In no case shall the owner be liable to pay by
5 reason of all mechanic's liens created pursuant to this article a sum
6 greater than the value or agreed price of the labor and materials
7 remaining unpaid, at the time of filing notices of such liens, except as
8 hereinafter provided.

9 (2) [~~Such~~] A mechanic's or employee's lien shall not extend to the
10 owner's right, title or interest in real property and improvements,
11 existing at the time of filing the notice of lien if such lien arises
12 from the failure of a lessee of the right to explore, develop or produce
13 natural gas or oil, to pay for, compensate or render value for improve-
14 ments made with the consent or at the request of such lessee by a
15 contractor, subcontractor, materialman, equipment operator or owner,
16 landscaper, nurseryman, or person or corporation who performs labor or
17 furnishes materials for the exploration, development, or production of
18 oil or natural gas or otherwise improves such leased property. Such
19 mechanic's or employee's lien shall extend to the improvements made for
20 the exploration, development and production of oil and natural gas, and
21 the working interest held by a lessee of the right to explore, develop
22 or produce oil and natural gas.

23 § 4. The opening paragraph of section 4-a of the lien law, as amended
24 by chapter 696 of the laws of 1959, is amended to read as follows:

25 The proceeds of any insurance which by the terms of the policy are
26 payable to the owner of real property improved, and actually received or
27 to be received by him because of the destruction or removal by fire or
28 other casualty of an improvement on which lienors have performed labor
29 or services or for which they have furnished materials, or upon which an
30 employee has established an employee's lien, shall after the owner has
31 been reimbursed therefrom for premiums paid by him, if any, for such
32 insurance, be subject to liens provided by this act to the same extent
33 and in the same order of priority as the real property would have been
34 had such improvement not been so destroyed or removed.

35 § 5. Subdivisions 1, 2 and 5 of section 9 of the lien law, as amended
36 by chapter 515 of the laws of 1929, are amended to read as follows:

37 1. The name of the lienor, and either the residence of the lienor or
38 the name and business address of the lienor's attorney, if any; and if
39 the lienor is a partnership or a corporation, the business address of
40 such firm, or corporation, the names of partners and principal place of
41 business, and if a foreign corporation, its principal place of business
42 within the state.

43 2. The name of the owner of the [~~real~~] property against whose interest
44 therein a lien is claimed, and the interest of the owner as far as known
45 to the lienor.

46 5. The amount unpaid to the lienor for such labor or materials, or the
47 amount of the wage claim if a wage claim is the basis for establishment
48 of the lien, the items of the wage claim and the value thereof which
49 make up the amount for which the lienor claims a lien.

50 § 6. Subdivision 1 of section 10 of the lien law, as amended by chap-
51 ter 367 of the laws of 2011, is amended to read as follows:

52 1. (a) Notice of mechanic's lien may be filed at any time during the
53 progress of the work and the furnishing of the materials, or, within
54 eight months after the completion of the contract, or the final perform-
55 ance of the work, or the final furnishing of the materials, dating from
56 the last item of work performed or materials furnished; provided, howev-

er, that where the improvement is related to real property improved or to be improved with a single family dwelling, the notice of mechanic's lien may be filed at any time during the progress of the work and the furnishing of the materials, or, within four months after the completion of the contract, or the final performance of the work, or the final furnishing of the materials, dating from the last item of work performed or materials furnished; and provided further where the notice of mechanic's lien is for retainage, the notice of mechanic's lien may be filed within ninety days after the date the retainage was due to be released; except that in the case of a mechanic's lien by a real estate broker, the notice of mechanic's lien may be filed only after the performance of the brokerage services and execution of lease by both lessor and lessee and only if a copy of the alleged written agreement of employment or compensation is annexed to the notice of lien, provided that where the payment pursuant to the written agreement of employment or compensation is to be made in installments, then a notice of lien may be filed within eight months after the final payment is due, but in no event later than a date five years after the first payment was made. For purposes of this section, the term "single family dwelling" shall not include a dwelling unit which is a part of a subdivision that has been filed with a municipality in which the subdivision is located when at the time the lien is filed, such property in the subdivision is owned by the developer for purposes other than his personal residence. For purposes of this section, "developer" shall mean and include any private individual, partnership, trust or corporation which improves two or more parcels of real property with single family dwellings pursuant to a common scheme or plan. [~~The~~]

(b) Notice of employee's lien may be filed at any time not later than three years following the end of the employment giving rise to the wage claim.

(c) A notice of lien, other than for a lien on personal property, must be filed in the clerk's office of the county where the property is situated. If such property is situated in two or more counties, the notice of lien shall be filed in the office of the clerk of each of such counties. The county clerk of each county shall provide and keep a book to be called the "lien docket," which shall be suitably ruled in columns headed "owners," "lienors," "lienor's attorney," "property," "amount," "time of filing," "proceedings had," in each of which he shall enter the particulars of the notice, properly belonging therein. The date, hour and minute of the filing of each notice of lien shall be entered in the proper column. Except where the county clerk maintains a block index, the names of the owners shall be arranged in such book in alphabetical order. The validity of the lien and the right to file a notice thereof shall not be affected by the death of the owner before notice of the lien is filed. A notice of employee's lien on personal property must be filed, together with a financing statement, in the filing office as set forth in section 9-501 of the uniform commercial code.

§ 7. Section 11 of the lien law, as amended by chapter 147 of the laws of 1996, is amended to read as follows:

§ 11. Service of copy of notice of lien. 1. Within five days before or thirty days after filing the notice of a mechanic's lien, the lienor shall serve a copy of such notice upon the owner, if a natural person, (a) by delivering the same to him personally, or if the owner cannot be found, to his agent or attorney, or (b) by leaving it at his last known place of residence in the city or town in which the real property or some part thereof is situated, with a person of suitable age and

1 discretion, or (c) by registered or certified mail addressed to his last
2 known place of residence, or (d) if such owner has no such residence in
3 such city or town, or cannot be found, and he has no agent or attorney,
4 by affixing a copy thereof conspicuously on such property, between the
5 hours of nine o'clock in the forenoon and four o'clock in the afternoon;
6 if the owner be a corporation, said service shall be made (i) by deliver-
7 ing such copy to and leaving the same with the president, vice-presi-
8 dent, secretary or clerk to the corporation, the cashier, treasurer or a
9 director or managing agent thereof, personally, within the state, or
10 (ii) if such officer cannot be found within the state by affixing a copy
11 thereof conspicuously on such property between the hours of nine o'clock
12 in the forenoon and four o'clock in the afternoon, or (iii) by regis-
13 tered or certified mail addressed to its last known place of business.
14 Failure to file proof of such a service with the county clerk within
15 thirty-five days after the notice of lien is filed shall terminate the
16 notice as a lien. Until service of the notice has been made, as above
17 provided, an owner, without knowledge of the lien, shall be protected in
18 any payment made in good faith to any contractor or other person claim-
19 ing a lien.

20 2. Within five days before or thirty days after filing the notice of
21 an employee's lien, the lienor shall serve a copy of such notice upon
22 the employer, if a natural person, (a) by delivering the same to him
23 personally, or if the employer cannot be found, to his agent or attor-
24 ney, or (b) by leaving it as his last known place of residence or busi-
25 ness, with a person of suitable age and discretion, or (c) by registered
26 or certified mail addressed to his last known place of residence or
27 business, or (d) if such employer owns real property, by affixing a copy
28 thereof conspicuously on such property, between the hours of nine
29 o'clock in the forenoon and four o'clock in the afternoon. The lienor
30 also shall, within thirty days after filing the notice of employee's
31 lien, affix a copy thereof conspicuously on the real property identified
32 in the notice of employee's lien, between the hours of nine o'clock in
33 the forenoon and four o'clock in the afternoon. If the employer be a
34 corporation, said service shall be made (i) by delivering such copy to
35 and leaving the same with the president, vice-president, secretary or
36 clerk to the corporation, the cashier, treasurer or a director or manag-
37 ing agent thereof, personally, within the state, or (ii) if such officer
38 cannot be found within the state by affixing a copy thereof conspicuously
39 on such property between the hours of nine o'clock in the forenoon
40 and four o'clock in the afternoon, or (iii) by registered or certified
41 mail addressed to its last known place of business, or (iv) by delivery
42 to the secretary of the department of state in the same manner as
43 required by subparagraph one of paragraph (b) of section three hundred
44 six of the business corporation law. Failure to file proof of such a
45 service with the county clerk within thirty-five days after the notice
46 of lien is filed shall terminate the notice as a lien. Until service of
47 the notice has been made, as above provided, an owner, without knowledge
48 of the lien, shall be protected in any payment made in good faith to any
49 other person claiming a lien.

50 § 8. Section 11-b of the lien law, as amended by chapter 147 of the
51 laws of 1996, is amended to read as follows:

52 § 11-b. Copy of notice of mechanic's lien to a contractor or subcon-
53 tractor. Within five days before or thirty days after filing a notice
54 of mechanic's lien in accordance with section ten of this chapter or the
55 filing of an amendment of notice of mechanic's lien in accordance with
56 section twelve-a of this [~~chapter~~] article the lienor shall serve a copy

1 of such notice or amendment by certified mail on the contractor, subcon-
2 tractor, assignee or legal representative for whom he was employed or to
3 whom he furnished materials or if the lienor is a contractor or subcon-
4 tractor to the person, firm or corporation with whom the contract was
5 made. A lienor having a direct contractual relationship with a subcon-
6 tractor or a sub-subcontractor but not with a contractor shall also
7 serve a copy of such notice or amendment by certified mail to the
8 contractor. Failure to file proof of such a service with the county
9 clerk within thirty-five days after the notice of lien is filed shall
10 terminate the notice as a lien. Any lienor, or a person acting on behalf
11 of a lienor, who fails to serve a copy of the notice of mechanic's lien
12 as required by this section shall be liable for reasonable attorney's
13 fees, costs and expenses, as determined by the court, incurred in
14 obtaining such copy.

15 § 9. Subdivision 1 of section 12-a of the lien law, as amended by
16 chapter 1048 of the laws of 1971, is amended to read as follows:

17 1. Within sixty days after the original filing, a lienor may amend his
18 lien upon twenty days notice to existing lienors, mortgagees and the
19 owner, provided that no action or proceeding to enforce or cancel the
20 mechanics' lien or employee's lien has been brought in the interim,
21 where the purpose of the amendment is to reduce the amount of the lien,
22 except the question of wilful exaggeration shall survive such amendment.

23 § 10. Subdivision 1 of section 13 of the lien law, as amended by chap-
24 ter 878 of the laws of 1947, is amended to read as follows:

25 (1) [A] An employee's lien, or a lien for materials furnished or labor
26 performed in the improvement of real property, shall have priority over
27 a conveyance, mortgage, judgment or other claim against such property
28 not recorded, docketed or filed at the time of the filing of the notice
29 of such lien, except as hereinafter in this chapter provided; over
30 advances made upon any mortgage or other encumbrance thereon after such
31 filing, except as hereinafter in this article provided; and over the
32 claim of a creditor who has not furnished materials or performed labor
33 upon such property, if such property has been assigned by the owner by a
34 general assignment for the benefit of creditors, within thirty days
35 before the filing of either of such notices; and also over an attachment
36 hereafter issued or a money judgment hereafter recovered upon a claim,
37 which, in whole or in part, was not for materials furnished, labor
38 performed or moneys advanced for the improvement of such real property;
39 and over any claim or lien acquired in any proceedings upon such judg-
40 ment. Such liens shall also have priority over advances made upon a
41 contract by an owner for an improvement of real property which contains
42 an option to the contractor, his successor or assigns to purchase the
43 property, if such advances were made after the time when the labor began
44 or the first item of material was furnished, as stated in the notice of
45 lien. If several buildings are demolished, erected, altered or repaired,
46 or several pieces or parcels of real property are improved, under one
47 contract, and there are conflicting liens thereon, each lienor shall
48 have priority upon the particular part of the real property or upon the
49 particular building or premises where his labor is performed or his
50 materials are used. Persons shall have no priority on account of the
51 time of filing their respective notices of liens, but all liens shall be
52 on a parity except as hereinafter in section fifty-six of this chapter
53 provided; and except that in all cases laborers for daily or weekly
54 wages with a mechanic's lien, and employees with an employee's lien,
55 shall have preference over all other claimants under this article.

1 § 11. Section 17 of the lien law, as amended by chapter 324 of the
2 laws of 2000, is amended to read as follows:

3 § 17. Duration of lien. 1. (a) No mechanic's lien specified in this
4 article shall be a lien for a longer period than one year after the
5 notice of lien has been filed, unless within that time an action is
6 commenced to foreclose the lien, and a notice of the pendency of such
7 action, whether in a court of record or in a court not of record, is
8 filed with the county clerk of the county in which the notice of lien is
9 filed, containing the names of the parties to the action, the object of
10 the action, a brief description of the real property affected thereby,
11 and the time of filing the notice of lien; or unless an extension to
12 such lien, except for a lien on real property improved or to be improved
13 with a single family dwelling, is filed with the county clerk of the
14 county in which the notice of lien is filed within one year from the
15 filing of the original notice of lien, continuing such lien and such
16 lien shall be redocketed as of the date of filing such extension. Such
17 extension shall contain the names of the lienor and the owner of the
18 real property against whose interest therein such lien is claimed, a
19 brief description of the real property affected by such lien, the amount
20 of such lien, and the date of filing the notice of lien. No lien shall
21 be continued by such extension for more than one year from the filing
22 thereof. In the event an action is not commenced to foreclose the lien
23 within such extended period, such lien shall be extinguished unless an
24 order be granted by a court of record or a judge or justice thereof,
25 continuing such lien, and such lien shall be redocketed as of the date
26 of granting such order and a statement made that such lien is continued
27 by virtue of such order. A lien on real property improved or to be
28 improved with a single family dwelling may only be extended by an order
29 of a court of record, or a judge or justice thereof. No lien shall be
30 continued by court order for more than one year from the granting there-
31 of, but a new order and entry may be made in each of two successive
32 years. If a lienor is made a party defendant in an action to enforce
33 another lien, and the plaintiff or such defendant has filed a notice of
34 the pendency of the action within the time prescribed in this section,
35 the lien of such defendant is thereby continued. Such action shall be
36 deemed an action to enforce the lien of such defendant lienor. The fail-
37 ure to file a notice of pendency of action shall not abate the action as
38 to any person liable for the payment of the debt specified in the notice
39 of lien, and the action may be prosecuted to judgment against such
40 person. The provisions of this section in regard to continuing liens
41 shall apply to liens discharged by deposit or by order on the filing of
42 an undertaking. Where a lien is discharged by deposit or by order, a
43 notice of pendency of action shall not be filed.

44 (b) A lien, the duration of which has been extended by the filing of a
45 notice of the pendency of an action as above provided, shall neverthe-
46 less terminate as a lien after such notice has been canceled as provided
47 in section sixty-five hundred fourteen of the civil practice law and
48 rules or has ceased to be effective as constructive notice as provided
49 in section sixty-five hundred thirteen of the civil practice law and
50 rules.

51 2. (a) No employee's lien on real property shall be a lien for a long-
52 er period than one year after the notice of lien has been filed, unless
53 an extension to such lien is filed with the county clerk of the county
54 in which the notice of lien is filed within one year from the filing of
55 the original notice of lien, continuing such lien and such lien shall be
56 redocketed as of the date of filing such extension. Such extension shall

1 contain the names of the lienor and the owner of the real property
2 against whose interest therein such lien is claimed, a brief description
3 of the property affected by such lien, the amount of such lien, and the
4 date of filing the notice of lien. No lien shall be continued by such
5 extension for more than one year from the filing thereof. In the event
6 an action is not commenced to obtain judgment on the wage claim or to
7 foreclose the lien within such extended period, such lien shall be auto-
8 matically extinguished unless an order be granted by a court of record
9 or a judge or justice thereof, continuing such lien, and such lien shall
10 be redocketed as of the date of granting such order and a statement made
11 that such lien is continued by virtue of such order.

12 (b) No employee's lien on personal property shall be a lien for a
13 longer period than one year after the financing statement has been
14 recorded, unless an extension to such lien, is filed with the filing
15 office in which the financing statement is required to be filed pursuant
16 to section 9-501 of the uniform commercial code within one year from the
17 filing of the original financing statement, continuing such lien. Such
18 extension shall contain the names of the lienor and the owner of the
19 property against whose interest therein such lien is claimed, a brief
20 description of the prior financing statement to be extended, and the
21 date of filing the prior financing statement. No lien shall be contin-
22 ued by such extension for more than one year from the filing thereof. In
23 the event an action is not commenced to obtain judgment on the wage
24 claim or to foreclose the lien within such extended period, such lien
25 shall be automatically extinguished unless an order be granted by a
26 court of record or a judge or justice thereof, continuing such lien, and
27 such lien shall be refiled as of the date of granting such order and a
28 statement made that such lien is continued by virtue of such order.

29 (c) If a lienor is made a party defendant in an action to enforce
30 another lien, and the plaintiff or such defendant has filed a notice of
31 the pendency of the action within the time prescribed in this section,
32 the lien of such defendant is thereby continued. Such action shall be
33 deemed an action to enforce the lien of such defendant lienor. The fail-
34 ure to file a notice of pendency of action shall not abate the action as
35 to any person liable for the payment of the debt specified in the notice
36 of lien, and the action may be prosecuted to judgment against such
37 person. The provisions of this section in regard to continuing liens
38 shall apply to liens discharged by deposit or by order on the filing of
39 an undertaking. Where a lien is discharged by deposit or by order, a
40 notice of pendency of action shall not be filed.

41 (d) Notwithstanding the foregoing, if a lienor commences a foreclosure
42 action or an action to obtain a judgment on the wage claim within one
43 year from the filing of the notice of lien on real property or the
44 recording of the financing statement creating lien on personal property,
45 the lien shall be extended during the pendency of the action and for one
46 hundred twenty days following the entry of final judgment in such
47 action, unless the action results in a final judgment or administrative
48 order in the lienor's favor on the wage claims and the lienor commences
49 a foreclosure action, in which instance the lien shall be valid during
50 the pendency of the foreclosure action, provided, that the lien will be
51 automatically extinguished if, after a dismissal with prejudice of the
52 wage claims on which it is based, the lienor fails to file a notice of
53 appeal within the prescribed period to file a notice of appeal. If a
54 lien is extended due to the pendency of a foreclosure action or an
55 action to obtain a judgment on the wage claim, the lienor shall file a
56 notice of such pendency and extension with the county clerk of the coun-

1 ty in which the notice of lien is filed, containing the names of the
2 parties to the action, the object of the action, a brief description of
3 the property affected thereby, and the time of filing the notice of
4 lien, or in the case of a lien on personal property shall file such
5 notice with the office authorized to accept financing statements pursu-
6 ant to section 9-501 of the uniform commercial code. For purposes of
7 this section, an action to obtain judgment on a wage claim includes an
8 action brought in any court of competent jurisdiction, the submission of
9 a complaint to the department of labor or the submission of a claim to
10 arbitration pursuant to an arbitration agreement. An action also
11 includes an investigation of wage claims by the commissioner of labor or
12 the attorney general of the state of New York, regardless of whether
13 such investigation was initiated by a complaint.

14 (e) A lien, the duration of which has been extended by the filing of a
15 notice of the pendency of an action as above provided, shall neverthe-
16 less terminate as a lien after such notice has been canceled as provided
17 in section sixty-five hundred fourteen of the civil practice law and
18 rules or has ceased to be effective as constructive notice as provided
19 in section sixty-five hundred thirteen of the civil practice law and
20 rules.

21 § 12. Subdivisions 2 and 4 of section 19 of the lien law, subdivision
22 2 as amended by chapter 310 of the laws of 1962, subdivision 4 as added
23 by chapter 582 of the laws of 2002 and paragraph a of subdivision 4 as
24 further amended by section 104 of part A of chapter 62 of the laws of
25 2011, are amended to read as follows:

26 (2) By failure to begin an action to foreclose such lien or to secure
27 an order continuing it, within one year from the time of filing the
28 notice of lien, unless (i) an action be begun within the same period to
29 foreclose a mortgage or another mechanic's lien upon the same property
30 or any part thereof and a notice of pendency of such action is filed
31 according to law, or (ii) an action is commenced to obtain a judgment on
32 a wage claim pursuant to subdivision two of section seventeen of this
33 article, but a lien, the duration of which has been extended by the
34 filing of a notice of the pendency of an action as herein provided,
35 shall nevertheless terminate as a lien after such notice has been
36 cancelled or has ceased to be effective as constructive notice.

37 (4) Either before or after the beginning of an action by the employer,
38 owner or contractor executing a bond or undertaking in an amount equal
39 to one hundred ten percent of such lien conditioned for the payment of
40 any judgment which may be rendered against the property or employer for
41 the enforcement of the lien:

42 a. The execution of any such bond or undertaking by any fidelity or
43 surety company authorized by the laws of this state to transact busi-
44 ness, shall be sufficient; and where a certificate of qualification has
45 been issued by the superintendent of financial services under the
46 provisions of section one thousand one hundred eleven of the insurance
47 law, and has not been revoked, no justification or notice thereof shall
48 be necessary. Any such company may execute any such bond or undertaking
49 as surety by the hand of its officers, or attorney, duly authorized
50 thereto by resolution of its board of directors, a certified copy of
51 which resolution, under the seal of said company, shall be filed with
52 each bond or undertaking. Any such bond or undertaking shall be filed
53 with the clerk of the county in which the notice of lien is filed, and a
54 copy shall be served upon the adverse party. The undertaking is effec-
55 tive when so served and filed. If a certificate of qualification issued
56 pursuant to subsections (b), (c) and (d) of section one thousand one

1 hundred eleven of the insurance law is not filed with the undertaking, a
2 party may except, to the sufficiency of a surety and by a written notice
3 of exception served upon the adverse party within ten days after
4 receipt, a copy of the undertaking. Exceptions deemed by the court to
5 have been taken unnecessarily, or for vexation or delay, may, upon
6 notice, be set aside, with costs. Where no exception to sureties is
7 taken within ten days or where exceptions taken are set aside, the
8 undertaking shall be allowed.

9 b. In the case of bonds or undertakings not executed pursuant to para-
10 graph a of this subdivision, the employer, owner or contractor shall
11 execute an undertaking with two or more sufficient sureties, who shall
12 be free holders, to the clerk of the county where the premises are situ-
13 ated. The sureties must together justify in at least double the sum
14 named in the undertaking. A copy of the undertaking, with notice that
15 the sureties will justify before the court, or a judge or justice there-
16 of, at the time and place therein mentioned, must be served upon the
17 lienor or his attorney, not less than five days before such time. Upon
18 the approval of the undertaking by the court, judge or justice an order
19 shall be made by such court, judge or justice discharging such lien.

20 c. If the lienor cannot be found, or does not appear by attorney,
21 service under this subsection may be made by leaving a copy of such
22 undertaking and notice at the lienor's place of residence, or if a
23 corporation at its principal place of business within the state as stat-
24 ed in the notice of lien, with a person of suitable age and discretion
25 therein, or if the house of his abode or its place of business is not
26 stated in said notice of lien and is not known, then in such manner as
27 the court may direct. The premises, if any, described in the notice of
28 lien as the lienor's residence or place of business shall be deemed to
29 be his said residence or its place of business for the purposes of said
30 service at the time thereof, unless it is shown affirmatively that the
31 person servicing the papers or directing the service had knowledge to
32 the contrary. Notwithstanding the other provisions of this subdivision
33 relating to service of notice, in any case where the mailing address of
34 the lienor is outside the state such service may be made by registered
35 or certified mail, return receipt requested, to such lienor at the mail-
36 ing address contained in the notice of lien.

37 d. Except as otherwise provided in this subdivision, the provisions of
38 article twenty-five of the civil practice law and rules regulating
39 undertakings is applicable to a bond or undertaking given for the
40 discharge of a lien on account of private improvements or of an employ-
41 ee's lien.

42 § 13. Section 24 of the lien law, as amended by chapter 515 of the
43 laws of 1929, is amended to read as follows:

44 § 24. Enforcement of [~~mechanic's~~] lien. (1) Real property. The
45 [~~mechanics'~~] liens on real property specified in this article may be
46 enforced against the property specified in the notice of lien and which
47 is subject thereto and against any person liable for the debt upon which
48 the lien is founded, as prescribed in article three of this chapter.

49 (2) Personal property. An employee's lien on personal property speci-
50 fied in this article may immediately be enforced against the property
51 through a foreclosure as prescribed in article nine of the uniform
52 commercial code, or upon judgment obtained by the employee, commissioner
53 of labor or attorney general of the state of New York, may be enforced
54 in any manner available to the judgment creditor pursuant to article
55 nine of the uniform commercial code or other applicable laws.

1 § 14. Section 26 of the lien law, as amended by chapter 373 of the
2 laws of 1977, is amended to read as follows:

3 § 26. Subordination of liens after agreement with owner. In case an
4 owner of real property shall execute to one or more persons, or a corpo-
5 ration, as trustee or trustees, a bond and mortgage or a note and mort-
6 gage affecting such property in whole or in part, or an assignment of
7 the moneys due or to become due under a contract for a building loan in
8 relation to such property, and in case such mortgage, if any, shall be
9 recorded in the office of the register of the county where such real
10 property is situated, or if such county has no register then in the
11 office of the clerk of such county, and in case such assignment, if any,
12 shall be filed in the office of the clerk of the county where such real
13 property is situated; and in case lienors having [~~mechanics'~~] liens
14 against said real property, notices of which have been filed up to and
15 not later than fifteen days after the recording of such mortgage or the
16 filing of such assignment, and which liens have not been discharged as
17 in this article provided, shall, to the extent of at least fifty-five
18 per centum of the aggregate amount for which such notices of liens have
19 been so filed, approve such bond and mortgage or such note and mortgage,
20 if any, and such assignment, if any, by an instrument or instruments in
21 writing, duly acknowledged and filed in the office of such county clerk,
22 then all mechanics' liens for labor performed or material furnished
23 prior to the recording of such mortgage or filing of such assignment,
24 whether notices thereof have been theretofore or are thereafter filed
25 and which have not been discharged as in this article provided, shall be
26 subordinate to the lien of such trust bond and mortgage or such trust
27 note and mortgage to the extent of the aggregate amount of all certif-
28 icates of interest therein issued by such trustee or trustees, or their
29 successors, for moneys loaned, materials furnished, labor performed and
30 any other indebtedness incurred after said trust mortgage shall have
31 been recorded, and for expenses in connection with said trust mortgage,
32 and shall also be subordinate to the lien of the bond and mortgage or
33 note and mortgage, given to secure the amount agreed to be advanced
34 under such contract for a building loan to the extent of the amount
35 which shall be advanced by the holder of such bond and mortgage or such
36 note and mortgage to the trustee or trustees, or their successors, under
37 such assignment. The provisions of this section shall apply to all bonds
38 and mortgages and notes and mortgages and all assignments of moneys due,
39 or to become due under building loan contracts executed by such owner,
40 in like manner, and recorded or filed, from time to time as hereinbefore
41 provided. In case of an assignment to trustees under the provisions of
42 this section, the trustees and their successors shall be the agents of
43 the assignor to receive and receipt for any and all sums advanced by the
44 holder of the building loan bond and mortgage or the building loan note
45 and mortgage under the building loan contract and such assignment. No
46 lienor shall have any priority over the bond and mortgage or note and
47 mortgage given to secure the money agreed to be advanced under a build-
48 ing loan contract or over the advances made thereunder, by reason of any
49 act preceding the making and approval of such assignment.

50 § 15. Section 38 of the lien law, as amended by chapter 859 of the
51 laws of 1930, is amended to read as follows:

52 § 38. Itemized statement may be required of lienor. A lienor who has
53 filed a notice of mechanic's lien shall, on demand in writing, deliver
54 to the owner or contractor making such demand a statement in writing
55 which shall set forth the items of labor and/or material and the value
56 thereof which make up the amount for which he claims a lien, and which

1 shall also set forth the terms of the contract under which such items
2 were furnished. The statement shall be verified by the lienor or his
3 agent in the form required for the verification of notices in section
4 nine of this [~~chapter~~] article. If the lienor shall fail to comply with
5 such a demand within five days after the same shall have been made by
6 the owner or contractor, or if the lienor delivers an insufficient
7 statement, the person aggrieved may petition the supreme court of this
8 state or any justice thereof, or the county court of the county where
9 the premises are situated, or the county judge of such county for an
10 order directing the lienor within a time specified in the order to
11 deliver to the petitioner the statement required by this section. Two
12 days' notice in writing of such application shall be served upon the
13 lienor. Such service shall be made in the manner provided by law for the
14 personal service of a summons. The court or a justice or judge thereof
15 shall hear the parties and upon being satisfied that the lienor has
16 failed, neglected or refused to comply with the requirements of this
17 section shall have an appropriate order directing such compliance. In
18 case the lienor fails to comply with the order so made within the time
19 specified, then upon five days' notice to the lienor, served in the
20 manner provided by law for the personal service of a summons, the court
21 or a justice or judge thereof may make an order cancelling the lien.

22 § 16. Section 39 of the lien law, as added by chapter 859 of the laws
23 of 1930, is amended to read as follows:

24 § 39. Lien wilfully exaggerated is void. In any action or proceeding
25 to enforce a mechanic's lien upon a private or public improvement or an
26 employee's lien, or in which the validity of the lien is an issue, if
27 the court shall find that a lienor has wilfully exaggerated the amount
28 for which he claims a lien as stated in his notice of lien, his lien
29 shall be declared to be void and no recovery shall be had thereon. No
30 such lienor shall have a right to file any other or further lien for the
31 same claim. A second or subsequent lien filed in contravention of this
32 section may be vacated upon application to the court on two days'
33 notice.

34 § 17. Section 39-a of the lien law, as added by chapter 859 of the
35 laws of 1930, is amended to read as follows:

36 § 39-a. Liability of lienor where lien has been declared void on
37 account of wilful exaggeration. Where in any action or proceeding to
38 enforce a mechanic's lien upon a private or public improvement or an
39 employee's lien the court shall have declared said lien to be void on
40 account of wilful exaggeration the person filing such notice of lien
41 shall be liable in damages to the owner or contractor. The damages which
42 said owner or contractor shall be entitled to recover, shall include the
43 amount of any premium for a bond given to obtain the discharge of the
44 lien or the interest on any money deposited for the purpose of discharg-
45 ing the lien, reasonable attorney's fees for services in securing the
46 discharge of the lien, and, in an action or proceeding to enforce a
47 mechanic's lien, an amount equal to the difference by which the amount
48 claimed to be due or to become due as stated in the notice of lien
49 exceeded the amount actually due or to become due thereon.

50 § 18. Section 40 of the lien law, as amended by chapter 515 of the
51 laws of 1929, is amended to read as follows:

52 § 40. Construction of article. This article is to be construed in
53 connection with article two of this chapter, and provides proceedings
54 for the enforcement of employee's liens on real property, as well as
55 liens for labor performed and materials furnished in the improvement of
56 real property, created by virtue of such article.

1 § 19. Section 41 of the lien law, as amended by chapter 807 of the
2 laws of 1952, is amended to read as follows:

3 § 41. Enforcement of mechanic's or employee's lien on real property. A
4 mechanic's lien or employee's lien on real property may be enforced
5 against such property, and against a person liable for the debt upon
6 which the lien is founded, by an action, by the lienor, his assignee or
7 legal representative, in the supreme court or in a county court other-
8 wise having jurisdiction, regardless of the amount of such debt, or in a
9 court which has jurisdiction in an action founded on a contract for a
10 sum of money equivalent to the amount of such debt.

11 § 20. Section 43 of the lien law, as amended by chapter 310 of the
12 laws of 1962, is amended to read as follows:

13 § 43. Action in a court of record; consolidation of actions. The
14 provisions of the real property actions and proceedings law relating to
15 actions for the foreclosure of a mortgage upon real property, and the
16 sale and the distribution of the proceeds thereof apply to actions in a
17 court of record, to enforce mechanics' liens and employees' liens on
18 real property, except as otherwise provided in this article. If actions
19 are brought by different lienors in a court of record, the court in
20 which the first action was brought, may, upon its own motion, or upon
21 the application of any party in any of such actions, consolidate all of
22 such actions.

23 § 21. Section 46 of the lien law, as amended by chapter 515 of the
24 laws of 1929, is amended to read as follows:

25 § 46. Action in a court not of record. If an action to enforce a
26 mechanic's lien or employee's lien against real property is brought in a
27 court not of record, it shall be commenced by the personal service upon
28 the owner of a summons and complaint verified in the same manner as a
29 complaint in an action in a court of record. The complaint must set
30 forth substantially the facts contained in the notice of lien, and the
31 substance of the agreement under which the labor was performed or the
32 materials were furnished, or if the lien is based upon a wage claim as
33 defined in section two of this chapter, the basis for such wage claim.
34 The form and contents of the summons shall be the same as provided by
35 law for the commencement of an action upon a contract in such court. The
36 summons must be returnable not less than twelve nor more than twenty
37 days after the date of the summons, or if service is made by publica-
38 tion, after the day of the last publication of the summons. Service
39 must be made at least eight days before the return day.

40 § 22. Section 50 of the lien law, as amended by chapter 515 of the
41 laws of 1929, is amended to read as follows:

42 § 50. Execution. Execution may be issued upon a judgment obtained in
43 an action to enforce a mechanic's lien or an employee's lien against
44 real property in a court not of record, which shall direct the officer
45 to sell the title and interest of the owner in the premises, upon which
46 the lien set forth in the complaint existed at the time of filing the
47 notice of lien.

48 § 23. Section 53 of the lien law, as amended by chapter 515 of the
49 laws of 1929, is amended to read as follows:

50 § 53. Costs and disbursements. If an action is brought to enforce a
51 mechanic's lien or an employee's lien against real property in a court
52 of record, the costs and disbursements shall rest in the discretion of
53 the court, and may be awarded to the prevailing party. The judgment
54 rendered in such an action shall include the amount of such costs and
55 specify to whom and by whom the costs are to be paid. If such action is
56 brought in a court not of record, they shall be the same as allowed in

1 civil actions in such court. The expenses incurred in serving the
2 summons by publication may be added to the amount of costs now allowed
3 in such court.

4 § 24. Section 59 of the lien law, as amended by chapter 515 of the
5 laws of 1929, is amended to read as follows:

6 § 59. Vacating of a [~~mechanic's~~] lien; cancellation of bond; return of
7 deposit, by order of court. 1. A mechanic's lien notice of which has
8 been filed on real property or a bond given to discharge the same may be
9 vacated and cancelled or a deposit made to discharge a lien pursuant to
10 section twenty of this chapter may be returned, by an order of a court
11 of record. Before such order shall be granted, a notice shall be served
12 upon the lienor, either personally or by leaving it as his last known
13 place of residence, with a person of suitable age, with directions to
14 deliver it to the lienor. Such notice shall require the lienor to
15 commence an action to enforce the lien, within a time specified in the
16 notice, not less than thirty days from the time of service, or show
17 cause at a special term of a court of record, or at a county court, in a
18 county in which the property is situated, at a time and place specified
19 therein, why the notice of lien filed or the bond given should not be
20 vacated and cancelled, or the deposit returned, as the case may be.
21 Proof of such service and that the lienor has not commenced the action
22 to foreclose such lien, as directed in the notice, shall be made by
23 affidavit, at the time of applying for such order.

24 2. An employee's lien notice of which has been filed on real property
25 or a bond given to discharge the same may be vacated and cancelled or a
26 deposit made to discharge a lien pursuant to section twenty of this
27 chapter may be returned, by an order of a court of record. Before such
28 order shall be granted, a notice shall be served upon the lienor, either
29 personally or by leaving it at his last known place of residence or
30 attorney's place of business, with a person of suitable age, with
31 directions to deliver it to the lienor. Such notice shall require the
32 lienor to commence an action to enforce the lien, or to commence an
33 action to obtain judgment on the wage claim upon which the lien was
34 established, within a time specified in the notice, not less than thirty
35 days from the time of service, or show cause at a special term of a
36 court of record, or at a county court, in a county in which the property
37 is situated, at a time and place specified therein, why the notice of
38 lien filed or the bond given should not be vacated and cancelled, or the
39 deposit returned, as the case may be. Proof of such service and that the
40 lienor has not commenced the action to foreclose such lien or an action
41 to obtain judgment on the wage claim upon which the lien was estab-
42 lished, as directed in the notice, shall be made by affidavit, at the
43 time of applying for such order.

44 § 25. Section 62 of the lien law, as amended by chapter 697 of the
45 laws of 1934, is amended to read as follows:

46 § 62. Bringing in new parties. A lienor who has filed a notice of lien
47 after the commencement of an action in a court of record to foreclose or
48 enforce an employee's lien or a mechanic's lien against real property or
49 a public improvement, may at any time up to and including the day
50 preceding the day on which the trial of such action is commenced, make
51 application upon notice to the plaintiff or his attorney in such action,
52 to be made a party therein. Upon good cause shown, the court must order
53 such lienor to be brought in by amendment. If the application is made by
54 any other party in said action to make such lienor or other person a
55 party, the court may in its discretion direct such lienor or other
56 person to be brought in by like amendment. The order to be entered on

1 such application shall provide the time for and manner of serving the
2 pleading of such additional lienor or other person and shall direct that
3 the pleadings, papers and proceedings of the other several parties in
4 such action, shall be deemed amended, so as not to require the making or
5 serving of papers other than said order to effectuate such amendment,
6 and shall further provide that the allegations in the answer of such
7 additional lienor or other person shall, for the purposes of the action,
8 be deemed denied by the other parties therein. The action shall be so
9 conducted by the court as not to cause substantially any delay in the
10 trial thereof. The bringing in of such additional lienor or other
11 person shall be without prejudice to the proceedings had, and if the
12 action be on the calendar of the court, same shall retain its place on
13 such calendar without the necessity of serving a new note of issue and
14 new notices of trial.

15 § 26. Subdivision 3 of section 199-a of the labor law, as amended by
16 chapter 564 of the laws of 2010, is amended to read as follows:

17 3. Each employee and his or her authorized representative shall be
18 notified in writing, of the termination of the commissioner's investi-
19 gation of the employee's complaint and the result of such investigation,
20 of any award and collection of back wages and civil penalties, and of
21 any intent to seek criminal penalties. In the event that criminal penal-
22 ties are sought the employee and his or her authorized representative
23 shall be notified of the outcome of prosecution.

24 § 27. Subdivision 2 of section 663 of the labor law, as amended by
25 chapter 564 of the laws of 2010, is amended to read as follows:

26 2. By commissioner. On behalf of any employee paid less than the wage
27 to which the employee is entitled under the provisions of this article,
28 the commissioner may bring any legal action necessary, including admin-
29 istrative action, to collect such claim, and the employer shall be
30 required to pay the full amount of the underpayment, plus costs, and
31 unless the employer proves a good faith basis to believe that its under-
32 payment was in compliance with the law, an additional amount as liqui-
33 dated damages. Liquidated damages shall be calculated by the commission-
34 er as no more than one hundred percent of the total amount of
35 underpayments found to be due the employee. In any action brought by the
36 commissioner in a court of competent jurisdiction, liquidated damages
37 shall be calculated as an amount equal to one hundred percent of under-
38 payments found to be due the employee. Each employee or his or her
39 authorized representative shall be notified in writing of the outcome of
40 any legal action brought on the employee's behalf pursuant to this
41 section.

42 § 28. Subdivision 5 of section 6201 of the civil practice law and
43 rules, as amended by chapter 860 of the laws of 1977 and as renumbered
44 by chapter 618 of the laws of 1992, is amended and a new subdivision 6
45 is added to read as follows:

46 5. the cause of action is based on a judgment, decree or order of a
47 court of the United States or of any other court which is entitled to
48 full faith and credit in this state, or on a judgment which qualifies
49 for recognition under the provisions of article 53[+] of this chapter;
50 or

51 6. the cause of action is based on wage claims. "Wage claims," when
52 used in this chapter, shall include any claims of violations of articles
53 five, six, and nineteen of the labor law, section two hundred fifteen of
54 the labor law, and the related regulations or wage orders promulgated by
55 the commissioner of labor, including but not limited to any claims of
56 unpaid, minimum, overtime, and spread-of-hours pay, unlawfully retained

1 gratuities, unlawful deductions from wages, unpaid commissions, unpaid
2 benefits and wage supplements, and retaliation, and any claims pursuant
3 to 18 U.S.C. § 1595, 29 U.S.C. § 201 et seq., and/or employment contract
4 as well as the concomitant liquidated damages and penalties authorized
5 pursuant to the labor law, the Fair Labor Standards Act, or any employ-
6 ment contract.

7 § 29. Section 6210 of the civil practice law and rules, as added by
8 chapter 860 of the laws of 1977, is amended to read as follows:

9 § 6210. Order of attachment on notice; temporary restraining order;
10 contents. Upon a motion on notice for an order of attachment, the court
11 may, without notice to the defendant, grant a temporary restraining
12 order prohibiting the transfer of assets by a garnishee as provided in
13 subdivision (b) of section 6214. When attachment is sought pursuant to
14 subdivision six of section 6201, and if the employer contests the
15 motion, the court shall hold a hearing within ten days of when the
16 employer's response to plaintiffs' motion for attachment is due. The
17 contents of the order of attachment granted pursuant to this section
18 shall be as provided in subdivision (a) of section 6211.

19 § 30. Subdivision (b) of section 6211 of the civil practice law and
20 rules, as amended by chapter 566 of the laws of 1985, is amended to read
21 as follows:

22 (b) Confirmation of order. Except where an order of attachment is
23 granted on the ground specified in subdivision one or six of section
24 6201, an order of attachment granted without notice shall provide that
25 within a period not to exceed five days after levy, the plaintiff shall
26 move, on such notice as the court shall direct to the defendant, the
27 garnishee, if any, and the sheriff, for an order confirming the order of
28 attachment. Where an order of attachment without notice is granted on
29 the ground specified in subdivision one or six of section 6201, the
30 court shall direct that the statement required by section 6219 be served
31 within five days, that a copy thereof be served upon the plaintiff, and
32 the plaintiff shall move within ten days after levy for an order
33 confirming the order of attachment. If the plaintiff upon such motion
34 shall show that the statement has not been served and that the plaintiff
35 will be unable to satisfy the requirement of subdivision (b) of section
36 6223 until the statement has been served, the court may grant one exten-
37 sion of the time to move for confirmation for a period not to exceed ten
38 days. If plaintiff fails to make such motion within the required period,
39 the order of attachment and any levy thereunder shall have no further
40 effect and shall be vacated upon motion. Upon the motion to confirm, the
41 provisions of subdivision (b) of section 6223 shall apply. An order of
42 attachment granted without notice may provide that the sheriff refrain
43 from taking any property levied upon into his actual custody, pending
44 further order of the court.

45 § 31. Subdivisions (b) and (e) of rule 6212 of the civil practice law
46 and rules, subdivision (b) as separately amended by chapters 15 and 860
47 of the laws of 1977 and subdivision (e) as added by chapter 860 of the
48 laws of 1977, are amended to read as follows:

49 (b) Undertaking. [~~On~~] 1. Except where an order of attachment is sought
50 on the ground specified in subdivision six of section 6201, on a motion
51 for an order of attachment, the plaintiff shall give an undertaking, in
52 a total amount fixed by the court, but not less than five hundred
53 dollars, a specified part thereof conditioned that the plaintiff shall
54 pay to the defendant all costs and damages, including reasonable attor-
55 ney's fees, which may be sustained by reason of the attachment if the
56 defendant recovers judgment or if it is finally decided that the plain-

1 tiff was not entitled to an attachment of the defendant's property, and
2 the balance conditioned that the plaintiff shall pay to the sheriff all
3 of his allowable fees.

4 2. On a motion for an attachment pursuant to subdivision six of
5 section 6201, the court shall order that the plaintiff give an accessi-
6 ble undertaking of no more than five hundred dollars, or in the alterna-
7 tive, may waive the undertaking altogether. The attorney for the plain-
8 tiff shall not be liable to the sheriff for such fees. The surety on the
9 undertaking shall not be discharged except upon notice to the sheriff.

10 (e) Damages. [~~The~~] Except where an order of attachment is sought on
11 the ground specified in subdivision six of section 6201, the plaintiff
12 shall be liable to the defendant for all costs and damages, including
13 reasonable attorney's fees, which may be sustained by reason of the
14 attachment if the defendant recovers judgment, or if it is finally
15 decided that the plaintiff was not entitled to an attachment of the
16 defendant's property. Plaintiff's liability shall not be limited by the
17 amount of the undertaking.

18 § 32. Paragraph (b) of section 624 of the business corporation law, as
19 amended by chapter 449 of the laws of 1997, is amended to read as
20 follows:

21 (b) Any person who shall have been a shareholder of record of a corpo-
22 ration, or who is or shall have been a laborer, servant or employee,
23 upon at least five days' written demand shall have the right to examine
24 in person or by agent or attorney, during usual business hours, its
25 minutes of the proceedings of its shareholders and record of sharehold-
26 ers and to make extracts therefrom for any purpose reasonably related to
27 such person's interest as a shareholder, laborer, servant or employee,
28 provided the purpose reasonably related to a person's interest as a
29 laborer, servant or employee shall be to obtain the names, addresses,
30 and value of shareholders' interests in the corporation. Holders of
31 voting trust certificates representing shares of the corporation shall
32 be regarded as shareholders for the purpose of this section. Any such
33 agent or attorney shall be authorized in a writing that satisfies the
34 requirements of a writing under paragraph (b) of section 609 (Proxies).
35 A corporation requested to provide information pursuant to this para-
36 graph shall make available such information in written form and in any
37 other format in which such information is maintained by the corporation
38 and shall not be required to provide such information in any other
39 format. If a request made pursuant to this paragraph includes a request
40 to furnish information regarding beneficial owners, the corporation
41 shall make available such information in its possession regarding bene-
42 ficial owners as is provided to the corporation by a registered broker
43 or dealer or a bank, association or other entity that exercises fiduci-
44 ary powers in connection with the forwarding of information to such
45 owners. The corporation shall not be required to obtain information
46 about beneficial owners not in its possession.

47 § 33. Section 630 of the business corporation law, paragraph (a) as
48 amended by chapter 5 of the laws of 2016, paragraph (c) as amended by
49 chapter 746 of the laws of 1963, is amended to read as follows:

50 § 630. Liability of shareholders for wages due to laborers, servants or
51 employees.

52 (a) The ten largest shareholders, as determined by the fair value of
53 their beneficial interest as of the beginning of the period during which
54 the unpaid services referred to in this section are performed, of every
55 domestic corporation or of any foreign corporation, when the unpaid
56 services were performed in the state, no shares of which are listed on a

1 national securities exchange or regularly quoted in an over-the-counter
2 market by one or more members of a national or an affiliated securities
3 association, shall jointly and severally be personally liable for all
4 debts, wages or salaries due and owing to any of its laborers, servants
5 or employees other than contractors, for services performed by them for
6 such corporation. [~~Before such laborer, servant or employee shall charge
7 such shareholder for such services, he shall give notice in writing to
8 such shareholder that he intends to hold him liable under this section.
9 Such notice shall be given within one hundred and eighty days after
10 termination of such services, except that if, within such period, the
11 laborer, servant or employee demands an examination of the record of
12 shareholders under paragraph (b) of section 624 (Books and records,
13 right of inspection, prima facie evidence) of this article, such notice
14 may be given within sixty days after he has been given the opportunity
15 to examine the record of shareholders. An action to enforce such liability
16 shall be commenced within ninety days after the return of an
17 execution unsatisfied against the corporation upon a judgment recovered
18 against it for such services.~~] The provisions of this paragraph shall
19 not apply to an investment company registered as such under an act of
20 congress entitled "Investment Company Act of 1940."

21 (b) For the purposes of this section, wages or salaries shall mean all
22 compensation and benefits payable by an employer to or for the account
23 of the employee for personal services rendered by such employee includ-
24 ing any concomitant liquidated damages, penalties, interest, attorney's
25 fees or costs. These shall specifically include but not be limited to
26 salaries, overtime, vacation, holiday and severance pay; employer
27 contributions to or payments of insurance or welfare benefits; employer
28 contributions to pension or annuity funds; and any other moneys properly
29 due or payable for services rendered by such employee.

30 (c) A shareholder who has paid more than his pro rata share under this
31 section shall be entitled to contribution pro rata from the other share-
32 holders liable under this section with respect to the excess so paid,
33 over and above his pro rata share, and may sue them jointly or severally
34 or any number of them to recover the amount due from them. Such recov-
35 ery may be had in a separate action. As used in this paragraph, "pro
36 rata" means in proportion to beneficial share interest. Before a share-
37 holder may claim contribution from other shareholders under this para-
38 graph, he shall[~~, unless they have been given notice by a laborer, serv-
39 ant or employee under paragraph (a),~~] give them notice in writing that
40 he intends to hold them so liable to him. Such notice shall be given by
41 him within twenty days after the date that [~~notice was given to him by~~]
42 he became aware that a laborer, servant or employee may seek to hold him
43 liable under paragraph (a).

44 § 34. Subdivision (c) of section 609 of the limited liability company
45 law, as amended by chapter 620 of the laws of 2019, is amended to read
46 as follows:

47 (c) Notwithstanding the provisions of subdivisions (a) and (b) of this
48 section, the ten members with the largest percentage ownership interest,
49 as determined as of the beginning of the period during which the unpaid
50 services referred to in this section are performed, of every domestic
51 limited liability company, or of any foreign limited liability company,
52 when the unpaid services were performed in the state, shall jointly and
53 severally be personally liable for all debts, wages or salaries due and
54 owing to any of its laborers, servants or employees, for services
55 performed by them for such limited liability company. [~~Before such
56 laborer, servant or employee shall charge such member for such services,~~

~~1 he or she shall give notice in writing to such member that he or she
2 intends to hold such member liable under this section. Such notice shall
3 be given within one hundred eighty days after termination of such
4 services. An action to enforce such liability shall be commenced within
5 ninety days after the return of an execution unsatisfied against the
6 limited liability company upon a judgment recovered against it for such
7 services.]~~ A member who has paid more than his or her pro rata share
8 under this section shall be entitled to contribution pro rata from the
9 other members liable under this section with respect to the excess so
10 paid, over and above his or her pro rata share, and may sue them jointly
11 or severally or any number of them to recover the amount due from them.
12 Such recovery may be had in a separate action. As used in this subdivi-
13 sion, "pro rata" means in proportion to percentage ownership interest.
14 Before a member may claim contribution from other members under this
15 section, he or she shall give them notice in writing that he or she
16 intends to hold them so liable to him or her.

17 § 35. Section 1102 of the limited liability company law is amended by
18 adding a new subdivision (e) to read as follows:

19 (e) Any person who is or shall have been a laborer, servant or employ-
20 ee of a limited liability company, upon at least five days' written
21 demand shall have the right to examine in person or by agent or attor-
22 ney, during usual business hours, records described in paragraph two of
23 subdivision (a) of this section throughout the period of time during
24 which such laborer, servant or employee provided services to such compa-
25 ny. A company requested to provide information pursuant to this para-
26 graph shall make available such records in written form and in any other
27 format in which such information is maintained by the company and shall
28 not be required to provide such information in any other format. Upon
29 refusal by the company or by an officer or agent of the company to
30 permit an inspection of the records described in this paragraph, the
31 person making the demand for inspection may apply to the supreme court
32 in the judicial district where the office of the company is located,
33 upon such notice as the court may direct, for an order directing the
34 company, its members or managers to show cause why an order should not
35 be granted permitting such inspection by the applicant. Upon the return
36 day of the order to show cause, the court shall hear the parties summar-
37 ily, by affidavit or otherwise, and if it appears that the applicant is
38 qualified and entitled to such inspection, the court shall grant an
39 order compelling such inspection and awarding such further relief as to
40 the court may seem just and proper. If the applicant is found to be
41 qualified and entitled to such inspection, the company shall pay all
42 reasonable attorney's fees and costs of said applicant related to the
43 demand for inspection of the records.

44 § 36. This act shall take effect on the thirtieth day after it shall
45 have become a law; provided, however that section thirty-four of this
46 act shall take effect on the same date and in the same manner as section
47 1 of chapter 620 of the laws of 2019, takes effect. The procedures and
48 rights created in this act may be used by employees, laborers or serv-
49 ants in connection with claims for liabilities that arose prior to the
50 effective date.