

STATE OF NEW YORK

10740

IN ASSEMBLY

March 27, 2026

Introduced by M. of A. VALDEZ -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to owner liability for construction industry wage theft

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

Section 1. Section 198-e of the labor law, as added by chapter 419 of the laws of 2021 and subdivisions 1, 2, 4, 9 and 10 as amended by chapter 157 of the laws of 2022, is amended to read as follows:

§ 198-e. Construction industry wage theft. 1. A contractor and an owner making or taking a construction contract shall be jointly and severally liable for any debt resulting from an action under section one hundred ninety-eight of this article, owed to an employee or third party on the employee's behalf, incurred by a subcontractor at any tier acting under, by, or for the contractor or its subcontractors or the owner for the employee's performance of labor. The provisions of this section shall not be deemed to limit the liability of a subcontractor under section one hundred ninety-eight of this article.

2. No agreement or release by an employee or subcontractor to waive liability of a contractor or owner under this section shall be valid except as otherwise provided herein. The provisions of this section shall not be deemed to impair the rights of a contractor or owner to maintain an action against a subcontractor for amounts for owed wages that are paid by a contractor or owner pursuant to this section.

3. Notwithstanding any other provision of law, the remedies available for a claim pursuant to subdivision one of this section shall only be civil and administrative actions.

4. In the case of a private civil action by an employee, such employee may designate any person, organization or collective bargaining agent authorized to file a complaint with the commissioner pursuant to section one hundred ninety-six-a of this article, to make a claim pursuant to this section on [~~his or her~~] such employee's behalf.

5. In the case of an action against a subcontractor, the contractor and the owner shall be considered jointly and severally liable for any

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

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1 unpaid wages, benefits, wage supplements, and any other remedies avail-
2 able pursuant to the requirements of section one hundred ninety-eight of
3 this article.

4 6. Nothing herein shall preclude the attorney general from bringing a
5 civil action to collect unpaid wages and penalties on behalf of employ-
6 ees pursuant to this section.

7 7. A contractor, owner or any other person shall not evade, or commit
8 any act that negates, the requirements of this section, provided, howev-
9 er, that this section shall not be deemed to prohibit a contractor, owner
10 owner or subcontractor from establishing by contract or enforcing any
11 other lawful remedies against a subcontractor it hires for liability
12 created by violation of this section, provided that such contract or
13 arrangement does not diminish the right of employees to bring an action
14 under the provisions of this section.

15 8. As used in this section:

16 a. "Construction contract" means a written or oral agreement for the
17 construction, reconstruction, alteration, maintenance, moving or demoli-
18 tion of any building, structure or improvement, or relating to the exca-
19 vation of or other development or improvement to land. For purposes of
20 this section, a construction contract shall not include: any contract
21 which is subject to article eight of this chapter; a home improvement
22 contract for the performance of a home improvement between a home
23 improvement contractor and the owner of an owner-occupied dwelling; and
24 a home construction contract for one- or two-family dwelling units
25 except where such contract or contracts results in the construction of
26 more than ten one- or two-family owner-occupied dwellings at one project
27 site annually.

28 b. "Contractor" means any person, firm, partnership, corporation,
29 association, company, organization or other entity, including a
30 construction manager, general or prime contractor, joint venture, or any
31 combination thereof, which enters into a construction contract with an
32 owner.

33 c. "Owner" means any person, firm, partnership, corporation, company,
34 association or other organization or other entity, or a combination of
35 any thereof, (with an ownership interest, whether the interest or estate
36 is in fee, as vendee under a contract to purchase, as lessee or another
37 interest or estate less than fee) that causes a building, structure or
38 improvement, new or existing, to be constructed, altered, repaired,
39 maintained, moved or demolished or that causes land to be excavated or
40 otherwise developed or improved.

41 d. "Subcontractor" means any person, firm, partnership, corporation,
42 company, association, organization or other entity, or any combination
43 thereof, which is a party to a contract with a contractor, and/or party
44 to a contract with the contractor's subcontractors at any tier to
45 perform any portion of work within the scope of the contractor's
46 construction contract with the owner, including where the subcontractor
47 has no direct privity of contract with the contractor.

48 9. A contractor's or owner's liability pursuant to the provisions of
49 this section shall be applicable only for claims occurring no earlier
50 than three years prior to the initiation of such claim in a court of
51 competent jurisdiction or the commencement of a civil action brought
52 forth by the attorney general or department. Before bringing a civil
53 action pursuant to this section, an employee, or third party on such
54 employee's behalf, must give the contractor or owner notice of the
55 alleged violation. The notice need only describe the general nature of
56 the claim and shall not limit the liability of the contractor or owner

1 or preclude subsequent amendments of an action to encompass additional
2 employees employed by the subcontractor. An employee, or third party on
3 such employee's behalf, may not bring a civil action until ten business
4 days after giving the contractor or owner notice of the alleged
5 violation and may not bring a civil action if the contractor or owner
6 corrects the alleged violation. An employee, or third party on such
7 employee's behalf, is not required to give notice to a contractor or
8 owner pursuant to this subdivision before bringing a civil action pursu-
9 ant to this section if any employee, or third party on any employee's
10 behalf, previously has given notice to such contractor or owner of the
11 same alleged violation or a prior alleged violation by the same subcon-
12 tractor. The provisions of this section shall not be deemed to diminish,
13 impair, or otherwise infringe on any other rights of an employee
14 provided pursuant to this chapter, including the right of an employee to
15 bring an action against any employer under the provisions of section one
16 hundred ninety-eight of this article.

17 10. Nothing in this section shall be deemed to diminish the rights,
18 privileges, or remedies of any employee under any collective bargaining
19 agreement. On behalf of an employee subject to a collective bargaining
20 agreement, the provisions of this section may be waived by a collective
21 bargaining agreement with a bona fide building and construction trade
22 labor organization which has established itself, and/or its affiliates,
23 as the collective bargaining representative for persons performing work
24 on a project, provided that for such waiver to be valid, it shall
25 explicitly reference this section. Provided, however, that such waiver
26 shall not diminish or impair the rights of an employee provided under
27 any other section of this chapter.

28 § 2. This act shall take effect immediately.