

P.L. 2019, CHAPTER 212, *approved August 6, 2019*
Senate, No. 1790 (*Third Reprint*)

1 AN ACT concerning enforcement, penalties, and procedures for law
2 regarding failure to pay wages, revising various parts of the
3 statutory law, and supplementing ²**[article]** articles 1 and² 3 of
4 chapter 11 of Title 34 of the Revised Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 ¹**[**1. Section 10 of P.L.1999, c.90 (C.2C:40A-2) is amended to
10 read as follows:

11 10. Violation of contract to pay employees.

12 a. An employer who has agreed with an employee or with a
13 bargaining agent for employees to pay wages, compensation or
14 benefits to or for the benefit of employees commits a disorderly
15 persons offense if the employer:

16 (1) fails to pay wages when due and as required by law; or

17 (2) fails to pay compensation or benefits as agreed and as
18 required by law, including all State wage, benefit and tax laws
19 within 30 days after due.

20 b. If a corporate employer violates subsection a., any officer or
21 employee of the corporation who is responsible for the violation
22 commits a disorderly persons offense.

23 c. Upon the presentation of sufficient evidence of a violation of
24 this section, the fact finder may infer that an employer who fails to
25 present employee records, as required pursuant to State wage,
26 benefit and tax laws, employed the complainant for the period of
27 time, and owes the amount of wages, as alleged in the complaint,
28 unless the employer demonstrates good cause for the failure to
29 present employee records.

30 d. A complaint alleging a violation of this section shall be filed
31 where the offense occurred, which for purposes of this section may
32 be the place where the employee was hired or the place where the
33 relevant work was performed by the employee.

34 e. Jurisdiction for prosecution under this section shall be the
35 place where the offense occurred, which for purposes of this section
36 may be the place where the employee was hired or the place where
37 the relevant work was performed by the employee.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted January 28, 2019.

²Senate floor amendments adopted March 14, 2019.

³Assembly floor amendments adopted June 10, 2019.

1 f. An employer found to owe wages to an employee because
2 the employer committed a violation of this section shall pay the
3 employee the wages owed plus liquidated damages equal to 200
4 percent of the wages owed, and reasonable costs of the action to the
5 employee.

6 g. In addition to damages provided in this or any other law, an
7 employer found guilty of violating the provisions of this section
8 shall be fined \$500 plus a penalty equal to 20 percent of any wages
9 owed for a first offense, and \$1,000 plus a penalty equal to 20
10 percent of any wages owed for subsequent offenses. Any sum
11 collected as a fine or penalty pursuant to this subsection shall be
12 applied toward enforcement and administration costs of the
13 Division of Wage and Hour Compliance in the Department of Labor
14 and Workforce Development.

15 h. An employer who is found to have retaliated against an
16 employee for filing a complaint under this section commits a
17 disorderly persons offense and shall, upon conviction for the
18 violation, be fined not less than \$100 nor more than \$1,000, and
19 shall be liable to the employee for all wages lost as a result of the
20 retaliation plus damages equal to 200 percent of the wages lost as a
21 result of the retaliation, and reasonable costs of the action to the
22 employee and, if the employee was discharged, be required to offer
23 reinstatement, unless the reinstatement is prohibited by law.

24 i. No payment of an amount of wages owed or related
25 damages, including wages or damages related to retaliation, shall be
26 required under this section in addition to any amount of wages and
27 damages paid for the same violation pursuant to any action taken
28 under State wage and hour laws.

29 j. For purposes of this section:

30 “Compensation or benefits” is remuneration received in return
31 for services rendered and includes, but is not limited to, health
32 benefits, pensions, medical treatment, disability compensation and
33 workers’ compensation, including death benefits to dependents of
34 workers who have died as a result of their employment.

35 “Employee” means any person suffered or permitted to work by
36 an employer, except that independent contractors and
37 subcontractors shall not be considered employees, except that, for
38 the purposes of subsections c. through i. of this section, “employee”
39 shall not include any employee working in the construction industry
40 under the provisions of a collective bargaining agreement.

41 “Employer” means any individual, partnership, association, joint
42 stock company, trust, corporation, the administrator or executor of
43 the estate of a deceased individual, or the receiver, trustee, or
44 successor of any of the same, employing any person in this State,
45 except that, for the purposes of subsections c. through i. of this
46 section, “employer” shall not include any employer in the
47 construction industry with respect to employees of that employer
48 working under the provisions of a collective bargaining agreement

1 with the employer. For the purposes of this section the officers of a
 2 corporation and any agents having the management of that
 3 corporation shall be deemed to be the employers of the employees
 4 of the corporation.

5 “State wage and hour laws” means article 1 of chapter 11 of Title
 6 34 of the Revised Statutes and all acts supplementing that article
 7 (R.S.34:11-2 et al.), P.L.1966, c.113 and all acts supplementing that
 8 act (C.34:11-56a et al.), P.L.2005, c.379 (C.34:11-56.58 et seq.),
 9 and article 3 of chapter 11 of Title 34 of the Revised Statutes
 10 (R.S.34:11-57 et seq.), but “State wage and hour laws” do not
 11 include the "New Jersey Prevailing Wage Act," P.L.1963, c.150
 12 (C.34:11-56.25 et seq.), or "The Public Works Contractor
 13 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.):

14 “State wage, benefit and tax laws” means State wage and hour
 15 laws and all of the following:

- 16 (1) The workers’ compensation law, R.S.34:15-1 et seq.;
 17 (2) The “unemployment compensation law,” R.S.43:21-1 et
 18 seq.;
 19 (3) The “Temporary Disability Benefits Law,” P.L.1948, c.110
 20 (C.43:21-25 et al.);
 21 (4) P.L.2008, c.17 (C.43:21-39.1 et al.); and
 22 (5) The “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et
 23 seq.

24 “When due” is the time agreed upon by the employer and
 25 employee but in any case not greater than 16 days of completion of
 26 the work as provided for under section 2 of P.L.1965, c.173
 27 (C.34:11-4.2) and in accordance with a bi-monthly payment
 28 schedule.

29 (cf: P.L.1999, c.90, s.10)]¹

30

31 ¹**[2.] 1.**¹ Section 2 of P.L.2009, c.194 (C.34:1A-1.12) is
 32 amended to read as follows:

33 2. a.²(1)² If ²**[the commissioner is notified pursuant to**
 34 **subsection g. of this section by the Attorney General, the Attorney**
 35 **General’s designee, or a court, of a conviction of an employer under**
 36 **subsection a. of section 10 of P.L.1999, c.90 (C.2C:40A-2), or if]**²
 37 the commissioner determines that an employer has failed, for one or
 38 more of its employees, to maintain and report every record
 39 regarding wages, benefits and taxes which the employer is required
 40 to maintain and report pursuant to State wage, benefit and tax laws,
 41 as defined in section 1 of this act, and has, in connection with that
 42 failure to maintain or report the records, failed to pay wages,
 43 benefits, taxes or other contributions or assessments as required by
 44 those laws, the commissioner shall, as an alternative to, or in
 45 addition to, any other actions taken in the enforcement of those
 46 laws, notify the employer of the determination and have an audit of
 47 the employer and any successor firm of the employer conducted not
 48 more than 12 months after the determination.

1 ²(2) If the commissioner is notified pursuant to subsection g. of
2 this section of a conviction of an employer, the commissioner shall,
3 as an alternative to, or in addition to, any other actions taken in the
4 enforcement of the laws violated by the employer, have an audit of
5 the employer and any successor firm of the employer conducted not
6 more than 12 months after receipt of the notification.²

7 b. If, in an audit conducted pursuant to subsection a. of this
8 section, the commissioner determines that the employer or any
9 successor firm to the employer has continued in its failure to
10 maintain or report records as required by those laws ²**[and] or²**
11 continued in its failure to pay wages, benefits, taxes or other
12 contributions or assessments as required by those laws, or if the
13 commissioner is notified pursuant to subsection g. of this section of
14 a ²**[subsequent]**² conviction of the employer ²**[under subsection a.**
15 of section 10 of P.L.1999, c.90 (C.2C:40A-2)] and the offense
16 resulting in the conviction occurred subsequent to an audit
17 conducted pursuant to subsection a. of this section², the
18 commissioner:

19 (1) May, after affording the employer or successor firm notice
20 and an opportunity for a hearing in accordance with the provisions
21 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
22 1 et seq.), issue a written determination directing any appropriate
23 agency to suspend any one or more licenses that are held by the
24 employer or successor firm, for a period of time determined by the
25 commissioner. In determining the length of a suspension, the
26 commissioner shall consider any of the following factors which are
27 relevant:

28 (a) The number of employees for which the employer or
29 successor firm failed to maintain or report required records and pay
30 required wages, benefits, taxes or other contributions or
31 assessments;

32 (b) The total amount of wages, benefits, taxes or other
33 contributions or assessments not paid by the employer or successor
34 firm;

35 (c) Any other harm resulting from the violation;

36 (d) Whether the employer or successor firm made good faith
37 efforts to comply with any applicable requirements;

38 (e) The duration of the violation;

39 (f) The role of the directors, officers or principals of the
40 employer or successor firm in the violation;

41 (g) Any prior misconduct by the employer or successor firm;
42 and

43 (h) Any other factors the commissioner considers relevant; and

44 (2) Shall conduct a subsequent audit or inspection of the
45 employer or any successor firm of the employer not more than 12
46 months after the date of the commissioner's written determination.

47 c. If, in the subsequent audit or inspection conducted pursuant
48 to subsection b. of this section, the commissioner determines that

1 the employer or successor firm has continued in its failure to
2 maintain or report records as required pursuant to State wage,
3 benefit and tax laws, as defined in section 1 of this act, and
4 continued in its failure to pay wages, benefits, taxes or other
5 contributions or assessments as required by those laws, or if the
6 commissioner is notified pursuant to subsection g. of this section of
7 a ²[subsequent]² conviction of the employer ²[under subsection a.
8 of section 10 of P.L.1999, c.90 (C.2C:40A-2)] for an offense
9 occurring after the audit conducted pursuant to subsection b. of this
10 section², the commissioner, after affording the employer or
11 successor firm notice and an opportunity for a hearing in
12 accordance with the provisions of the "Administrative Procedure
13 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall issue a written
14 determination directing any appropriate agency to permanently
15 revoke any one or more licenses that are held by the employer or
16 any successor firm to the employer and that are necessary to operate
17 the employer or successor firm.

18 d. Upon receipt of any written determination of the
19 commissioner directing an agency to suspend or revoke a license
20 pursuant to this section, and notwithstanding any other law, the
21 agency shall immediately suspend or revoke the license.

22 e. In instances where an employee leasing company has
23 entered into an employee leasing agreement with a client company
24 pursuant to P.L.2001, c.260 (C.34:8-67 et seq.), any written
25 determination by the commissioner directing agencies to suspend an
26 employer license pursuant to subsection b. of this section, or revoke
27 an employer license pursuant to subsection c. of this section, for a
28 failure or continued failure to keep records regarding, and to pay,
29 wages, benefits and taxes pursuant to State wage, benefit and tax
30 laws, shall be for the suspension or revocation of the licenses of the
31 client company and not the licenses of the employee leasing
32 company if the commissioner determines that the failure or
33 continued failure was caused by incomplete, inaccurate, misleading,
34 or false information provided to the employee leasing company by
35 the client company. Nothing in this subsection shall be construed
36 as diminishing or limiting the authority or obligation of the
37 commissioner to rescind the registration of an employee leasing
38 company pursuant to the provisions of section 10 of P.L.2001,
39 c.260 (C.34:8-76).

40 f. If, in the course of an audit or inspection conducted pursuant
41 to this section, the commissioner discovers that an employee of the
42 employer or of any successor firm of the employer has failed to
43 provide compensation to the employee as required under any of the
44 State wage and hour laws as defined in ²[section 10 of P.L.1999,
45 c.90 (C.2C:40A-2)] R.S.34:11-57², then the commissioner shall
46 initiate a wage claim on behalf of the employee pursuant to
47 R.S.34:11-58.

1 g. Upon the conviction of an employer under subsection a. of
 2 section 10 of P.L.1999, c.90 (C.2C:40A-2) ² [the Attorney General,
 3 the Attorney General's designee,], section 13 of P.L. , c. (C.)
 4 (pending before the Legislature as this bill), subsection a. of section
 5 10 of P.L.1965, c.173 (C.34:11-4.10), subsection a. of section 25 of
 6 P.L.1966, c.113 (C.34:11-56a24), or N.J.S.2C:20-2 if the property
 7 stolen consists of compensation the employer failed to provide to an
 8 employee under any State wage and hour law as defined in
 9 R.S.34:11-57, the prosecutor² or the court shall notify the
 10 commissioner of the employer's conviction.
 11 (cf: P.L.2009, c.194, s.2)

12
 13 ¹[3.] ² Section 10 of P.L.1965, c.173 (C.34:11-4.10) is
 14 amended to read as follows:

15 10. a. Any employer who knowingly ²[and willfully] fails to
 16 pay the full amount of wages to an employee agreed to or required
 17 by, or in the manner required by, the provisions of article 1 of
 18 chapter 11 of Title 34 of the Revised Statutes and all acts
 19 supplementing that article (R.S.34:11-2 et al.), or who knowingly²
 20 violates any ²other² provision of P.L.1965, c.173 (34:11-4.1 et
 21 seq.), or who ²[discharges, or in any other manner discriminates]
 22 takes a retaliatory action² against an employee ²by discharging or in
 23 any other manner discriminating against the employee² because the
 24 employee has made a complaint to that employee's employer, to the
 25 commissioner, or to that employee's authorized representative, that
 26 the employer has not paid the employee the full amount of wages
 27 agreed upon or required by, and in the manner required by, the
 28 provisions of article 1 of chapter 11 of Title 34 of the Revised
 29 Statutes and all acts supplementing that article (R.S.34:11-2 et al.),
 30 or because the employee has caused to be instituted or is about to
 31 cause to be instituted any proceeding under or related to that article
 32 or those acts, or because that employee has testified or is about to
 33 testify in any proceeding under or relating to that article or those
 34 acts, or because the employee has informed any ²[person]
 35 employee of the employer² about rights under State laws regarding
 36 wages and hours worked, shall be guilty of a disorderly persons
 37 offense and, upon conviction for a ¹first¹ violation, shall be
 38 punished by a fine of not less than ¹[\$100] ¹\$500¹ nor more than
 39 \$1,000 ¹or by imprisonment for not less than 10 nor more than 90
 40 days or by both the fine and imprisonment and, upon conviction for
 41 a second ²or subsequent² violation, be punished by a fine of not less
 42 than \$1,000 nor more than \$2,000 or by imprisonment for not less
 43 than 10 nor more than 100 days or by both the fine and
 44 imprisonment¹. ²[¹Upon conviction for a third or subsequent
 45 violation, an employer shall be guilty of a crime of the fourth
 46 degree and be punished by a fine of not less than \$2,000 nor more
 47 than \$10,000 or by imprisonment for up to 18 months or by both the

1 fine and imprisonment.¹² Each ¹week, in any¹ day ¹【during】 of¹
2 which any violation of 【this act】 article 1 of chapter 11 of Title 34
3 of the Revised Statutes and all acts supplementing that article
4 (R.S.34:11-2 et al.) continues shall constitute a separate and distinct
5 offense. In the case of a discharge or other discriminatory action
6 against the employee which is in violation of this subsection, the
7 employer shall ²also² be required to offer reinstatement in
8 employment to the discharged employee²【, unless the reinstatement
9 is prohibited by law,】² and to correct the discriminatory action, and
10 also to pay to the employee, in full, all wages lost as a result of that
11 discharge or discriminatory action, plus ²【any reasonable cost of
12 the action, and】² liquidated damages equal to ²not more than² 200
13 percent of the wages due, under penalty of contempt proceedings.
14 Taking an adverse action against an employee within ninety days of
15 the employee filing a complaint with the commissioner ²or a claim
16 or action being brought by or on behalf of the employee in a court
17 of competent jurisdiction² for a violation of article 1 of chapter 11
18 of Title 34 of the Revised Statutes and all acts supplementing that
19 article (R.S.34:11-2 et al.) shall ²【raise a presumption】 be
20 considered presumptive evidence² that the ²employer's² action was
21 ²【a discriminatory action】 knowingly² taken in retaliation²【, which
22 may be rebutted only by clear and convincing evidence that the
23 action was taken for other, permissible, reasons】 against the
24 employee². An employee complaint or other communication need
25 not make explicit reference to any section or provision of any State
26 law regarding wages and hours worked to trigger the protections of
27 this section.

28 b. As an alternative to or in addition to any other sanctions
29 provided by law for violations of P.L.1965, c.173 (C.34:11-4.1 et
30 seq.), when the Commissioner of Labor and Workforce
31 Development finds that an employer has violated that act, or taken
32 any ²【discriminatory】 retaliatory² action against the employee in
33 violation of subsection a. of this section, the commissioner is
34 authorized to assess and collect administrative penalties, up to a
35 maximum of \$250 for a first violation and up to a maximum of
36 \$500 for each subsequent violation, specified in a schedule of
37 penalties to be promulgated as a rule or regulation by the
38 commissioner in accordance with the "Administrative Procedure
39 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the
40 amount of the penalty imposed because of a violation, the
41 commissioner shall consider factors which include the history of
42 previous violations by the employer, the seriousness of the
43 violation, the good faith of the employer and the size of the
44 employer's business. No administrative penalty shall be levied
45 pursuant to this section unless the Commissioner of Labor and
46 Workforce Development provides the alleged violator with
47 notification of the violation and of the amount of the penalty by
48 certified mail and an opportunity to request a hearing before the

1 commissioner or his designee within 15 days following the receipt
2 of the notice. If a hearing is requested, the commissioner shall
3 issue a final order upon such hearing and a finding that a violation
4 has occurred. If no hearing is requested, the notice shall become a
5 final order upon expiration of the 15-day period. Payment of the
6 penalty is due when a final order is issued or when the notice
7 becomes a final order. Any penalty imposed pursuant to this
8 section may be recovered with costs in a summary proceeding
9 commenced by the commissioner pursuant to **["the penalty**
10 **enforcement law"** (N.J.S.2A:58-1 et seq.)**]** the "Penalty
11 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
12 Any sum collected as a fine or penalty pursuant to this section shall
13 be applied toward enforcement and administration costs of the
14 Division of Workplace Standards in the Department of Labor and
15 Workforce Development.

16 c. If any employer fails to pay the full amount of wages to an
17 employee agreed to or required by, or in the manner required by,
18 the provisions of article 1 of chapter 11 of Title 34 of the Revised
19 Statutes and all acts supplementing that article (R.S.34:11-2 et al.),
20 the employee may recover in a civil action the full amount of any
21 wages due, or any wages ²[due] lost² because of any
22 ²[discriminatory] retaliatory² action ²taken² in violation of
23 subsection a. of this section, plus an amount of liquidated damages
24 equal to ³not more than³ 200 percent of the wages ²lost or of the
25 wages² due, together with costs and reasonable attorney's fees as
26 are allowed by the court, except that if there is an agreement of the
27 employee to accept payment of the unpaid wages supervised by the
28 commissioner pursuant to section 9 of P.L.1965, c.173 (C.34:11-
29 4.9) or R.S.34:11-58, the liquidated damages shall be equal to ³not
30 more than³ 200 percent of wages that were due prior to the
31 supervised payment. ³The payment of liquidated damages shall not
32 be required for a first violation by an employer if the employer
33 shows to the satisfaction of the court that the act or omission
34 constituting the violation was an inadvertent error made in good
35 faith and that the employer had reasonable grounds for believing
36 that the act or omission was not a violation, and the employer
37 acknowledges that the employer violated the law and pays the
38 amount owed within 30 days of notice of the violation. ³ ²In a case
39 of retaliation against an employee in violation of the provisions of
40 subsection a. of this section, the employer shall also be required to
41 offer reinstatement in employment to the discharged employee and
42 take other actions as needed to correct the retaliatory action. For
43 purposes of this subsection, an employer taking an adverse action
44 against an employee within ninety days of the employee filing a
45 complaint with the commissioner, or a claim or action being
46 brought by or on behalf of the employee in a court of competent
47 jurisdiction, for a violation of provisions of article 1 of chapter 11
48 of Title 34 of the Revised Statutes and all acts supplementing that
49 article (R.S.34:11-2 et al.) shall raise a presumption that the
50 employer's action was taken in retaliation against the employee,

1 which presumption may be rebutted only by clear and convincing
2 evidence that the action was taken for other, permissible, reasons.²
3 Any agreement by the employee to work for, or accept, wages paid
4 which are less than the amount agreed to or required by law, or paid
5 in a manner other than that required by article 1 of chapter 11 of
6 Title 34 of the Revised Statutes and all acts supplementing that
7 article (R.S.34:11-2 et al.), shall be no defense to the action. The
8 employee shall be entitled to maintain the action for and on behalf
9 of other similarly situated employees, or designate an agent or
10 representative to maintain the action for and on behalf of all
11 similarly situated employees. The employee may bring the action
12 ²[to recover] for all appropriate relief, including reinstatement, the
13 payment of damages and the recovery of lost wages or² unpaid
14 wages pursuant to this section in the Superior Court³], and may
15 bring the action in the Division of Small Claims of the Superior
16 Court, Law Division, Special Civil Part if the sum of the unpaid
17 wages and the liquidated damages does not exceed the jurisdictional
18 limits of the Division of Small Claims]³. Upon the request of any
19 employee not paid the full wages agreed upon or required by law
20 and in the manner required by the provisions of article 1 of chapter
21 11 of Title 34 of the Revised Statutes and all acts supplementing
22 that article (R.S.34:11-2 et al.), the commissioner may take an
23 assignment of the wage claim in trust for the assigning employee
24 and may bring any legal action necessary to collect the claim, and
25 the employer shall be required to pay to the employee the unpaid
26 wages and liquidated damages equal to ³not more than³ 200 percent
27 of the amount of the unpaid wages and pay to the commissioner the
28 costs and reasonable attorney's fees as determined by the court.
29 ³The payment of liquidated damages shall not be required for a first
30 violation by an employer if the employer shows to the satisfaction
31 of the court that the act or omission constituting the violation was
32 an inadvertent error made in good faith and that the employer had
33 reasonable grounds for believing that the act or omission was not a
34 violation, and the employer acknowledges that the employer
35 violated the law and pays the amount owed within 30 days of notice
36 of the violation.³

37 (cf: P.L.1991, c.205, s.3)

38
39 ¹[4.] ^{3.1} Section 25 of P.L.1966, c.113 (C.34:11-56a24) is
40 amended to read as follows:

41 25. a. Any employer who ²[discharges or in any other manner
42 discriminates] takes a retaliatory action² against any employee ²by
43 discharging or in any other manner discriminating against the
44 employee² because the employee has made any complaint to his
45 employer, to the commissioner, the director or to their authorized
46 representatives, or to a representative of the employee, that he has
47 not been paid wages in accordance with the provisions of this act,
48 or because such employee has caused to be instituted or is about to
49 cause to be instituted any proceeding under or related to this act, or

1 because such employee has testified or is about to testify in any
2 such proceeding, or because such employee has served or is about
3 to serve on a wage board, or because the employee has informed
4 any ²[person] employee of the employer² about rights under State
5 laws regarding wages and hours of work, shall be guilty of a
6 disorderly persons offense and shall, upon conviction ²[therefor]
7 for a first violation², be fined not less than ¹[\$100] \$500¹ nor more
8 than \$1,000 ¹or by imprisonment for not less than 10 nor more than
9 90 days or by both the fine and imprisonment and, upon conviction
10 for a second ²or subsequent² violation, be punished by a fine of not
11 less than \$1,000 nor more than \$2,000 or by imprisonment for not
12 less than 10 nor more than 100 days or by both the fine and
13 imprisonment¹. ²[¹Upon conviction for a third or subsequent
14 violation, an employer shall be guilty of a crime of the fourth
15 degree and be punished by a fine of not less than \$2,000 nor more
16 than \$10,000 or by imprisonment for up to 18 months or by both the
17 fine and imprisonment.¹ Such] The² employer shall ²also² be
18 required, as a condition of such judgment of conviction, to offer
19 reinstatement in employment to ²[any such] the² discharged
20 employee²[, unless the reinstatement is prohibited by law,]² and to
21 correct any such discriminatory action, and also to pay to any such
22 employee in full, all wages lost as a result of such discharge or
23 discriminatory action and an additional amount of liquidated
24 damages equal to ²not more than² 200 percent of the wages ²[due]
25 lost², under penalty of contempt proceedings for failure to comply
26 with such requirement. Taking an adverse action against an
27 employee within ninety days of the employee filing a complaint
28 with the commissioner², or a claim or action being brought by or on
29 behalf of the employee in a court of competent jurisdiction,² for a
30 violation of P.L.1966, c.113 (C.34:11-56a et seq.) shall ²[raise a
31 presumption] be considered presumptive evidence² that the
32 ²employer's² action was ²[a discriminatory action] knowingly²
33 taken in retaliation²[, which may be rebutted only by clear and
34 convincing evidence that the action was taken for other,
35 permissible, reasons] against the employee². An employee
36 complaint or other communication need not make explicit reference
37 to any section or provision of State law regarding wages or hours
38 worked to trigger the protections of this section.

39 b. As an alternative to or in addition to any other sanctions
40 provided by law for violations of P.L.1966, c.113 (C.34:11-56a et
41 seq.), when the Commissioner of Labor and Workforce
42 Development finds that an employer has violated that act, or taken
43 any ²[discriminatory] retaliatory² action against the employee in
44 violation of subsection a. of this section, the commissioner is
45 authorized to assess and collect administrative penalties, up to a
46 maximum of \$250 for a first violation and up to a maximum of
47 \$500 for each subsequent violation, specified in a schedule of
48 penalties to be promulgated as a rule or regulation by the

1 commissioner in accordance with the "Administrative Procedure
2 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). When determining the
3 amount of the penalty imposed because of a violation, the
4 commissioner shall consider factors which include the history of
5 previous violations by the employer, the seriousness of the
6 violation, the good faith of the employer and the size of the
7 employer's business. No administrative penalty shall be levied
8 pursuant to this section unless the Commissioner of Labor and
9 Workforce Development provides the alleged violator with
10 notification of the violation and of the amount of the penalty by
11 certified mail and an opportunity to request a hearing before the
12 commissioner or his designee within 15 days following the receipt
13 of the notice. If a hearing is requested, the commissioner shall
14 issue a final order upon such hearing and a finding that a violation
15 has occurred. If no hearing is requested, the notice shall become a
16 final order upon expiration of the 15-day period. Payment of the
17 penalty is due when a final order is issued or when the notice
18 becomes a final order. Any penalty imposed pursuant to this
19 section may be recovered with costs in a summary proceeding
20 commenced by the commissioner pursuant to **["the penalty**
21 **enforcement law"** (N.J.S.2A:58-1 et seq.)**]** the "Penalty
22 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
23 Any sum collected as a fine or penalty pursuant to this section shall
24 be applied toward enforcement and administration costs of the
25 Division of Workplace Standards in the Department of Labor and
26 Workforce Development.
27 (cf: P.L.1991, c.205, s.22)

28
29 ¹**[5.] 4.**¹ Section 26 of P.L.1966, c.113 (C.34:11-56a25) is
30 amended to read as follows:

31 26. If any employee is paid by an employer less than the
32 minimum fair wage to which **[such]** the employee is entitled under
33 the provisions of **[this act]** P.L.1966, c.113 (C.34:11-56a et seq.) or
34 by virtue of a minimum fair wage order **[such]**², or suffers a loss of
35 wages or other damages because of a retaliatory action by the
36 employer in violation of the provisions of section 24 of P.L.1966,
37 c.113 (C.34:11-56a24)², the employee may recover in a civil action
38 the full amount of **[such]** that minimum wage less any amount
39 actually paid to him or her by the employer **[together with]**², or any
40 wages lost due to the retaliatory action,² and an additional amount
41 equal to³ not more than³ 200 percent of the amount of the unpaid
42 minimum wages² or wages lost due to retaliatory action² as
43 liquidated damages, plus costs and **[such]** reasonable attorney's
44 fees as **[may be allowed]** determined by the court, **[and any]**
45 except that if there is an agreement of the employee to accept
46 payment of the unpaid wages or compensation supervised by the
47 commissioner pursuant to section 24 of P.L.1966, c.113 (C.34:11-

1 56a23) or R.S.34:11-58, the liquidated damages shall be equal to
2 ³not more than³ 200 percent of wages that were due prior to the
3 supervised payment. ³The payment of liquidated damages shall not
4 be required for a first violation by an employer if the employer
5 shows to the satisfaction of the court that the act or omission
6 constituting the violation was an inadvertent error made in good
7 faith and that the employer had reasonable grounds for believing
8 that the act or omission was not a violation, and the employer
9 acknowledges that the employer violated the law and pays the
10 amount owed within 30 days of notice of the violation.³ ²In a case
11 of retaliation against an employee in violation of the provisions of
12 section 24 of P.L.1966, c.113 (C.34:11-56a24), the employer shall
13 also be required to offer reinstatement in employment to the
14 discharged employee, and take other actions as needed to correct
15 the retaliatory action. For purposes of this section, an employer
16 taking an adverse action against an employee within 90 days of the
17 employee filing a complaint with the commissioner or a claim or
18 action being brought by or on behalf of the employee in a court of
19 competent jurisdiction for a violation of P.L.1966, c.113 (C.34:11-
20 56a et seq.) shall raise a presumption that the employer's action was
21 taken in retaliation against the employee, which presumption may
22 be rebutted only by clear and convincing evidence that the action
23 was taken for other, permissible, reasons.² Any agreement between
24 【such】 the employee and the employer to work for less than 【such】
25 the minimum fair wage shall be no defense to the action. An
26 employee shall be entitled to maintain 【such】 the action for and on
27 behalf of himself or other employees similarly situated, and 【such】
28 the employee and employees may designate an agent or
29 representative to maintain 【such】 the action for and on behalf of all
30 employees similarly situated. The employee may bring the action
31 to recover unpaid minimum wages², or wages lost due to retaliatory
32 action, or other appropriate relief, including reinstatement and
33 payment of damages² pursuant to this section^{2,2} in the Superior
34 Court³【, and may bring the action in the Division of Small Claims
35 of the Superior Court, Law Division, Special Civil Part if the sum
36 of the amount of unpaid minimum wages ²or lost wages² and the
37 amount of liquidated damages does not exceed the jurisdictional
38 limits of the Division of Small Claims】³.

39 At the request of any employee paid less than the minimum wage
40 to which 【such】 the employee was entitled under the provisions of
41 【this act】 P.L.1966, c.113 (C.34:11-56a et seq.) or under an order,
42 the commissioner may take an assignment of the wage claim in trust
43 for the assigning employee and may bring any legal action
44 necessary to collect the claim, and the employer shall be required to
45 pay to the employee the unpaid wages and liquidated damages equal
46 to ²not more then² 200 percent the amount of the unpaid wages and
47 pay to the commissioner the costs and 【such】 reasonable attorney's

1 fees as **[may be allowed]** determined by the court. ³The payment
2 of liquidated damages shall not be required for a first violation by
3 an employer if the employer shows to the satisfaction of the court
4 that the act or omission constituting the violation was an inadvertent
5 error made in good faith and that the employer had reasonable
6 grounds for believing that the act or omission was not a violation,
7 and the employer acknowledges that the employer violated the law
8 and pays the amount owed within 30 days of notice of the
9 violation.³

10 (cf: P.L.1966, c.113, s.26)

11
12 ¹**[6.] 5.**¹ Section 1 of P.L.1967, c.216 (C.34:11-56a25.1) is
13 amended to read as follows:

14 1. No claim for unpaid minimum wages, unpaid overtime
15 compensation, ²unlawful discharge or other discriminatory acts
16 taken in retaliation against the employee,² or other damages under
17 this act shall be valid with respect to any such claim which has
18 arisen more than **[2]** six years prior to the commencement of an
19 action for the recovery thereof. In determining when an action is
20 commenced, the action shall be considered to be commenced on the
21 date when a complaint is filed with the Commissioner of the
22 Department of Labor and **[Industry]** Workforce Development or
23 the Director of **[the]** Wage and Hour **[Bureau]** Compliance, and
24 notice of such complaint is served upon the employer; or, where an
25 audit by the Department of Labor and **[Industry]** Workforce
26 Development discloses a probable cause of action for unpaid
27 minimum wages, unpaid overtime compensation, or other damages,
28 and notice of such probable cause of action is served upon the
29 employer by the Director of **[the]** Wage and Hour **[Bureau]**
30 Compliance; or where a cause of action is commenced in a court of
31 appropriate jurisdiction.

32 (cf: P.L.1967, c.216, s.1)

33
34 ¹**[7.] 6.**¹ R.S.34:11-57 is amended to read as follows:

35 34:11-57. As used in this article:

36 "Commissioner" means the Commissioner of Labor and
37 **[Industry]** Workforce Development or any person or persons in the
38 department designated in writing by him for the purposes of this
39 article.

40 "Community-based organization" means a public, or nonprofit
41 private, organization funded with public or private funds, or both,
42 that provides services to day laborers, migrant laborers, temporary
43 laborers, low wage workers, or any other type of employee.

44 "Department" means the Department of Labor and Workforce
45 Development.

46 "Employee" means any natural person who works for another for
47 hire.

1 "Employer" means any person, partnership, firm or corporation
2 employing another for hire.

3 "Legal services organization" means a public, or nonprofit
4 private, organization funded with public or private funds, or both,
5 that provides counseling or advice related to wage protection laws,
6 preparation of legal documents, or representation of any person
7 before a court or administrative agency.

8 "State wage and hour laws" means article 1 of chapter 11 of Title
9 34 of the Revised Statutes and all acts supplementing that article
10 (R.S.34:11-2 et al.), P.L.1966, c.113 and all acts supplementing that
11 act (C.34:11-56a et al.), P.L.2005, c.379 (C.34:11-56.58 et seq.),
12 and article 3 of chapter 11 of Title 34 of the Revised Statutes
13 (R.S.34:11-57 et seq.), but "State wage and hour laws" do not
14 include the "New Jersey Prevailing Wage Act," P.L.1963, c.150
15 (C.34:11-56.25 et seq.), or "The Public Works Contractor
16 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.).

17 "Wages" means any moneys due an employee from the employer
18 whether payable by the hour, day, week, semimonthly, monthly or
19 yearly and shall include commissions, bonus, piecework
20 compensation and any other benefits arising out of an employment
21 contract.

22 (cf: P.L.1964, c.92, s.1)

23

24 ¹**[8.] 7.**¹ R.S.34:11-58 is amended to read as follows:

25 34:11-58. a. An employee may file a claim for wages against
26 an employer under this section or any of the other State wage and
27 hours laws for wages owed related to work performed², including
28 but not limited to wages owed related to unpaid minimum wages,
29 unpaid overtime compensation, wages lost because of unlawful
30 discharge or other discriminatory acts taken in retaliation against
31 the employee,² up to six years prior to the date the claim for wages
32 is filed.

33 b. An employer found to owe an employee wages shall pay the
34 employee the wages owed plus liquidated damages equal to ²not
35 more than² 200% of the wages owed, exclusive of any costs or fees.

36 c. The commissioner is authorized and empowered to
37 investigate any claim for wages due an employee and in such
38 investigation may summon the defendant, subpoena witnesses,
39 administer oaths, take testimony and shall upon such proceeding
40 make a decision or award **[**when the sum in controversy, exclusive
41 of costs, does not exceed \$30,000.00¹**]** ¹when the sum in
42 controversy, exclusive of costs, does not exceed \$50,000¹.

43 Such decision or award shall be a judgment when a certified
44 copy thereof is filed with the Superior Court.

45 Such judgment shall be entered in the same manner and have the
46 same effect and be subject to the same proceedings as are
47 judgments rendered in suits duly heard and determined by courts of
48 competent jurisdiction.

1 d. Upon an investigation of a wage claim initiated pursuant to
 2 this section or any of the other State wage and hours laws, if an
 3 employer fails to provide sufficient employee records, as required
 4 to be kept under any State wage and hour laws, there shall be a
 5 rebuttable presumption that the employee worked for the employer
 6 for the period of time and for the amount of wages as alleged in the
 7 wage claim. ¹The rebuttable presumption shall not apply to an
 8 employer that can demonstrate it does not have sufficient employee
 9 records as a result of record destruction due to a natural disaster.¹

10 e. The commissioner is authorized to supervise the payment of
 11 amounts, including liquidated damages, due to employees under an
 12 award made pursuant to this section, and the employer may be
 13 required to make these payments to the commissioner to be held in
 14 a special account in trust for the employees, and paid on order of
 15 the commissioner directly to the employee or employees affected.
 16 The employer shall also pay the commissioner an administrative fee
 17 equal to not less than 10% or more than 25% of any payment made
 18 to the commissioner pursuant to this section. The amount of the
 19 administrative fee shall be specified in a schedule of fees to be
 20 promulgated by rule or regulation of the commissioner in
 21 accordance with the "Administrative Procedure Act," P.L.1968,
 22 c.410 (C.52:14B-1 et seq.). The fee shall be applied to enforcement
 23 and administration costs of the Division of Workplace Standards in
 24 the Department of Labor and Workforce Development.

25 f. Upon issuing a decision, under this section or any of the
 26 other State wage and hours laws, finding wages due to an employee
 27 in an amount equal to or greater than \$5,000, the commissioner
 28 shall:

29 (1) inform the employer ²[of] that ²the ²[commissioner's
 30 intention to] commissioner may ²conduct an audit of the employer
 31 or any successor firm of the employer pursuant to section 2 of
 32 P.L.2009, c.194 (C.34:1A-1.12); and

33 (2) notify the Division of Taxation in the Department of the
 34 Treasury of the decision and ²may ²recommend that the division
 35 conduct an audit of the employer to ensure the proper withholding
 36 and payment of payroll and other taxes by the employer.

37 g. No payment of an amount of wages owed or related
 38 damages, including wages or damages related to retaliation, shall be
 39 required under the provision of this section, or under the provisions
 40 of any of the other State wage and hour laws, which results in a
 41 violation paying wages owed or damages more than one time for the
 42 same violation.

43 (cf: P.L.2006, c.25, s.1)

44
 45 ¹[9.] 8.¹ (New section) a. If an employer fails to comply with
 46 a final determination of the commissioner or a judgment of a court,
 47 including a small claims court, made under the provisions of State
 48 wage and hour laws or of section 10 of P.L.1999, c.90 (C.2C:40-2),

1 to pay an employee any wages owed or damages awarded within ten
2 days of the time that the determination or judgement requires the
3 payment, the commissioner may do either or both of the following:

4 (1) issue, in the manner provided in subsection b. of section 2 of
5 P.L.2009, c.194 (C.34:1A-1.12), a written determination directing
6 any appropriate agency to suspend one or more licenses held by the
7 employer or any successor firm of the employer until the employer
8 complies with the determination or judgement; or

9 (2) issue a stop work order against the violators requiring the
10 cessation of all business operations of the violator. The stop work
11 order may only be issued against the individual or entity found to be
12 in violation, and only as to the specific place of business or
13 employment for which the violation exists. The stop work order
14 shall be effective when served upon the violator or at a place of
15 business or employment by posting a copy of the stop work order in
16 a conspicuous location at the place of business or employment. The
17 stop work order shall remain in effect until the commissioner issues
18 an order releasing the stop work order upon a finding that the
19 violation has been corrected. As a condition of release of a stop-
20 work order under this section, the commissioner may require the
21 employer against whom the stop-work order had been issued to file
22 with the department periodic reports for a probationary period of
23 two years.

24 b. Stop work orders and any penalties imposed under a stop
25 work order against a corporation, partnership, or sole proprietorship
26 shall be effective against any successor entity that has one or more
27 of the same principals or officers as the corporation, partnership, or
28 sole proprietorship against which the stop work order was issued
29 and that is engaged in the same or equivalent trade or activity.

30 c. Any employee affected by a stop work order issued pursuant
31 to this section shall be paid by the employer for the first ten days of
32 work lost because of the stop work order.

33 d. A rebuttable presumption that an employer has established a
34 successor entity shall arise if the two share at least ¹~~three~~ two¹ of
35 the following capacities or characteristics:

36 (1) perform similar work ¹within the same geographical area¹;

37 (2) occupy the same premises;

38 (3) have the same telephone or fax number;

39 (4) have the same email address or Internet website;

40 (5) ¹~~perform work in the same geographical area~~;

41 (6) ¹~~employ substantially the same work force~~, administrative
42 employees, or both¹;

43 ³~~[(7)] (6)~~³ utilize the same tools ¹~~and~~, facilities, or¹
44 equipment;

45 ³~~[(8)] (7)~~³ employ or engage the services of any person or
46 persons involved in the direction or control of the other; or

47 ³~~[(9)] (8)~~³ list substantially the same work experience.
48

1 ¹**[10.] 9.**¹ (New section) a. A client employer and a labor
2 contractor providing workers to the client employer shall be subject
3 to joint and several liability and shall share civil legal responsibility
4 for any violations of the provisions of State wage and hour laws or
5 violations of the provisions of section 10 of P.L.1999, c.90
6 (C.2C:40A-2) regarding compliance with State wage and hour laws,
7 including provisions regarding retaliatory actions against employees
8 for exercising their rights under any of those laws, and both may be
9 subject to any remedy provided for violations of those laws. A
10 client employer shall not shift to the labor contractor any legal
11 duties or liabilities under the provisions of the “Worker Health and
12 Safety Act,” P.L.1965, c.154 (C.34:6A-1 et seq.) or “The Worker
13 and Community Right to Know Act,” P.L.1983, c.315 (C.34:5A-1
14 et seq.) with respect to workers supplied by the labor contractor. A
15 waiver of the provisions of this section is contrary to public policy,
16 and is void and unenforceable.

17 b. This section shall not be interpreted as:

18 (1) imposing individual liability on a homeowner for labor or
19 services received at the home or the owner of a home-based
20 business for labor or services received at the home; or

21 (2) restricting or limiting the rights of a client employer to
22 recover from a labor contractor any expense to the client employer,
23 or the rights of a labor contractor to recover from a client employer
24 any expense to the labor contractor, resulting from any violation by
25 the labor contractor or client employer of the provisions of State
26 wage and hour laws or of section 10 of P.L.1999, c.90 (C.2C:40A-
27 2), or restricting or limiting the provisions in contracts between
28 client employers and labor contractors regarding the recovery of
29 expenses pursuant to this paragraph.

30 c. As used in this section:

31 “Client employer” means a business entity, regardless of its
32 form, that obtains or is provided workers, directly from a labor
33 contractor or indirectly from a subcontractor, to perform labor or
34 services within its usual course of business.

35 “Labor contractor” means any individual or entity that supplies,
36 either with or without a contract, directly or indirectly, a client
37 employer with workers to perform labor or services within the
38 client employer’s usual course of business, except that “labor
39 contractor” does not include a bona fide labor organization or
40 apprenticeship program, or a hiring hall operated pursuant to a
41 collective bargaining agreement.

42 “Usual course of business” means the regular and customary
43 work of a business, performed within or upon the premises or
44 worksite of the client employer, or any other place of business of
45 the client employer for which services or labor are performed.

46

47 ¹**[11.] 10.**¹ (New section) Each employer shall provide each
48 current employee and each newly hired employee of the employer, a

1 written copy of the statement produced by the department pursuant
2 to ²[subsection c. of]² section ²[12] 11² of P.L. , c. (C.)
3 (pending before the Legislature as this bill) of the employee's rights
4 under the provisions of State wage and hour laws and the provisions
5 of section 10 of P.L.1999, c.90 (C.2C:40A-2), with an explanation
6 of how to file a claim or take an action pursuant to those laws.

7
8 ¹[12.] 11¹ (New section) The department, for the purpose of
9 supporting the enforcement of the provisions of State wage and
10 hour laws and the provisions of section 10 of P.L.1999, c.90
11 (C.2C:40A-2), ²[shall:

12 a.] may² contract with community-based organizations and legal
13 services organizations to disseminate information to day laborers,
14 migrant laborers, temporary laborers, or any other type of employee
15 concerning the protections afforded by State wage and hour laws
16 and section 10 of P.L.1999, c.90 (C.2C:40A-2), and the process by
17 which an individual may take actions under those laws²];

18 b. contract with community-based organizations and legal
19 services organizations to investigate, prepare, and if necessary,
20 represent employees in actions under State wage and hour laws or
21 section 10 of P.L.1999, c.90 (C.2C:40A-2), including actions under
22 those laws concerning retaliation against employees; and

23 c.] and shall² produce, and make available to the public on the
24 website of the department ²in printable form², a statement of
25 employee rights under the provisions of State wage and hour laws
26 and the provisions of section 10 of P.L.1999, c.90 (C.2C:40A-2),
27 with an explanation of how to file a claim or take an action pursuant
28 to those laws.

29 The contracts entered into between the department and
30 community-based organizations and legal services organizations
31 pursuant to this section shall require that the organizations make all
32 services accessible to persons with limited English proficiency
33 ²[and shall provide that, in any case in which the community-based
34 or legal services organization assists or represents employees
35 pursuant to subsection b. of this section, 50 percent of any fees or
36 penalties collected by the department shall be paid to the
37 organization for services provided pursuant to contracts entered into
38 pursuant to this section, and that]. Any² payment ²made to an
39 organization under a contract² shall be regarded as an enforcement
40 and administrative cost of the Division of Workplace Standards of
41 the department.

42 The department, and any community-based organization or legal
43 services organization contracting with the department pursuant to
44 this section, shall provide any individual seeking assistance to file a
45 complaint or take an action regarding unpaid wages with a
46 description of all of the applicable remedies available to the
47 individual under State wage and hour laws and section 10 of

1 P.L.1999, c.90 (C.2C:40A-2), including the individual's right to
2 obtain liquidated damages, and that that right to damages is waived
3 if the individual agrees to accept payment of the unpaid wages
4 supervised by the commissioner.
5

6 ¹**[13.] 12.**¹ (New section) a. The commissioner, in consultation
7 with the Administrative Director of the Courts and the Attorney
8 General, shall compile and prominently place on a website,
9 maintained by the department and available to the public, an annual
10 report evaluating the effectiveness and efficiency of the
11 enforcement and administration of wage claims and wage
12 collections. The report shall include, but not be limited to:

13 (1) the number of complaints, investigations, prosecutions,
14 dispositions, and business license suspensions and revocations, the
15 number and amount of penalties, the amount of wages recovered,
16 and the number of workers effected;

17 (2) an enumeration and description of all community-based and
18 legal services organizations contracted by the department to support
19 the enforcement; and

20 (3) recommendations for strengthening the implementation and
21 enforcement of P.L. , c. (C.) (pending before the
22 Legislature as this bill).

23 b. The commissioner, in consultation with the Administrative
24 Director of the Courts and the Attorney General, shall compile and
25 prominently place on a website, maintained by the department and
26 available to the public, the following information regarding each
27 wage claim in which an employer was found to have been in
28 violation of one or more State wage and hour laws in a final
29 determination by the commissioner or a judgement of a court made
30 during the preceding period of not less than 12 months:

31 (1) the name and address of the employer;

32 (2) the nature of the claim, including whether it is a claim for
33 one or more of the following: unpaid wages; failure to pay the
34 minimum wage; failure to pay required overtime; or retaliation
35 against an employee in connection with State wage and hour laws;

36 (3) the number of affected employees, and the amount of wages
37 found owed; and

38 (4) any findings, penalties, and business license suspensions or
39 revocations that resulted from the wage claim.

40 The information on a claim shall be placed on the website not
41 more than 30 days after the final determination or judgement is
42 made.
43

44 ²13. (New section) a. A person commits the crime of pattern of
45 wage nonpayment if the person knowingly commits an act that
46 violates the provisions of N.J.S.2C:40A-2, N.J.S.2C:20-2 if the
47 property stolen consists of compensation the employer failed to
48 provide to an employee as required under the provisions of any

1 State wage and hour law as defined in R.S.34:11-57, subsection a.
2 of section 10 of P.L.1965, c.173 (C.34:11-4.10), or subsection a. of
3 section 25 of P.L.1966, c.113 (C.34:11-56a24), if the person has, on
4 two or more prior occasions, been convicted of a violation of the
5 provisions of any of those laws. It shall not be a defense that the
6 violations were not part of a common plan or scheme, or did not
7 have similar methods of commission.

8 b. Pattern of wage non-payment is a crime of the third degree,
9 except that the presumption of nonimprisonment set forth in
10 subsection e. of N.J.S.2C:44-1 for persons who have not previously
11 been convicted of an offense shall not apply. Notwithstanding the
12 provisions of N.J.S.2C:1-8 or any other law, a conviction of pattern
13 of wage non-payment shall not merge with a conviction of violation
14 of N.J.S.2C:40A-2, N.J.S.2C:20-2, subsection a. of section 10 of
15 P.L.1965, c.173 (C.34:11-4.10), subsection a. of section 25 of
16 P.L.1966, c.113 (C.34:11-56a24), or any other criminal offense, nor
17 shall such other conviction merge with a conviction under this
18 section.

19 c. An employer found to be in violation of this section shall be
20 deemed to have caused loss to the employees in the amount by
21 which the employees were paid less than the full wages agreed upon
22 or required by law and shall be subject to the provisions of
23 N.J.S.2C:43-3 regarding fines and restitution to victims and be
24 subject to other pertinent provisions of Title 2C of the New Jersey
25 Statutes, including, but not limited to, N.J.S.2C:43-4, 2C:43-6 and
26 2C:44-1.²

27
28 ¹[14.] ²[13.1] 14.² This act shall take effect immediately²,
29 except that section 13 shall take effect on the first day of the third
30 month following enactment².

31
32
33
34
35 _____
Concerns law regarding failure to pay wages.