

**SENATE, No. 1438**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED FEBRUARY 10, 2022

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**SYNOPSIS**

Allows unions to file wage claim suits on behalf of workers regardless of their union affiliation.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning certain standards for wage claims and  
2 amending P.L.2019, c.510.

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

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7 1. Section 1 of P.L.2019, c.510 (C.34:11-67.1) is amended to  
8 read as follows:

9 1. a. (1) For any contract entered into on or after January 1,  
10 2020 for construction, reconstruction, demolition, alteration,  
11 maintenance, including painting and decorating, or repair in the  
12 State other than work on an owner-occupied residence, including,  
13 but not limited to, any such work performed under a contract  
14 entered into on or after January 1, 2020 under which workers are  
15 required by any State law to be paid the prevailing wage rates set  
16 pursuant to the "New Jersey Prevailing Wage Act," P.L.1963, c.150  
17 (C.34:11-56.25 et seq.), the contractor entering into a contract shall  
18 assume, and be responsible for, any debt owed to a worker, or third  
19 party on the worker's behalf, incurred by a subcontractor at any tier  
20 acting under, by, or for the contractor for the worker's performance  
21 of labor under the contract~~],~~ unless the worker's performance of  
22 labor under the contract is pursuant to a collective bargaining  
23 agreement to which the employing contractor or subcontractor is  
24 signatory, wherein there are lawful remedies by which unpaid  
25 wages may be collected~~].~~

26 (2) The contractor's responsibility under the provisions of this  
27 section shall extend to unpaid wages plus any interest owed, and  
28 shall extend to penalties or liquidated damages.

29 (3) A contractor or any other person shall not evade, or commit  
30 any act that negates, the requirements of this section. This section  
31 does not prohibit a contractor or subcontractor at any tier from  
32 establishing by contract or enforcing any otherwise lawful remedies  
33 against a subcontractor it hires for responsibility created by the  
34 nonpayment of wages by that subcontractor or by a subcontractor at  
35 any tier working under that subcontractor.

36 b. (1) The Commissioner of Labor and Workforce Development  
37 may enforce against a contractor the responsibility for unpaid wages  
38 created by this section by any action that the commissioner is  
39 authorized to undertake regarding responsibility for unpaid wages  
40 under the provisions of chapter 11 of Title 34 of the Revised  
41 Statutes~~],~~ unless the worker's performance of labor under the  
42 contract is pursuant to a collective bargaining agreement to which  
43 the employing contractor or subcontractor is signatory, wherein  
44 there are lawful remedies by which unpaid wages may be  
45 collected~~].~~

**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.

1 (2) A joint labor-management cooperation committee  
2 established pursuant to the federal Labor Management Cooperation  
3 Act of 1978 (29 U.S.C. s.175a) which includes a union representing  
4 any of the workers employed in a project, or a union, whether or not  
5 the union represents workers employed in the project, subject to the  
6 provisions of this section may bring an action in any court of  
7 competent jurisdiction against a contractor or subcontractor at any  
8 tier for unpaid wages owed to a worker by the contractor or  
9 subcontractor for the performance of any work subject to the  
10 provisions of this section, including unpaid wages owed by the  
11 contractor, pursuant to subsection a. of this section. The committee  
12 or union shall notify the Department of Labor and Workforce  
13 Development when the committee or union brings the action. The  
14 court shall award a prevailing plaintiff in such an action its  
15 reasonable attorney's fees and costs, including expert witness fees.  
16 Prior to commencement of an action against a contractor to enforce  
17 the responsibility created by subsection a. of this section, the  
18 committee or union shall provide the contractor and subcontractor  
19 that employed the worker with at least 30 days' notice by first-class  
20 mail. The notice need only describe the general nature of the claim  
21 and shall not limit the responsibility of the contractor or preclude  
22 subsequent amendments of an action to encompass additional  
23 workers employed by the subcontractor], unless the worker's  
24 performance of labor under the contract is pursuant to a collective  
25 bargaining agreement to which the employing contractor or  
26 subcontractor is signatory, wherein there are lawful remedies by  
27 which unpaid wages may be collected].

28 (3) No party other than the parties indicated in this subsection b.  
29 may bring an action against a contractor to enforce the  
30 responsibility created by subsection a. of this section.

31 c. (1) Upon request by a contractor, project manager, or  
32 contractor to a subcontractor, the subcontractor shall provide  
33 payroll records of its employees who are providing labor on work  
34 subject to the provisions of this section, which payroll records shall  
35 include all wages. The payroll records shall not be modified except  
36 to prevent disclosure of an individual's full social security number,  
37 but shall provide the last four digits of the social security number.

38 (2) Upon request of a contractor to a project manager,  
39 contractor, or subcontractor, the subcontractor and any lower tier  
40 subcontractors under contract to the subcontractor shall provide the  
41 contractor information that includes the project name, name and  
42 address of the subcontractor, contractor with whom the  
43 subcontractor is under contract, anticipated start date, duration, and  
44 estimated journeyworker and apprentice hours, and contact  
45 information for its subcontractors on the project.

46 (3) A subcontractor's failure to comply with this section shall  
47 not relieve a contractor from any of the obligations contained in this  
48 section.

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1 (4) Any subcontractor who fails to provide records or  
2 information requested pursuant to this subsection within 14 days of  
3 when the request was made shall be subject to a civil penalty in an  
4 amount not to exceed \$7,500 for each day the employer fails to  
5 provide the requested records or information, collectible by the  
6 commissioner in a summary proceeding pursuant to the "Penalty  
7 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).  
8 The commissioner shall have the authority to waive this penalty.

9 d. Unless otherwise provided by law, property of the contractor  
10 may be attached, after trial, for the payment of any judgment  
11 received pursuant to this section.

12 e. An action brought pursuant to this section shall be filed  
13 within two years from the date of the occurrence of the incident  
14 alleged in the action.

15 f. This section shall not apply to work performed by an  
16 employee of the State, a special district, a city, a county, a city and  
17 county, or any political subdivision of the State.

18 g. For purposes of this section, "contractor" means a contractor  
19 that has a direct contractual relationship with an owner and  
20 "subcontractor" means a contractor that does not have a direct  
21 contractual relationship with an owner, including a contractor that  
22 has a contractual relationship with a contractor or with another  
23 subcontractor.

24 h. Nothing in this section shall alter the obligation under any  
25 other provision of State law of a contractor to pay in a timely  
26 manner a contractor, or of a contractor to pay in a timely manner a  
27 subcontractor, or any penalties for failing to do so, except that the  
28 contractor may withhold as "disputed" all sums owed if a  
29 subcontractor does not provide in a timely manner the information  
30 requested under paragraphs (1) and (2) of subsection c. of this  
31 section, until that information is provided.

32 (cf: P.L.2019, c.150)

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34 2. This act shall take effect immediately after enactment.

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**STATEMENT**

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39 This bill provides that unions may file wage claim suits on behalf  
40 of their own workers and workers unaffiliated with a union, against  
41 a contractor or subcontractor at any tier, for unpaid wages. The  
42 current law provides that only the Commissioner of Labor and  
43 Workforce Development and a joint labor-management cooperation  
44 committee may file suit on behalf of a worker owed unpaid wages.  
45 This bill establishes that unions are eligible to file suit against  
46 contractors or subcontractors at any tier for unpaid wages. The

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- 1 unions may file wage claims suits on behalf of workers already
- 2 represented by a union or on behalf of workers not affiliated by any
- 3 union, in any project.