

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1438

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED FEBRUARY 9, 2023

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

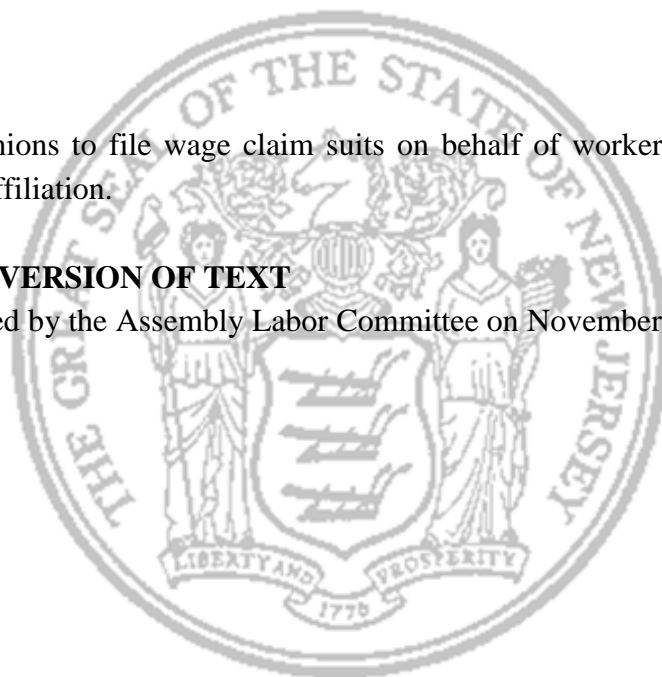
Senators Corrado, Johnson and Greenstein

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Assembly Labor Committee on November 30, 2023, with amendments.



(Sponsorship Updated As Of: 12/7/2023)

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

3

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

6

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

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

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

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

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

44 (2) A joint labor-management cooperation committee established
45 pursuant to the federal Labor Management Cooperation Act of 1978

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:

¹Assembly ALA committee amendments adopted November 30, 2023.

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

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

28 ¹(4) Prior to a union representing a worker who is not a member
29 of its union in accordance with this subsection b., the worker shall
30 consent in writing to the representation.¹

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

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

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

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

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

15 f. This section shall not apply to work performed by an employee
16 of the State, a special district, a city, a county, a city and county, or
17 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 has
22 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 manner a
26 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 section,
31 until that information is provided.

32 (cf: P.L.2019, c.510, s.1)

33
34 2. This act shall take effect immediately after enactment.