

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1539
Economic Matters

(Delegate Lisanti, *et al.*)

Finance

Labor and Employment – General Contractor Liability for Unpaid Wages

This bill makes a general contractor on a project for construction services jointly and severally liable for violations of the Maryland Wage Payment and Collection Law committed by a subcontractor, regardless of whether the subcontractor is in a direct contractual relationship with the general contractor. A subcontractor must indemnify a general contractor for any wages, damages, interest, penalties, or attorney’s fees owed as a result of the subcontractor’s violation unless indemnification is provided for in a contract between the general contractor and the subcontractor or a violation of the Maryland Wage Payment and Collection Law arose due to a lack of prompt payment in accordance with the terms of the contract. A presently existing obligation or contract right may not be impaired in any way by the bill.

Fiscal Summary

State Effect: None. The State is not subject to the Wage Payment and Collection Law as an employer so the bill pertains exclusively to private-sector employers. Holding a general contractor jointly and severally liable is not expected to materially affect the workload of the District Court.

Local Effect: None. The bill does not apply to local governments as employers. The bill is not anticipated to materially affect the circuit courts.

Small Business Effect: Potential meaningful.

Analysis

Current Law: Maryland’s Wage Payment and Collection Law regulates the payment of wages by employers in the State. The law requires employers to pay workers the wage

promised; establish regular paydays; pay wages when due; pay employees in a specified manner; pay employees at least once every two weeks, with exceptions; furnish employees with a statement of gross earnings; advise employees of their rate of pay and designated payday; and pay employees all wages due on termination of employment. The Department of Labor, Licensing, and Regulation's Division of Labor and Industry enforces the State's Wage Payment and Collection Law. Unless otherwise specified, the definition of "employer" in the State's Wage Payment and Collection Law does not include units of government.

Whenever it is determined that the State's Wage Payment and Collection Law has been violated, the commissioner may (1) try to resolve the violation informally through mediation; (2) ask the Office of the Attorney General to bring an action on behalf of the employee; or (3) bring an action on behalf of the employee in the county where the violation allegedly occurred.

In wage complaints amounting to \$3,000 or less, the Commissioner of Labor and Industry may review and investigate the complaint and may either issue an order requiring the employer to pay or dismiss the claim. Under specified circumstances, the commissioner may proceed in District Court to enforce payment of the order.

For wage complaints over \$3,000, an employee entitled to wages from an employer may – after two weeks have elapsed – bring an action against the employer in a court of competent jurisdiction to recover the unpaid wages.

If a court determines that an employer withheld an employee's wage unlawfully, and not as a result of a bona fide dispute, the court may award the employee up to three times the amount of wages owed, counsel fees, and other costs.

Employers who violate the State's Wage Payment and Collection Law are guilty of a misdemeanor and may be fined up to \$1,000.

Small Business Effect: A small business general contractor on a construction project may be adversely affected by being jointly liable for any unpaid wages violations of the Maryland Wage Payment and Collection Law committed by a subcontractor. However, a subcontractor generally must indemnify a general contractor for any wages, damages, interest, penalties, or attorney's fees owed as a result of the subcontractor's violation.

Additional Information

Prior Introductions: None.

Cross File: SB 853 (Senator Klausmeier, *et al.*) – Finance.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; Department of Legislative Services

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