

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1973

Session of
1993

INTRODUCED BY BELFANTI, GIGLIOTTI, MCGEEHAN, KASUNIC, JAROLIN,
OLASZ, LEDERER, STABACK, DALEY, WILLIAMS, LAUGHLIN, JOSEPHS,
FAJT, VEON, TRELLO, MICHLOVIC AND GRUITZA, JUNE 28, 1993

AS RE-REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 7, 1994

AN ACT

1 Amending the act of July 14, 1961 (P.L.637, No.329), entitled
2 "An act relating to the payment of wages or compensation for
3 labor or services; providing for regular pay days; conferring
4 powers and duties upon the Department of Labor and Industry,
5 including powers and duties with respect to the civil
6 collection of wages; providing civil and criminal penalties
7 for violations of the act; providing for their collection and
8 disposition and providing for additional civil damages,"
9 providing for duty of successor employer to pay back wages;
10 and further providing for enforcement.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of July 14, 1961 (P.L.637, No.329), known
14 as the Wage Payment and Collection Law, is amended by adding a
15 section to read:

16 ~~Section 6.1. Successor Employer's Duty to Pay Back Wages.~~ <—

17 ~~(a) A successor employer shall be responsible financially, upon~~
18 ~~his purchase of the company, for back wages due to employees of~~
19 ~~the predecessor employer. If a successor employer purchases only~~
20 ~~a portion of the company, the successor employer shall be~~
21 ~~responsible financially only for the back wages due to the~~

~~employees of that portion which he purchases.~~

~~(b) For purposes of this section, the term "successor employer" shall mean an employer who has obtained, by sale, conveyance, assignment or other transfer, a company or a part of a company from another employer.~~

SECTION 6.1. DUTY TO PAY BACK WAGES AT THE SALE OF A
BUSINESS.--(A) ANY EMPLOYER WHO TRANSFERS THE TITLE OF HIS
BUSINESS OR SELLS, IN BULK, FIFTY-ONE PERCENT (51%) OR MORE OF
THE ASSETS OF HIS BUSINESS, IS OBLIGATED TO PAY IN FULL ALL
WAGES DUE AND OWING TO ANY EMPLOYEES AFFECTED BY THE TRANSFER OF
THE TITLE OR THE SALE OF SAID ASSETS AS OF THE DATE OF TRANSFER
OF THE TITLE OR THE SALE OF SAID ASSETS OF THE BUSINESS ON OR
BEFORE THE DATE OF THE TRANSFER OR SALE. THIS OBLIGATION MAY BE
DISCHARGED BY ONE OR ALL OF THE FOLLOWING AS MAY BE REQUIRED:

(1) FULL PAYMENT BY CERTIFIED CHECK;

(2) THE PLACEMENT OF THE AMOUNT OF REQUIRED MONEYS IN AN
ESCROW ACCOUNT HELD BY AN ATTORNEY OR CERTIFIED PUBLIC
ACCOUNTANT APPROVED BY THE DEPARTMENT; OR

(3) A LEGALLY BINDING AGREEMENT FOR THE ASSUMPTION OF THE
LIABILITY BY THE PURCHASER OR TRANSFEREE. THE DISCHARGE OF THIS
OBLIGATION SHALL BE EVIDENCED BY A CERTIFICATE ISSUED BY THE
DEPARTMENT OR A CERTIFIED AGENT THEREOF. THE CERTIFICATE SHALL
BE RECORDED WITH THE SALES OR TRANSFER TRANSACTION, AS WELL AS
ANY SET-OFFS OR COUNTER-CLAIMS AGAINST WAGES COVERED BY THIS
SECTION CLAIMED BY THE EMPLOYER. THE EMPLOYER SHALL GIVE THE
DEPARTMENT TEN DAYS' NOTICE OF THE TRANSFER OR SALE PRIOR TO THE
COMPLETION OF THE TRANSFER OR SALE OF THE PROPERTY.

(B) ANY WAGES NOT PAID AS REQUIRED BY SUBSECTION (A) SHALL
BE A STATUTORY LIEN UPON THE TITLE AND ASSETS OF THE BUSINESS
TRANSFERRED OR SOLD, AND AN ENFORCEABLE CLAIM UNDER THIS ACT.

1 THE LIEN IN THE AMOUNT OF ANY WAGES NOT PAID AS REQUIRED BY
2 SUBSECTION (A) SHALL ATTACH TO THE TITLE AND ASSETS OF THE
3 BUSINESS PRIOR TO ITS TRANSFER OR SALE AND SHALL TRANSFER WITH
4 THE TITLE AND ASSETS OF THE BUSINESS AND BECOME THE LIABILITY OF
5 A SUCCESSOR PURCHASER OR TRANSFEREE, UNLESS DISCHARGED AS
6 REQUIRED IN SUBSECTION (A).

7 (C) AS USED IN THIS SECTION, THE TERM "CERTIFIED AGENT"
8 MEANS AN ATTORNEY, A CERTIFIED PUBLIC ACCOUNTANT OR OTHER
9 INDIVIDUAL APPROVED BY THE DEPARTMENT IN ACCORDANCE WITH
10 REGULATION.

11 Section 2. Section 8 of the act, amended July 14, 1977
12 (P.L.82, No.30), is amended to read:

13 Section 8. Enforcement.--(a) The Secretary of Labor and
14 Industry shall have the duty, but not the exclusive right, to
15 enforce and administer the provisions of this act, to
16 investigate any alleged violations of this act and to institute
17 prosecutions and actions as provided hereunder. Nothing in this
18 act shall authorize the secretary to initiate a civil action for
19 unpaid wages which are subject to disposition under grievance
20 and arbitration procedures of a collective bargaining agreement.

21 (b) The Department of Labor and Industry shall have the
22 power to make rules and regulations for the administration of
23 this act.

24 (c) Every employer shall keep open to inspection by the
25 secretary or his authorized representative, all payroll records
26 or other records or documents relative to the enforcement of
27 this act. Such inspection may be made by the secretary or his
28 authorized representative at any reasonable time. Every employer
29 shall permit the secretary or any authorized representative to
30 interrogate any employe in the place of employment and during

1 work hours with respect to such records or documents. Where such
2 records are maintained at a central record keeping office
3 outside of the Commonwealth, such records shall be made
4 available for inspection at the place of employment within seven
5 calendar days following verbal or written notice from the
6 secretary or his authorized representative. Where a microfilm or
7 any other method is authorized for record keeping purposes, the
8 employer shall make available to the secretary or his authorized
9 representative, the equipment which is necessary to facilitate
10 review of the records.

11 (d) If a company files a bankruptcy petition under 11 U.S.C.
12 Ch. 11 (relating to reorganization), the department may request <—
13 the trustee in bankruptcy or the bankruptcy judge to require
14 that the company file SHALL FILE WITH THE COURT a bond or other <—
15 assurance relating to the payment of wages of salaried and
16 nonsalaried employees of the company. The department shall
17 monitor payments or wages by a company which has filed a
18 petition under 11 U.S.C. Ch. 11.

19 Section 3. This act shall take effect in 60 180 days. <—