

# House Bill 2837

Sponsored by Representative WITT (at the request of NW Worker Justice Project) (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes right of employee for civil action based on unpaid wages. Authorizes creation of lien on employer's real and personal property for unpaid wages under certain circumstances. Establishes priority of lien for amounts of unpaid wages up to specified amount. Creates exception.

## A BILL FOR AN ACT

1  
2 Relating to establishing a lien on employer property based on an unpaid wage claim.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 652.310 to**  
5 **652.414.**

6 **SECTION 2. (1)(a) An employee has a right of civil action for a claim for unpaid wages**  
7 **against the employer in the full amount of the employee's wages due on each regular payday**  
8 **as provided in ORS 652.120.**

9 **(b) An employee who brings an action against the employer under this subsection has a**  
10 **lien upon all property, real and personal, located in this state for the amount of the unpaid**  
11 **wages to which the employee is entitled.**

12 **(2)(a) A lien under subsection (1) of this section upon real property takes effect on the**  
13 **date on which the employee:**

14 **(A) Files a notice of claim of lien with the county clerk of the county in which the ser-**  
15 **vices or some part of the services for which unpaid wages are due were performed;**

16 **(B) Pays any required filing fees; and**

17 **(C) Serves a copy of the notice filed under this subsection on the employer by certified**  
18 **mail with return receipt requested.**

19 **(b) The county clerk shall enter notice of the lien in the County Clerk Lien Record.**

20 **(3)(a) A lien under subsection (1) of this section upon personal property takes effect on**  
21 **the date on which the employee:**

22 **(A) Files a notice of claim of lien in the same manner in which a financing statement is**  
23 **filed under ORS chapter 79;**

24 **(B) Pays any required filing fees; and**

25 **(C) Serves a copy of the notice filed under this subsection on the employer by certified**  
26 **mail with return receipt requested.**

27 **(b) The Secretary of State shall include notice of the lien that is filed under this sub-**  
28 **section in the index maintained by the secretary for filing financing statements pursuant to**  
29 **ORS chapter 79.**

30 **(4) A notice of claim of lien filed under subsection (2) or (3) of this section must be a**  
31 **written statement that specifies:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1       **(a) The nature of the claim;**
  - 2       **(b) The amount claimed:**
  - 3       **(c) A description of all property, real and personal, upon which claim is made sufficient**  
4 **for identification; and**
  - 5       **(d) That the person filing the notice has a claim of lien on the property specified.**
  - 6       **(5) A lien established under subsection (1) of this section has priority over all other debts,**  
7 **judgments, decrees, liens or mortgages against the employer, except a lien established by a**  
8 **commercial lending institution as provided in subsection (6) of this section, regardless of**  
9 **whether those debts, judgments, decrees, liens or mortgages originated before or after the**  
10 **lien established under subsection (1) of this section takes effect.**
  - 11       **(6)(a) A lien established under subsection (1) of this section does not take priority over**  
12 **a lien of a commercial lending institution against the employer that was originated before**  
13 **the lien established under subsection (1) of this section takes effect.**
  - 14       **(b) Notwithstanding paragraph (a) of this subsection, a lien established under subsection**  
15 **(1) of this section has priority for the first \$3,000 of the lien amount over a lien of a com-**  
16 **mercial lending institution that was originated before the lien established under subsection**  
17 **(1) of this section takes effect.**
  - 18       **(7) A lien established under subsection (1) of this section expires if the employee does**  
19 **not bring an action to enforce the lien within the time prescribed by law for filing the**  
20 **underlying claim for unpaid wages.**
  - 21       **(8) An employee may bring an action against an employer under subsection (1) of this**  
22 **section without first filing a claim for unpaid wages with the Bureau of Labor and Industries**  
23 **under ORS 652.310 to 652.414.**
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