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**Testimony of D. Michael Dale**  
**Before the House Committee on Business and Labor**  
**February 13, 2017**  
**HB 2180 – Allowing Wage Judgments to be More Collectible**

I am the Executive Director of the Northwest Workers' Justice Project. I have been a lawyer since 1975, and have spent most of that time representing migrant and seasonal workers. The Northwest Workers' Justice Project provides legal representation to low wage contingent workers throughout the economy in sectors such as construction, building maintenance, landscaping, hotel and restaurant industry, food processing, agriculture and reforestation. This bill is sponsored by the Coalition to Stop Wage Theft, of which NWJJP is a member. The Coalition includes about 40 civic, labor, religious and business organizations.<sup>1</sup>

Even after workers go to court or to BOLI and obtain a judgment that their unpaid wages are owed, they often are unable actually to collect their hard-earned money. In our small nonprofit office we have over a million dollars in judgments that have proved to be uncollectible. Even the State of Oregon is unable to collect many of the judgments that BOLI obtains on behalf of underpaid workers; with BOLI judgments only about 28% of the owed wages were ever paid by the employer during a recent three-year period.<sup>2</sup>

This often happens because, in the year and a half it typically takes to secure a judgment, the employer may change its ownership, or corporate form, or transfer assets away to protect them from collection of the judgment.

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<sup>1</sup> Adelante Mujeres, AFL/CIO of Oregon, AFT Oregon, American Friends Service Committee, Beyond Toxics, CAUSA, Catholic Office of Life, Justice and Peace, Archdiocese of Portland, Centro Latino Americano of Eugene, Common Cause Oregon, Community Alliance of Lane County, Economic Fairness Oregon, Ecumenical Ministries of Oregon, Family Forward Oregon, Human Dignity Advocates of Crook County, Interfaith Movement for Immigrant Justice (IMiJ), Jewish Federation of Greater Portland, Mainstreet Alliance, Northwest Forest Worker Center, Northwest Workers' Justice Project, Oregon Action, Oregon AFSCME, Oregon School Employees Association, Oregon Center for Christian Voices, Oregon Center for Public Policy, Oregon Strong Voice - Southern OR Chapter, Oregon Thrives, Oregon Trial Lawyers Association (OTLA), Oregon Working Families, PCUN, Portland Jobs with Justice, Project REconomy, Rural Organizing Project, SEIU Local 49, SEIU Local 503, Tax Fairness Oregon, Teamsters Local 26, Unidos Bridging Community, United Food and Commercial Workers Local 555, and VOZ Workers Education Project.

<sup>2</sup> Oregon Center for Public Policy, "Fact Sheet: Employers pay only a fraction of what they owe in wage theft cases." February 11, 2015, available at <http://www.ocpp.org/2015/02/11/fs20150211-employers-pay-fraction-wage-theft/>; attached.

This bill creates a process to help employees actually collect their wages once they win a judgment that the wages are owed.<sup>3</sup>

- This bill will allow the employee to post a notice of the employee's claim with respect to the employer's property that legal action may be taken to collect unpaid wages.
- If an employee ultimately receives a judgment on a wage claim, the judgment date would relate back to the date when the notice was filed, thus ensuring that property of the employer can be used to satisfy a judgment.
- An employer who receives such a notice is given several options:
  - If the employer concedes the money is due it can simply pay the wages and the notice becomes ineffectual.
  - If the employer concedes the money is due, but cannot pay, it can avoid costs of suit by agreeing to allow a lien to enter against the property.
  - If the employer contests the wage claim it can either file suit itself or wait for the employee to do so. The employee has to file suit to prove the validity of the wage claim within 120 days or the notice becomes ineffective.
  - An employer may also submit the notice of claim to the Commissioner of Labor and Industries for determination of whether it states a prima facie case of a wage violation.
  - If an employer wants to sell or transfer property subject to a notice of a wage claim, it can post a bond to secure payment of any judgment and the notice becomes ineffectual.
- A worker and the worker's attorney are subject to monetary sanctions for filing a frivolous notice of wage claim under this statute.

This process will make it more likely that workers who are found to be owed wages can actually collect their wages.

We recommend that this bill be approved with a do pass recommendation.

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<sup>3</sup> The bill as drafted creates an actual lien on the property. We have drafted an amendment, which is attached, that follows the procedure outlined here.