A-Bill for an Act

Relating to employment; amending ORS 652.414.

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

SECTION 1. ORS 652.414 is amended to read:

652.414. Notwithstanding any other provision of law:

(1) When an employee files a wage claim under this chapter for wages earned and unpaid, and the Commissioner of the Bureau of Labor and Industries:

(a) Determines that the employer against whom the claim was filed has ceased doing business and is without sufficient assets to pay the wage claim and the wage claim cannot otherwise be fully and promptly paid, the commissioner, after determining that the claim is valid, shall pay the claimant, to the extent provided in subsection (2) of this section:

(A) The unpaid amount of wages earned within 60 days before the date of the cessation of business; or

(b) Obtains a judgment or issues a final order, including an order of determination that has become final, under ORS 652.332 on the wage claim, the commissioner shall pay the claimant, to the extent provided in subsection (2) of this section, the amount of wages due pursuant to the judgment or the final order.

(2) The commissioner shall pay the unpaid amount of wages earned as provided in subsection (1) of this section only to the extent of $10,000 from such funds as may be available pursuant to ORS 652.409 (2).

(3) The commissioner may commence an appropriate action, suit or proceeding to recover from the employer, or other persons or property liable for the unpaid wages, amounts paid from the Wage Security Fund under subsection (1) of this section. In addition to costs and disbursements, the commissioner is entitled to recover reasonable attorney fees at trial and on appeal, together with a

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.

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penalty of 25 percent of the amount of wages paid from the Wage Security Fund or $200, whichever
amount is the greater. All amounts recovered by the commissioner under this subsection and sub-
section (4) of this section are appropriated continuously to the commissioner to carry out the pro-
visions of this section.

(4) The commissioner has a lien on the personal property of the employer for the benefit of the
fund when the claim is paid under subsection (1) of this section for the amount so paid and the
penalty referred to in subsection (3) of this section. The commissioner may cause to be filed a veri-
fied written notice of claim of lien with the recording officer of the county in which the employer
has its principal place of business no later than 30 days after the date the claim was paid under
subsection (1) of this section. The notice of claim of lien shall contain:

(a) A true statement of the sums paid to wage claimants and the amount of the penalty provided
for in subsection (3) of this section;

(b) The name of the owner of the personal property to be charged with the lien;

(c) A description of the personal property to be charged with the lien sufficient for identifica-
tion. If a lien is being claimed against all personal property of the employer, the description is suf-
cient if it states that all personal property of the employer is covered; and

(d) The date the wage claim was paid.

(5) Liens created by subsection (4) of this section shall be recorded in the same manner as pro-
vided for in ORS 87.246 and may be foreclosed in the manner provided for in ORS 87.262.

(6) Liens created by subsection (4) of this section shall have priority over any other liens or
security interests perfected after the date the notice of claim is filed with the county recording of-

(7) The commissioner shall promulgate rules to carry out the provisions of this section that in-
clude, but are not limited to, prescribing procedures for a timely and cost efficient method for the
payment of wage claims from the Wage Security Fund and procedures for prorating wage claims if
insufficient funds are available for payment.

(8) Nothing in this section is intended to require the commissioner to pay wage claims for which
moneys are not available under ORS 652.409 (2).