



New York State
ASSEMBLY

Sheldon Silver - Speaker

Monday, September 27, 2010

S07050 Text:

S T A T E O F N E W Y O R K

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I N S E N A T E

March 9, 2010

Introduced by Sens. SAVINO, ADDABBO, BRESLIN, DILAN, DUANE, ESPADA,

FOLEY, HASSELL-THOMPSON, HUNTLEY, KRUEGER, MONTGOMERY, OPPENHEIMER,

PARKER, PERALTA, PERKINS, SAMPSON, SCHNEIDERMAN, SERRANO, SQUADRON,

STAVISKY, STEWART-COUSINS, THOMPSON -- read twice and ordered printed,

and when printed to be committed to the Committee on Labor -- commit-

tee discharged, bill amended, ordered reprinted as amended and recom-

mitted to said committee -- committee discharged, bill amended,

ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to establishing the wage

theft prevention act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-

BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "wage theft

2 prevention act".

3 S 2. Section 2 of the labor law is amended by adding a new subdivision

4 16 to read as follows:

5 16. ALL REFERENCES TO LABOR LAW, CHAPTER, ARTICLE OR SECTION

SHALL BE

6 DEEMED TO INCLUDE ANY RULE, REGULATION OR ORDER PROMULGATED
THEREUNDER

7 OR RELATED THERETO.

8 S 3. Subdivisions 1, 2, 3 and 4 of section 195 of the labor
law, as

9 added by chapter 548 of the laws of 1966 and subdivision 1 as
amended by

10 chapter 270 of the laws of 2009, are amended to read as follows:

11 1. (A) [notify] PROVIDE his or her employees, in writing IN
ENGLISH

12 AND IN THE LANGUAGE IDENTIFIED BY EACH EMPLOYEE AS THE PRIMARY
LANGUAGE

13 OF SUCH EMPLOYEE, at the time of hiring [of], AND ON OR BEFORE
FEBRUARY

14 FIRST OF EACH SUBSEQUENT YEAR OF THE EMPLOYEE'S EMPLOYMENT WITH
THE

15 EMPLOYER, A NOTICE CONTAINING THE FOLLOWING INFORMATION: the rate
OR

16 RATES of pay and [of] BASIS THEREOF, WHETHER PAID BY THE HOUR,
SHIFT,

17 DAY, WEEK, SALARY, PIECE, COMMISSION, OR OTHER; ALLOWANCES, IF
ANY,

18 CLAIMED AS PART OF THE MINIMUM WAGE, INCLUDING TIP, MEAL, OR
LODGING

19 ALLOWANCES; the regular pay day designated by the employer in
accordance

20 with section one hundred ninety-one of this article[, and]; THE NAME
OF

21 THE EMPLOYER; ANY "DOING BUSINESS AS" NAMES USED BY THE EMPLOYER;
THE

22 PHYSICAL ADDRESS OF THE EMPLOYER'S MAIN OFFICE OR PRINCIPAL PLACE
OF

EXPLANATION--Matter in ITALICS (underscored) is new; matter in
brackets

[] is old law to be omitted.

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1 BUSINESS, AND A MAILING ADDRESS IF DIFFERENT; THE TELEPHONE
NUMBER OF

2 THE EMPLOYER; PLUS SUCH OTHER INFORMATION AS THE COMMISSIONER
DEEMS

3 MATERIAL AND NECESSARY. EACH TIME THE EMPLOYER PROVIDES SUCH
NOTICE TO

4 AN EMPLOYEE, THE EMPLOYER SHALL obtain FROM THE EMPLOYEE a SIGNED
AND

5 DATED written acknowledgement [from each employee], IN ENGLISH AND
IN

6 THE PRIMARY LANGUAGE OF THE EMPLOYEE, of receipt of this notice,
WHICH

7 THE EMPLOYER SHALL PRESERVE AND MAINTAIN FOR SIX YEARS. Such
acknowl-

8 edgement shall INCLUDE AN AFFIRMATION BY THE EMPLOYEE THAT THE

EMPLOYEE

9 ACCURATELY IDENTIFIED HIS OR HER PRIMARY LANGUAGE TO THE EMPLOYER,
AND

10 THAT THE NOTICE PROVIDED BY THE EMPLOYER TO SUCH EMPLOYEE
PURSUANT TO

11 THIS SUBDIVISION WAS IN THE LANGUAGE SO IDENTIFIED OR OTHERWISE
COMPLIED

12 WITH PARAGRAPH (C) OF THIS SUBDIVISION, AND SHALL conform to any
ADDI-

13 TIONAL requirements established by the commissioner with
regard to

14 content and form. For all employees who are [eligible for] NOT
EXEMPT

15 FROM overtime compensation as established in the commissioner's
minimum

16 wage orders or otherwise provided by NEW YORK STATE law or
regulation,

17 the notice must state the regular hourly rate and overtime rate of
pay;

18 (B) THE COMMISSIONER SHALL PREPARE TEMPLATES THAT COMPLY WITH
THE

19 REQUIREMENTS OF PARAGRAPH (A) OF THIS SUBDIVISION. EACH SUCH
TEMPLATE

20 SHALL BE DUAL-LANGUAGE, INCLUDING ENGLISH AND ONE ADDITIONAL
LANGUAGE.

21 THE COMMISSIONER SHALL DETERMINE, IN HIS OR HER DISCRETION,
WHICH

22 LANGUAGES TO PROVIDE IN ADDITION TO ENGLISH, BASED ON THE SIZE OF
THE

23 NEW YORK STATE POPULATION THAT SPEAKS EACH LANGUAGE AND ANY OTHER
FACTOR

24 THAT THE COMMISSIONER SHALL DEEM RELEVANT. ALL SUCH TEMPLATES SHALL
BE

25 MADE AVAILABLE TO EMPLOYERS IN SUCH MANNER AS DETERMINED BY THE
COMMIS-

26 SIONER;

27 (C) WHEN AN EMPLOYEE IDENTIFIES AS HIS OR HER PRIMARY
LANGUAGE A

28 LANGUAGE FOR WHICH A TEMPLATE IS NOT AVAILABLE FROM THE
COMMISSIONER,

29 THE EMPLOYER SHALL COMPLY WITH THIS SUBDIVISION BY PROVIDING
THAT

30 EMPLOYEE AN ENGLISH-LANGUAGE NOTICE OR ACKNOWLEDGMENT;

31 (D) AN EMPLOYER SHALL NOT BE PENALIZED FOR ERRORS OR OMISSIONS IN
THE

32 NON-ENGLISH PORTIONS OF ANY NOTICE PROVIDED BY THE COMMISSIONER;

33 (E) THE COMMISSIONER SHALL HAVE DISCRETION TO WAIVE OR ALTER
REQUIRE-

34 MENTS OF PARAGRAPH (A) OF THIS SUBDIVISION FOR TEMPORARY HELP
FIRMS AS

35 DEFINED IN SECTION NINE HUNDRED SIXTEEN OF THIS CHAPTER.

36 2. notify his OR HER employees IN WRITING of any changes TO THE
INFOR-

37 MATION SET FORTH in [the pay] SUBDIVISION ONE OF THIS SECTION, AT
LEAST

38 SEVEN CALENDAR days prior to the time of such changes, UNLESS

SUCH
39 CHANGES ARE REFLECTED ON THE WAGE STATEMENT FURNISHED IN ACCORDANCE
WITH
40 SUBDIVISION THREE OF THIS SECTION;
41 3. furnish each employee with a statement with every payment of
wages,
42 listing THE FOLLOWING: THE DATES OF WORK COVERED BY THAT PAYMENT
OF
43 WAGES; NAME OF EMPLOYEE; NAME OF EMPLOYER; ADDRESS AND PHONE
NUMBER OF
44 EMPLOYER; RATE OR RATES OF PAY AND BASIS THEREOF, WHETHER PAID BY
THE
45 HOUR, SHIFT, DAY, WEEK, SALARY, PIECE, COMMISSION, OR OTHER;
gross
46 wages[,]; deductions; ALLOWANCES, IF ANY, CLAIMED AS PART OF THE
MINIMUM
47 WAGE; and net wages[, and upon]. FOR ALL EMPLOYEES WHO ARE NOT
EXEMPT
48 FROM OVERTIME COMPENSATION AS ESTABLISHED IN THE COMMISSIONER'S
MINIMUM
49 WAGE ORDERS OR OTHERWISE PROVIDED BY NEW YORK STATE LAW OR
REGULATION,
50 THE STATEMENT SHALL INCLUDE THE REGULAR HOURLY RATE OR RATES OF PAY;
THE
51 OVERTIME RATE OR RATES OF PAY; THE NUMBER OF REGULAR HOURS WORKED,
AND
52 THE NUMBER OF OVERTIME HOURS WORKED. FOR ALL EMPLOYEES PAID A
PIECE
53 RATE, THE STATEMENT SHALL INCLUDE THE APPLICABLE PIECE RATE OR
RATES OF
54 PAY AND NUMBER OF PIECES COMPLETED AT EACH PIECE RATE. UPON the
request
55 of an employee, AN EMPLOYER SHALL furnish an explanation IN
WRITING of
56 how such wages were computed;
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1 4. establish, maintain and preserve for not less than [three]
SIX
2 years CONTEMPORANEOUS, TRUE, AND ACCURATE payroll records showing
FOR
3 EACH WEEK WORKED the hours worked[,]; THE RATE OR RATES OF PAY AND
BASIS
4 THEREOF, WHETHER PAID BY THE HOUR, SHIFT, DAY, WEEK, SALARY,
PIECE,
5 COMMISSION, OR OTHER; gross wages[,]; deductions; ALLOWANCES, IF
ANY,
6 CLAIMED AS PART OF THE MINIMUM WAGE; and net wages for each
employee.
7 FOR ALL EMPLOYEES WHO ARE NOT EXEMPT FROM OVERTIME
COMPENSATION AS
8 ESTABLISHED IN THE COMMISSIONER'S MINIMUM WAGE ORDERS OR
OTHERWISE
9 PROVIDED BY NEW YORK STATE LAW OR REGULATION, THE PAYROLL RECORDS
SHALL
10 INCLUDE THE REGULAR HOURLY RATE OR RATES OF PAY, THE OVERTIME RATE

OR

11 RATES OF PAY, THE NUMBER OF REGULAR HOURS WORKED, AND THE
NUMBER OF

12 OVERTIME HOURS WORKED. FOR ALL EMPLOYEES PAID A PIECE RATE, THE
PAYROLL

13 RECORDS SHALL INCLUDE THE APPLICABLE PIECE RATE OR RATES OF PAY
AND

14 NUMBER OF PIECES COMPLETED AT EACH PIECE RATE;

15 S 4. Section 196 of the labor law, as added by chapter 548 of the
laws

16 of 1966, paragraph b of subdivision 1 as amended by chapter 328 of
the

17 laws of 1972 and paragraph e of subdivision 1 as added by chapter
336 of

18 the laws of 1985, is amended to read as follows:

19 S 196. Powers of commissioner. 1. In addition to the powers of
the

20 commissioner specified in other sections of this chapter, the
commis-

21 sioner shall have the following duties, powers and authority:

22 a. He OR SHE shall investigate and attempt to adjust equitably
contro-

23 versies between employers and employees relating to THIS
ARTICLE, OR

24 ARTICLE FIVE, SEVEN, NINETEEN OR NINETEEN-A OF this [article]
CHAPTER.

25 b. He OR SHE may take assignments of claims for wages [as defined
in]

26 UNDER this [article] CHAPTER from employees or third parties in
trust

27 for such employees or for the benefit of various funds for such
employ-

28 ees. All such assignments shall run to the commissioner and his OR
HER

29 successor in office. The commissioner may sue employers on wage
claims

30 thus assigned, with the benefits and subject to the provisions of
exist-

31 ing law applying to actions by employees for collection of wages.
He OR

32 SHE may join in a single action any number of wage claims against
the

33 same employer.

34 c. He OR SHE may institute proceedings on account of any
criminal

35 violation of any provision of THIS ARTICLE, OR ARTICLE FIVE,
SEVEN,

36 NINETEEN OR NINETEEN-A OF this [article] CHAPTER.

37 d. If it shall appear to him OR HER that any employer has
been

38 convicted of a violation of any provision of this article OR
ARTICLE

39 NINETEEN OR NINETEEN-A OF THIS CHAPTER or that any [judgement] ORDER
TO

40 COMPLY ISSUED against an employer [for non-payment of wages] UNDER
THIS

41 CHAPTER remains unsatisfied for a period of ten days after the time
to
42 appeal therefrom has expired, and that no appeal therefrom is then
pend-
43 ing, the commissioner may require such employer to deposit with
him OR
44 HER a bond in such sum as he OR SHE may deem sufficient and adequate
in
45 the circumstances, together with two or more sureties or a duly
author-
46 ized surety company, to be approved by the commissioner. The bond
shall
47 be payable to the commissioner and shall be conditioned that the
employ-
48 er will, for a definite future period, not exceeding two years, pay
his
49 OR HER employees in accordance with the provisions of this article
OR
50 ARTICLE NINETEEN OR NINETEEN-A OF THIS CHAPTER, and shall be
further
51 conditioned upon the payment by the employer of any AMOUNTS DUE
PURSUANT
52 TO AN ORDER TO COMPLY OR judgment [which may be recovered] against
such
53 employer pursuant to the provisions of this article OR ARTICLE
NINETEEN
54 OR NINETEEN-A OF THIS CHAPTER.

55 If within ten days after demand for such bond, which demand may
be
56 made by certified or registered mail, such employer shall fail to
depos-
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1 it the same, the commissioner may bring an action in the name
and on
2 behalf of the people of the state of New York against such employer
in
3 the supreme court to compel such employer to furnish such a bond
or to
4 cease doing business until he OR SHE has done so. The employer
shall
5 have the burden of proving that either such a bond is unnecessary
or
6 that the amount demanded is excessive. If the court finds that
there is
7 just cause for requiring the bond and that same is reasonably
necessary
8 or proper to secure prompt payment of the wages of the employees of
such
9 employer and his OR HER compliance with the provisions of this
article
10 OR ARTICLE NINETEEN OR NINETEEN-A OF THIS CHAPTER, the court may
enjoin
11 such employer and such other person or persons as may have been or
may
12 be concerned with or in any way participating in the failure to pay

the

13 wages resulting in the conviction [or in the judgment] OR
ORDER TO

14 COMPLY as aforesaid, from doing business until the requirement is
met

15 and make other and further orders appropriate to compel compliance
with

16 the requirement.

17 IF ANY ORDER TO COMPLY ISSUED AGAINST AN EMPLOYER UNDER THIS
ARTICLE

18 OR ARTICLE NINETEEN OR NINETEEN-A OF THIS CHAPTER REMAINS
UNSATISFIED

19 FOR A PERIOD OF TEN DAYS AFTER THE TIME TO APPEAL THEREFROM HAS
EXPIRED,

20 AND THAT NO APPEAL THEREFROM IS THEN PENDING, THE COMMISSIONER
MAY

21 REQUIRE THE EMPLOYER TO PROVIDE AN ACCOUNTING OF ASSETS OF THE
EMPLOYER,

22 INCLUDING BUT NOT LIMITED TO, A LIST OF ALL BANK ACCOUNTS,
ACCOUNTS

23 RECEIVABLE, PERSONAL PROPERTY, REAL PROPERTY, AUTOMOBILES OR OTHER
VEHI-

24 CLES, AND ANY OTHER ASSETS, IN A FORM AND MANNER AS PRESCRIBED BY
THE

25 COMMISSIONER. AN EMPLOYER SHALL PROVIDE SUCH AMENDED
ACCOUNTINGS OF

26 ASSETS AS THE COMMISSIONER SHALL ORDER. IF WITHIN TEN DAYS AFTER
DEMAND

27 FOR SUCH AN ACCOUNTING OF ASSETS, WHICH DEMAND MAY BE MADE BY
CERTIFIED

28 OR REGISTERED MAIL, SUCH EMPLOYER SHALL FAIL TO PROVIDE SAME, OR IF
THE

29 EMPLOYER FAILS TO PROVIDE AN AMENDED ACCOUNTING AS REQUIRED UNDER
THIS

30 SECTION, THE COMMISSIONER MAY BRING AN ACTION IN THE NAME AND ON
BEHALF

31 OF THE PEOPLE OF THE STATE OF NEW YORK AGAINST SUCH EMPLOYER IN
THE

32 SUPREME COURT TO COMPEL SUCH EMPLOYER TO FURNISH THE ACCOUNTING AND
PAY

33 A CIVIL PENALTY OF NO MORE THAN TEN THOUSAND DOLLARS.

34 e. He OR SHE is hereby authorized and empowered to enter into
recipro-

35 cal agreements with the labor department or corresponding agency of
any

36 other state or with the person, board, officer, or commission
authorized

37 to act on behalf of such department or agency, for the collection
in

38 such other states of claims and judgments for wages based upon
claims

39 assigned to the commissioner.

40 The commissioner may, to the extent provided for by any
reciprocal

41 agreement entered into by law or with any agency of another
state as

42 herein provided, maintain actions in the courts of such other state
for
43 the collection of claims and judgments for wages and may assign
such
44 claims and judgments to the labor department or agency of such
other
45 state for collection to the extent that such an assignment
may be
46 permitted or provided for by the law of such state or by
reciprocal
47 agreement.

48 The commissioner may, upon the written consent of the labor
department
49 or other corresponding agency of any other state or of any
person,
50 board, officer or commission of such state authorized to act on
behalf
51 of such labor department or corresponding agency, maintain
actions in
52 the courts of this state upon assigned claims and judgments for
wages
53 arising in such other state in the same manner and to the same
extent
54 that such actions by the commissioner are authorized when arising
in
55 this state. However, such actions may be maintained only in cases
where

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1 such other state by law or reciprocal agreement extends a like
comity to
2 cases arising in this state.

3 2. Nothing in this section shall be construed as requiring the
commis-

4 sioner in every instance to investigate and attempt to adjust
controver-

5 sies, or to take assignments of wage claims, or to institute
criminal

6 prosecutions for any violation under this article OR ARTICLE
FIVE,

7 SEVEN, NINETEEN OR NINETEEN-A OF THIS CHAPTER, but he OR SHE
shall be

8 deemed vested with discretion in such matters.

9 S 5. Section 196-a of the labor law, as amended by chapter 417 of
the

10 laws of 2009, is amended to read as follows:

11 S 196-a. Complaints by employees to commissioner. (a) Any
employee[,];

12 PERSON OR ORGANIZATION ACTING ON THE EMPLOYEE'S BEHALF; or the
recog-

13 nized and certified collective bargaining agent acting on the
employee's

14 behalf, may file with the commissioner a complaint regarding a
violation

15 of this article, article FIVE, SEVEN, nineteen, or [article]
nineteen-A

16 of this chapter for an investigation of such complaint and
statement
17 setting the appropriate remedy, if any. THE COMMISSIONER SHALL KEEP
THE
18 NAMES OF EMPLOYEES THAT ARE THE SUBJECT OF AN INVESTIGATION
CONFIDENTIAL
19 UNTIL SUCH TIME THAT DISCLOSURE IS NECESSARY FOR RESOLUTION OF AN
INVE-
20 TIGATION OR A COMPLAINT. Failure of an employer to keep adequate
records
21 OR PROVIDE STATEMENTS OF WAGES TO EMPLOYEES AS REQUIRED UNDER THIS
CHAP-
22 TER, in addition to exposing such employer to penalties authorized
under
23 subdivision one of section two hundred eighteen of this chapter,
shall
24 not operate as a bar to filing of a complaint by an employee. In
such a
25 case the employer in violation shall bear the burden of proving that
the
26 complaining employee was paid wages, benefits and wage supplements.
27 (b) Any employee, or the recognized and certified collective
bargain-
28 ing agent acting on the employee's behalf, contractor, or the
recognized
29 and certified labor organization with which the contractor has
executed
30 a collective bargaining agreement covering wages, benefits and
supple-
31 ments, may file with the commissioner a complaint regarding an
alleged
32 violation of this article or article nineteen of this chapter
occasioned
33 by another person, corporation, employer or entities in violation
of
34 article thirty-five-E of the general business law for an
investigation
35 of such complaint and statement setting the appropriate remedy, if
any.
36 S 6. Section 197 of the labor law, as amended by chapter 427 of
the
37 laws of 2002, is amended to read as follows:
38 S 197. Civil penalty. Any employer who fails to pay the wages of
his
39 employees or shall differentiate in rate of pay because of sex,
as
40 provided in this article, shall forfeit to the people of the state
the
41 sum of five hundred dollars for each such failure, to be recovered
by
42 the commissioner in ANY LEGAL ACTION NECESSARY, INCLUDING
ADMINISTRATIVE
43 ACTION OR a civil action.
44 S 7. Section 198 of the labor law, as added by chapter 548 of the
laws
45 of 1966, subdivision 1-a as amended by chapter 372 of the laws of

2009

46 and subdivision 3 as amended by chapter 605 of the laws of 1997,
is

47 amended to read as follows:

48 S 198. Costs, remedies. 1. In any action instituted upon a wage
claim

49 by an employee or the commissioner in which the employee prevails,
the

50 court may allow such employee in addition to ordinary costs, a
reason-

51 able sum, not exceeding fifty dollars for expenses which may be
taxed as

52 costs. No assignee of a wage claim, except the commissioner, shall
be

53 benefited by this provision.

54 1-a. On behalf of any employee paid less than the wage to which
he or

55 she is entitled under the provisions of this article, the
commissioner

56 may bring any legal action necessary, including administrative
action,

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1 to collect such claim and as part of such legal action, in addition
to

2 any other remedies and penalties otherwise available under this
article,

3 the commissioner [may] SHALL assess against the employer THE FULL
AMOUNT

4 OF ANY SUCH UNDERPAYMENT, AND an additional amount as liquidated
damages

5 [equal to twenty-five percent of the total amount of wages found
to be

6 due], unless the employer proves a good faith basis for believing
that

7 its underpayment of wages was in compliance with the law.

LIQUIDATED

8 DAMAGES SHALL BE CALCULATED BY THE COMMISSIONER AS NO MORE THAN
ONE

9 HUNDRED PERCENT OF THE TOTAL AMOUNT OF WAGES FOUND TO BE DUE. In
any

10 action instituted in the courts upon a wage claim by an employee or
the

11 commissioner in which the employee prevails, the court shall allow
such

12 employee TO RECOVER THE FULL AMOUNT OF ANY UNDERPAYMENT, ALL
reasonable

13 attorney's fees, PREJUDGMENT INTEREST AS REQUIRED UNDER THE CIVIL
PRAC-

14 TICE LAW AND RULES, and, unless the employer proves a good faith
basis

15 to believe that its underpayment of wages was in compliance with
the

16 law, an additional amount as liquidated damages equal to [twenty-
five]

17 ONE HUNDRED percent of the total amount of the wages found to be

due.

18 1-B. IF ANY EMPLOYEE IS NOT PROVIDED WITHIN TEN BUSINESS DAYS OF
HIS
19 OR HER FIRST DAY OF EMPLOYMENT A NOTICE AS REQUIRED BY SUBDIVISION
ONE
20 OF SECTION ONE HUNDRED NINETY-FIVE OF THIS ARTICLE, HE OR SHE
MAY
21 RECOVER IN A CIVIL ACTION DAMAGES OF FIFTY DOLLARS FOR EACH WORK
WEEK
22 THAT THE VIOLATIONS OCCURRED OR CONTINUE TO OCCUR, BUT NOT TO
EXCEED A
23 TOTAL OF TWO THOUSAND FIVE HUNDRED DOLLARS, TOGETHER WITH COSTS
AND
24 REASONABLE ATTORNEY'S FEES. THE COURT MAY ALSO AWARD OTHER
RELIEF,
25 INCLUDING INJUNCTIVE AND DECLARATORY RELIEF, THAT THE COURT IN
ITS
26 DISCRETION DEEMS NECESSARY OR APPROPRIATE.
27 ON BEHALF OF ANY EMPLOYEE NOT PROVIDED A NOTICE AS REQUIRED BY
SUBDI-
28 VISION ONE OF SECTION ONE HUNDRED NINETY-FIVE OF THIS ARTICLE,
THE
29 COMMISSIONER MAY BRING ANY LEGAL ACTION NECESSARY, INCLUDING
ADMINISTRA-
30 TIVE ACTION, TO COLLECT SUCH CLAIM, AND AS PART OF SUCH LEGAL
ACTION, IN
31 ADDITION TO ANY OTHER REMEDIES AND PENALTIES OTHERWISE AVAILABLE
UNDER
32 THIS ARTICLE, THE COMMISSIONER MAY ASSESS AGAINST THE EMPLOYER
DAMAGES
33 OF FIFTY DOLLARS FOR EACH WORK WEEK THAT THE VIOLATIONS
OCCURRED OR
34 CONTINUE TO OCCUR. IN ANY ACTION OR ADMINISTRATIVE PROCEEDING TO
RECOVER
35 DAMAGES FOR VIOLATION OF PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION
ONE
36 HUNDRED NINETY-FIVE OF THIS ARTICLE, IT SHALL BE AN AFFIRMATIVE
DEFENSE
37 THAT (I) THE EMPLOYER MADE COMPLETE AND TIMELY PAYMENT OF ALL WAGES
DUE
38 PURSUANT TO THIS ARTICLE OR ARTICLE NINETEEN OR ARTICLE NINETEEN-A
OF
39 THIS CHAPTER TO THE EMPLOYEE WHO WAS NOT PROVIDED NOTICE AS
REQUIRED BY
40 SUBDIVISION ONE OF SECTION ONE HUNDRED NINETY-FIVE OF THIS ARTICLE
OR
41 (II) THE EMPLOYER REASONABLY BELIEVED IN GOOD FAITH THAT IT WAS
NOT
42 REQUIRED TO PROVIDE THE EMPLOYEE WITH NOTICE PURSUANT TO SUBDIVISION
ONE
43 OF SECTION ONE HUNDRED NINETY-FIVE OF THIS ARTICLE.
44 1-C. IF ANY EMPLOYEE IS NOT PROVIDED A STATEMENT OR STATEMENTS
AS
45 REQUIRED BY SUBDIVISION THREE OF SECTION ONE HUNDRED NINETY-FIVE OF
THIS
46 ARTICLE, HE OR SHE SHALL RECOVER IN A CIVIL ACTION DAMAGES OF

ONE
47 HUNDRED DOLLARS FOR EACH WORK WEEK THAT THE VIOLATIONS OCCURRED
OR
48 CONTINUE TO OCCUR, BUT NOT TO EXCEED A TOTAL OF TWENTY-FIVE
HUNDRED
49 DOLLARS, TOGETHER WITH COSTS AND REASONABLE ATTORNEY'S FEES. THE
COURT
50 MAY ALSO AWARD OTHER RELIEF, INCLUDING INJUNCTIVE AND
DECLARATORY
51 RELIEF, THAT THE COURT IN ITS DISCRETION DEEMS NECESSARY OR
APPROPRIATE.

52 ON BEHALF OF ANY EMPLOYEE NOT PROVIDED A STATEMENT AS REQUIRED
BY

53 SUBDIVISION THREE OF SECTION ONE HUNDRED NINETY-FIVE OF THIS
ARTICLE,

54 THE COMMISSIONER MAY BRING ANY LEGAL ACTION NECESSARY, INCLUDING
ADMIN-

55 ISTRATIVE ACTION, TO COLLECT SUCH CLAIM, AND AS PART OF SUCH
LEGAL

56 ACTION, IN ADDITION TO ANY OTHER REMEDIES AND PENALTIES OTHERWISE
AVAIL-

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1 ABLE UNDER THIS ARTICLE, THE COMMISSIONER MAY ASSESS AGAINST THE
EMPLOY-

2 ER DAMAGES OF ONE HUNDRED DOLLARS FOR EACH WORK WEEK THAT THE
VIOLATIONS

3 OCCURRED OR CONTINUE TO OCCUR. IN ANY ACTION OR ADMINISTRATIVE
PROCEED-

4 ING TO RECOVER DAMAGES FOR VIOLATION OF SUBDIVISION THREE OF SECTION
ONE

5 HUNDRED NINETY-FIVE OF THIS ARTICLE, IT SHALL BE AN AFFIRMATIVE
DEFENSE

6 THAT (I) THE EMPLOYER MADE COMPLETE AND TIMELY PAYMENT OF ALL WAGES
DUE

7 PURSUANT TO THIS ARTICLE OR ARTICLES NINETEEN OR NINETEEN-A OF
THIS

8 CHAPTER TO THE EMPLOYEE WHO WAS NOT PROVIDED STATEMENTS AS REQUIRED
BY

9 SUBDIVISION THREE OF SECTION ONE HUNDRED NINETY-FIVE OF THIS
ARTICLE OR

10 (II) THE EMPLOYER REASONABLY BELIEVED IN GOOD FAITH THAT IT WAS
NOT

11 REQUIRED TO PROVIDE THE EMPLOYEE WITH STATEMENTS PURSUANT TO
PARAGRAPH

12 (E) OF SUBDIVISION ONE OF SECTION ONE HUNDRED NINETY-FIVE OF THIS
ARTI-

13 CLE.

14 2. The remedies provided by this article may be enforced
simultane-

15 ously or consecutively so far as not inconsistent with each other.

16 3. Notwithstanding any other provision of law, an action to
recover

17 upon a liability imposed by this article must be commenced within
six

18 years. THE STATUTE OF LIMITATIONS SHALL BE TOLLED FROM THE DATE

AN

19 EMPLOYEE FILES A COMPLAINT WITH THE COMMISSIONER OR THE
COMMISSIONER

20 COMMENCES AN INVESTIGATION, WHICHEVER IS EARLIER, UNTIL AN ORDER
TO

21 COMPLY ISSUED BY THE COMMISSIONER BECOMES FINAL, OR WHERE THE
COMMISS-

22 SIONER DOES NOT ISSUE AN ORDER, UNTIL THE DATE ON WHICH THE
COMMISSIONER

23 NOTIFIES THE COMPLAINANT THAT THE INVESTIGATION HAS CONCLUDED.
INVESTI-

24 GATION BY THE COMMISSIONER SHALL NOT BE A PREREQUISITE TO NOR A
BAR

25 AGAINST A PERSON BRINGING A CIVIL ACTION UNDER THIS SECTION. All
employ-

26 ees shall have the right to recover full wages, benefits and
wage

27 supplements AND LIQUIDATED DAMAGES accrued during the six years
previous

28 to the commencing of such action, whether such action is
instituted by

29 the employee or by the commissioner.

30 4. IN ANY CIVIL ACTION BY AN EMPLOYEE OR BY THE COMMISSIONER,
THE

31 EMPLOYEE OR COMMISSIONER SHALL HAVE THE RIGHT TO COLLECT ATTORNEY'S
FEES

32 AND COSTS INCURRED IN ENFORCING ANY COURT JUDGMENT. ANY
JUDGMENT OR

33 COURT ORDER AWARDING REMEDIES UNDER THIS SECTION SHALL PROVIDE THAT
IF

34 ANY AMOUNTS REMAIN UNPAID UPON THE EXPIRATION OF NINETY DAYS
FOLLOWING

35 ISSUANCE OF JUDGMENT, OR NINETY DAYS AFTER EXPIRATION OF THE TIME
TO

36 APPEAL AND NO APPEAL IS THEN PENDING, WHICHEVER IS LATER, THE
TOTAL

37 AMOUNT OF JUDGMENT SHALL AUTOMATICALLY INCREASE BY FIFTEEN PERCENT.

38 S 8. Section 198-a of the labor law, as amended by chapter 241 of
the

39 laws of 2002, is amended to read as follows:

40 S 198-a. Criminal penalties. 1. (A) Every employer who does not
pay

41 the wages of all of his employees in accordance with the provisions
of

42 this chapter, and the officers and agents of any corporation,
PARTNER-

43 SHIP, OR LIMITED LIABILITY COMPANY who knowingly permit the
corporation,

44 PARTNERSHIP, OR LIMITED LIABILITY COMPANY to violate this chapter
by

45 failing to pay the wages of any of its employees in accordance with
the

46 provisions thereof, shall be guilty of a misdemeanor for the
first

47 offense and upon conviction therefor shall be fined not less than
five

48 hundred nor more than twenty thousand dollars or imprisoned for not
more
49 than one year, and, in the event that any second or subsequent
offense
50 occurs within six years of the date of conviction for a prior
offense,
51 shall be guilty of a felony for the second or subsequent offense,
and
52 upon conviction therefor, shall be fined not less than five hundred
nor
53 more than twenty thousand dollars or imprisoned for not more than
one
54 year plus one day, or punished by both such fine and imprisonment,
for
55 each such offense. An indictment of a person or corporation
operating a
56 steam surface railroad for an offense specified in this section may
be

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1 found and tried in any county within the state in which such
railroad
2 ran at the time of such offense.
3 (B) EVERY EMPLOYER WHO WILLFULLY FAILS TO PAY THE WAGES OF ALL
HIS OR
4 HER EMPLOYEES IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, AND
THE
5 OFFICERS AND AGENTS OF ANY CORPORATION, PARTNERSHIP, OR LIMITED
LIABIL-
6 ITY COMPANY WHO KNOWINGLY PERMIT THE CORPORATION, PARTNERSHIP, OR
LIMIT-
7 ED LIABILITY COMPANY TO VIOLATE THIS CHAPTER BY FAILING TO PAY THE
WAGES
8 OF ANY OF ITS EMPLOYEES IN ACCORDANCE WITH THE PROVISIONS OF THIS
CHAP-
9 TER, AND:
10 (I) SUCH FAILURE RESULTS IN UNDERPAYMENTS, WHICH IN THE
AGGREGATE
11 AMOUNT TO ALL WORKERS EMPLOYED BY SUCH EMPLOYER, RESULTS IN AN
AMOUNT
12 GREATER THAN ONE HUNDRED THOUSAND DOLLARS, SHALL BE GUILTY OF A
CLASS E
13 FELONY AND UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN
HALF
14 THE AMOUNT OF THE TOTAL UNDERPAYMENT NOR MORE THAN TWICE SUCH
AMOUNT, OR
15 IMPRISONED FOR NOT MORE THAN FOUR YEARS;
16 (II) SUCH FAILURE RESULTS IN UNDERPAYMENTS, WHICH IN THE
AGGREGATE
17 AMOUNT TO ALL WORKERS EMPLOYED BY SUCH EMPLOYER, RESULTS IN AN
AMOUNT
18 GREATER THAN FIVE HUNDRED THOUSAND DOLLARS, SHALL BE GUILTY OF A
CLASS D
19 FELONY AND UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN
HALF
20 THE AMOUNT OF THE TOTAL UNDERPAYMENT NOR MORE THAN TWICE SUCH

AMOUNT, OR

21 IMPRISONED FOR NOT MORE THAN SEVEN YEARS; OR

22 (III) SUCH FAILURE RESULTS IN UNDERPAYMENTS, WHICH IN THE
AGGREGATE

23 AMOUNT TO ALL WORKERS EMPLOYED BY SUCH EMPLOYER, RESULTS IN AN
AMOUNT

24 GREATER THAN ONE MILLION DOLLARS, SHALL BE GUILTY OF A CLASS C
FELONY

25 AND UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN HALF
THE

26 AMOUNT OF THE TOTAL UNDERPAYMENT NOR MORE THAN TWICE SUCH
AMOUNT, OR

27 IMPRISONED FOR NOT MORE THAN FIFTEEN YEARS.

28 2. Every employer who violates or fails to comply with the
require-

29 ments of subdivision four of section one hundred ninety-five of
this

30 article, and the officers and agents of any corporation,
PARTNERSHIP, OR

31 LIMITED LIABILITY COMPANY who knowingly permit the corporation,
PARTNER-

32 SHIP, OR LIMITED LIABILITY COMPANY to violate or fail to comply
there-

33 with, shall be guilty of a misdemeanor and upon conviction
therefor

34 shall be fined not less than five hundred nor more than five
thousand

35 dollars or imprisoned for not more than one year.

36 3. Every employer who knowingly violates or fails to comply with
the

37 requirements of subdivision four of section one hundred ninety-five
of

38 this article, and the officers and agents of any corporation,
PARTNER-

39 SHIP, OR LIMITED LIABILITY COMPANY who knowingly permit the
corporation,

40 PARTNERSHIP, OR LIMITED LIABILITY COMPANY to violate or fail to
comply

41 therewith, shall be guilty of a felony where such employer,
officer or

42 agent has been convicted of a violation of such subdivision within
the

43 previous six years, and upon conviction therefor shall be fined not
less

44 than five hundred nor more than twenty thousand dollars or
imprisoned

45 for not more than one year plus one day, or punished by both such
fine

46 and imprisonment, for each such offense. In determining the penalty,
the

47 court shall consider the severity of the violation, the size of
the

48 employer, and the employer's good faith effort to comply with
the

49 requirements of subdivision four of section one hundred ninety-
five of

50 this article.
51 S 9. Section 199-a of the labor law, as added by chapter 605 of
the
52 laws of 1997, is amended to read as follows:
53 S 199-a. Notification of process. 1. Each employee who
files a
54 complaint regarding a violation of a provision of THIS article
[six]
55 (payment of wages), article nineteen (minimum wage act), or
article
56 nineteen-A (MINIMUM WAGE STANDARDS AND PROTECTIVE LABOR PRACTICES
FOR
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1 FARM WORKERS), SECTION ONE HUNDRED SIXTY-ONE, SECTION ONE
HUNDRED
2 SIXTY-TWO, section two hundred twelve-a [or], section two
hundred
3 twelve-b, OR SECTION TWO HUNDRED FIFTEEN of this chapter, or a
rule or
4 regulation promulgated thereunder, shall be provided with a
written
5 description of the anticipated processing of the complaint,
including
6 investigation, case conference, potential civil and criminal
penalties,
7 and collection procedures.
8 2. Each employee and his or her AUTHORIZED representative shall
be
9 notified in writing of any case conference before it is held and
given
10 the opportunity to attend.
11 3. Each employee and his or her AUTHORIZED representative shall
be
12 notified in writing of any award and collection of back wages and
civil
13 penalties, and of any intent to seek criminal penalties. In the
event
14 that criminal penalties are sought the employee and his or her
AUTHOR-
15 IZED representative shall be notified of the outcome of prosecution.
16 S 10. Section 215 of the labor law, as amended by chapter 744 of
the
17 laws of 1986, subdivision 1 as amended by chapter 372 of the
laws of
18 2009, is amended to read as follows:
19 S 215. Penalties and civil action; [employer who penalizes
employees
20 because of complaints of employer violations] PROHIBITED
RETALIATION. 1.
21 (a) No employer or his or her agent, or the officer or agent of
any
22 corporation, partnership, or limited liability company, OR ANY
OTHER
23 PERSON, shall discharge, THREATEN, penalize, or in any other
manner

24 discriminate or retaliate against any employee (i) because such
employee
25 has made a complaint to his or her employer, or to the commissioner
or
26 his or her authorized representative, OR TO THE ATTORNEY GENERAL OR
ANY
27 OTHER PERSON, that the employer has [violated any provision of]
ENGAGED
28 IN CONDUCT THAT THE EMPLOYEE, REASONABLY AND IN GOOD FAITH,
BELIEVES
29 VIOLATES ANY PROVISION OF this chapter, or ANY ORDER ISSUED BY
THE
30 COMMISSIONER (ii) BECAUSE SUCH EMPLOYER OR PERSON BELIEVES THAT
SUCH
31 EMPLOYEE HAS MADE A COMPLAINT TO HIS OR HER EMPLOYER, OR TO THE
COMMIS-
32 SIONER OR HIS OR HER AUTHORIZED REPRESENTATIVE, OR TO THE
ATTORNEY
33 GENERAL, OR TO ANY OTHER PERSON THAT THE EMPLOYER HAS VIOLATED
ANY
34 PROVISION OF THIS CHAPTER, OR ANY ORDER ISSUED BY THE COMMISSIONER
(III)
35 because such employee has caused to be instituted OR IS ABOUT TO
INSTI-
36 TUTE a proceeding under or related to this chapter, or [(iii)]
(IV)
37 because such employee has provided information to the
commissioner or
38 his or her authorized representative OR THE ATTORNEY GENERAL, or
[(iv)]
39 (V) because such employee has testified or is about to testify
in an
40 investigation or proceeding under this chapter, or [(v)] (VI)
because
41 such employee has otherwise exercised rights protected under this
chap-
42 ter, or [(vi)] (VII) because the employer has received an adverse
deter-
43 mination from the commissioner involving the employee.
44 AN EMPLOYEE COMPLAINT OR OTHER COMMUNICATION NEED NOT MAKE
EXPLICIT
45 REFERENCE TO ANY SECTION OR PROVISION OF THIS CHAPTER TO TRIGGER
THE
46 PROTECTIONS OF THIS SECTION.
47 (b) If after investigation the commissioner finds that an employer
OR
48 PERSON has violated any provision of this section, the commissioner
may,
49 by an order which shall describe particularly the nature of
the
50 violation, assess the employer OR PERSON a civil penalty of not
less
51 than one thousand nor more than ten thousand dollars[, and] .
THE
52 COMMISSIONER MAY ALSO order [the employer to pay lost compensation]
ALL

53 APPROPRIATE RELIEF INCLUDING ENJOINING THE CONDUCT OF ANY
PERSON OR
54 EMPLOYER; ORDERING PAYMENT OF LIQUIDATED DAMAGES to the employee BY
THE
55 PERSON OR ENTITY IN VIOLATION; AND, WHERE THE PERSON OR
ENTITY IN
56 VIOLATION IS AN EMPLOYER ORDERING REHIRING OR REINSTATEMENT OF
THE
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1 EMPLOYEE TO HIS OR HER FORMER POSITION OR AN EQUIVALENT POSITION,
AND AN
2 AWARD OF LOST COMPENSATION OR AN AWARD OF FRONT PAY IN LIEU OF
REIN-
3 STATEMENT AND AN AWARD OF LOST COMPENSATION. LIQUIDATED DAMAGES
SHALL
4 BE CALCULATED AS AN AMOUNT NOT MORE THAN TEN THOUSAND DOLLARS.
THE
5 COMMISSIONER MAY ASSESS LIQUIDATED DAMAGES ON BEHALF OF EVERY
EMPLOYEE
6 AGGRIEVED UNDER THIS SECTION, IN ADDITION TO ANY OTHER REMEDIES
PERMIT-
7 TED BY THIS SECTION.

8 (c) [Notwithstanding the provisions of section two hundred
thirteen of
9 this article, the penalties set forth in this section shall be
the
10 exclusive remedies available for violations of this section.
11 (d)] This section shall not apply to employees of the state or
any
12 municipal subdivisions or departments thereof.

13 2. (A) An employee may bring a civil action in a court of
competent
14 jurisdiction against any employer or persons alleged to have
violated
15 the provisions of this section. The court shall have jurisdiction
to
16 restrain violations of this section, within two years after
such
17 violation, REGARDLESS OF THE DATES OF EMPLOYMENT OF THE EMPLOYEE,
and to
18 order all appropriate relief, including ENJOINING THE CONDUCT OF
ANY
19 PERSON OR EMPLOYER; ORDERING PAYMENT OF LIQUIDATED DAMAGES, COSTS
AND
20 REASONABLE ATTORNEYS' FEES TO THE EMPLOYEE BY THE PERSON OR ENTITY
IN
21 VIOLATION; AND, WHERE THE PERSON OR ENTITY IN VIOLATION IS AN
EMPLOYER,
22 ORDERING rehiring or reinstatement of the employee to his OR HER
former
23 position with restoration of seniority OR AN AWARD OF FRONT PAY IN
LIEU
24 OF REINSTATEMENT, [payment] AND AN AWARD of lost compensation[,]
AND
25 damages, COSTS and reasonable attorneys' fees. LIQUIDATED DAMAGES

SHALL
26 BE CALCULATED AS AN AMOUNT NOT MORE THAN TEN THOUSAND DOLLARS.
THE
27 COURT SHALL AWARD LIQUIDATED DAMAGES TO EVERY EMPLOYEE AGGRIEVED
UNDER
28 THIS SECTION, IN ADDITION TO ANY OTHER REMEDIES PERMITTED BY
THIS
29 SECTION. THE STATUTE OF LIMITATIONS SHALL BE TOLLED FROM THE DATE
AN
30 EMPLOYEE FILES A COMPLAINT WITH THE COMMISSIONER OR THE
COMMISSIONER
31 COMMENCES AN INVESTIGATION, WHICHEVER IS EARLIER, UNTIL AN ORDER
TO
32 COMPLY ISSUED BY THE COMMISSIONER BECOMES FINAL, OR WHERE THE
COMMIS-
33 SIONER DOES NOT ISSUE AN ORDER, UNTIL THE DATE ON WHICH THE
COMMISSIONER
34 NOTIFIES THE COMPLAINANT THAT THE INVESTIGATION HAS CONCLUDED.
INVESTI-
35 GATION BY THE COMMISSIONER SHALL NOT BE A PREREQUISITE TO NOR A
BAR
36 AGAINST A PERSON BRINGING A CIVIL ACTION UNDER THIS SECTION.
37 (B) At or before the commencement of any action under this
section,
38 notice thereof shall be served upon the attorney general by the
employ-
39 ee.
40 3. ANY EMPLOYER OR HIS OR HER AGENT, OR THE OFFICER OR AGENT OF
ANY
41 CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY, OR ANY
OTHER
42 PERSON WHO VIOLATES SUBDIVISION ONE OF THIS SECTION SHALL BE GUILTY
OF A
43 CLASS B MISDEMEANOR.
44 S 11. Subdivisions 1 and 3 of section 218 of the labor law,
subdivi-
45 sion 1 as amended by chapter 190 of the laws of 1990, the opening
para-
46 graph of subdivision 1 as amended by chapter 304 of the laws of 2007
and
47 subdivision 3 as added by chapter 697 of the laws of 1980, are
amended
48 to read as follows:
49 1. If the commissioner determines that an employer has
violated a
50 provision of article six (payment of wages), article nineteen
(minimum
51 wage act), article nineteen-A (MINIMUM WAGE STANDARDS AND
PROTECTIVE
52 LABOR PRACTICES FOR FARM WORKERS), section two hundred twelve-a,
section
53 two hundred twelve-b, section one hundred sixty-one (day of rest)
or
54 section one hundred sixty-two (meal periods) of this chapter, or a
rule
55 or regulation promulgated thereunder, the commissioner shall issue

to
56 the employer an order directing compliance therewith, which
shall

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1 describe particularly the nature of the alleged violation. A COPY
OF
2 SUCH ORDER SHALL BE PROVIDED TO ANY EMPLOYEE WHO HAS FILED A
COMPLAINT

3 AND ANY AUTHORIZED REPRESENTATIVE OF HIM OR HER. In addition to
direct-

4 ing payment of wages, benefits or wage supplements found to be due,
AND

5 LIQUIDATED DAMAGES IN THE AMOUNT OF ONE HUNDRED PERCENT OF UNPAID
WAGES,

6 such order, if issued to an employer who previously has been found
in

7 violation of those provisions, rules or regulations, or to an
employer

8 whose violation is willful or egregious, shall direct payment to
the

9 commissioner of an additional sum as a civil penalty in an amount
[equal

10 to] NOT TO EXCEED double the total amount OF WAGES, BENEFITS, OR
WAGE

11 SUPPLEMENTS found to be due. In no case shall the order direct
payment

12 of an amount less than the total wages, benefits or wage
supplements

13 found by the commissioner to be due, plus the LIQUIDATED DAMAGES IN
THE

14 AMOUNT OF ONE HUNDRED PERCENT OF UNPAID WAGES, THE appropriate
civil

15 penalty, AND INTEREST AT THE RATE OF INTEREST THEN IN EFFECT,
AS

16 PRESCRIBED BY THE SUPERINTENDENT OF BANKS PURSUANT TO SECTION
FOURTEEN-A

17 OF THE BANKING LAW PER ANNUM FROM THE DATE OF THE UNDERPAYMENT TO
THE

18 DATE OF THE PAYMENT. Where the violation is for a reason other than
the

19 employer's failure to pay wages, benefits or wage supplements found
to

20 be due, the order shall direct payment to the commissioner of a
civil

21 penalty in an amount not to exceed one thousand dollars for a
first

22 violation, two thousand dollars for a second violation or three
thousand

23 dollars for a third or subsequent violation. In assessing the
amount of

24 the penalty, the commissioner shall give due consideration to the
size

25 of the employer's business, the good faith BASIS of the
employer TO

26 BELIEVE THAT ITS CONDUCT WAS IN COMPLIANCE WITH THE LAW, the gravity

of
27 the violation, the history of previous violations and, in the
case of
28 wages, benefits or supplements violations, the failure to comply
with
29 recordkeeping or other non-wage requirements.
30 Where there is a violation of section one hundred ninety-eight-
b of
31 this chapter, the order shall direct payment back to the employee of
the
32 amount of wages, supplements or other thing of value unlawfully
received
33 plus LIQUIDATED DAMAGES IN THE AMOUNT OF ONE HUNDRED PERCENT OF
UNPAID
34 WAGES, AND interest at the rate of interest then in
effect, as
35 prescribed by the superintendent of banks pursuant to section
fourteen-a
36 of the banking law per annum from the date of the payback,
return,
37 donation or contribution to the date of payment, and shall include
such
38 other relief as may be appropriate, including rehiring or
reinstatement
39 of the employee to his or her former position, back wages, and
restora-
40 tion of seniority. In addition, the commissioner shall order payment
of
41 a civil penalty of at least twenty-five hundred dollars but not
more
42 than five thousand dollars per violation. In assessing the amount of
the
43 penalty, the commissioner shall give due consideration to the size
of
44 the employer's business, the good faith BASIS of the employer TO
BELIEVE
45 THAT ITS CONDUCT WAS IN COMPLIANCE WITH THE LAW, the gravity of
the
46 violation, the history of previous violations.
47 AT THE DISCRETION OF THE COMMISSIONER, THE COMMISSIONER SHALL
HAVE
48 FULL AUTHORITY TO PROVIDE FOR INCLUSION OF AN AUTOMATIC FIFTEEN
PERCENT
49 ADDITIONAL AMOUNT OF DAMAGES TO COME DUE AND OWING UPON EXPIRATION
OF
50 NINETY DAYS FROM AN ORDER TO COMPLY BECOMING FINAL. THE
COMMISSIONER
51 SHALL PROVIDE WRITTEN NOTICE TO THE EMPLOYER IN THE ORDER TO COMPLY
OF
52 THIS ADDITIONAL DAMAGE.
53 3. Provided that no proceeding for administrative or judicial
review
54 as provided in this chapter shall then be pending and the time
for
55 initiation of such proceeding shall have expired, the commissioner
may

56 file with the county clerk of the county where the employer resides
or

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1 has a place of business the order of the commissioner, or the
decision

2 of the industrial board of appeals containing the amount found to be
due

3 including the civil penalty, if any, AND AT THE
COMMISSIONER'S

4 DISCRETION, AN ADDITIONAL FIFTEEN PERCENT DAMAGES UPON ANY
OUTSTANDING

5 MONIES OWED. AT THE REQUEST OF AN EMPLOYEE, AND AT THE DISCRETION OF
THE

6 COMMISSIONER, THE COMMISSIONER MAY ASSIGN THAT PORTION OF THE MONEY
DUE

7 THAT CONSTITUTES WAGES, WAGE SUPPLEMENTS, INTEREST ON WAGES OR
WAGE

8 SUPPLEMENTS, OR LIQUIDATED DAMAGES DUE THAT EMPLOYEE, TO THAT
EMPLOYEE

9 AND FILE AN ORDER IN THAT AMOUNT IN THE NAME OF THAT EMPLOYEE WITH
THE

10 COUNTY CLERK OF THE COUNTY WHERE THE EMPLOYER RESIDES OR HAS A PLACE
OF

11 BUSINESS. The filing of such order or decision shall have the
full

12 force and effect of a judgment duly docketed in the office of
such

13 clerk. The order or decision may be enforced by and in the name of
the

14 commissioner in the same manner, and with like effect, as
that

15 prescribed by the civil practice law and rules for the enforcement
of a

16 money judgment.

17 S 12. Section 219 of the labor law, as added by chapter 697 of
the

18 laws of 1980 and subdivision 1 as amended by chapter 417 of the
laws of

19 1987, is amended to read as follows:

20 S 219. Violations of certain wage payment provisions; interest,
filing

21 of order as judgment. 1. If the commissioner determines that an
employ-

22 er has failed to pay wages, benefits or wage supplements required
pursu-

23 ant to article six (payment of wages), article nineteen (minimum
wage

24 act) or article [nineteen-a] NINETEEN-A (MINIMUM WAGE STANDARDS
AND

25 PROTECTIVE LABOR PRACTICES FOR FARM WORKERS) of this chapter, or a
rule

26 or regulation promulgated thereunder, the commissioner shall
issue to

27 the employer an order directing compliance therewith, which
shall

28 describe particularly the nature of the alleged violation. A
COPY OF
29 SUCH ORDER SHALL BE PROVIDED TO ANY EMPLOYEE WHO HAS FILED A
COMPLAINT
30 AND TO HIS OR HER AUTHORIZED REPRESENTATIVE. Such order shall
direct
31 payment of wages or supplements found to be due, [including]
LIQUIDATED
32 DAMAGES IN THE AMOUNT OF ONE HUNDRED PERCENT OF UNPAID WAGES, AND
inter-
33 est at the rate of interest then in effect as prescribed by the
super-
34 intendent of banks pursuant to section fourteen-a of the banking law
per
35 annum from the date of the underpayment to the date of the payment.
36 AT THE DISCRETION OF THE COMMISSIONER, THE COMMISSIONER SHALL
HAVE
37 FULL AUTHORITY TO PROVIDE FOR INCLUSION OF AN AUTOMATIC FIFTEEN
PERCENT
38 ADDITIONAL AMOUNT OF DAMAGES TO COME DUE AND OWING UPON
EXPIRATION OF
39 NINETY DAYS FROM AN ORDER TO COMPLY BECOMING FINAL. THE
COMMISSIONER
40 SHALL PROVIDE WRITTEN NOTICE TO THE EMPLOYER IN THE ORDER TO
COMPLY OF
41 THIS ADDITIONAL DAMAGE.
42 2. An order issued under subdivision one of this section shall
be
43 final and not subject to review by any court or agency unless
review is
44 had pursuant to section one hundred one of this chapter.
45 3. Provided that no proceeding for administrative or judicial
review
46 as provided in this chapter shall then be pending and the time
for
47 initiation of such proceeding shall have expired, the commissioner
may
48 file with the county clerk of the county where the employer
resides or
49 has a place of business the order of the commissioner or the
decision of
50 the industrial board of appeals containing the amount found to be
due,
51 INCLUDING, AT THE COMMISSIONER'S DISCRETION, AN ADDITIONAL
FIFTEEN
52 PERCENT DAMAGES UPON ANY OUTSTANDING MONIES OWED. AT THE REQUEST OF
AN
53 EMPLOYEE, AND AT THE DISCRETION OF THE COMMISSIONER, THE
COMMISSIONER
54 MAY ASSIGN THAT PORTION OF THE MONEY DUE THAT CONSTITUTES WAGES,
WAGE
55 SUPPLEMENTS, INTEREST ON WAGES OR WAGE SUPPLEMENTS, OR
LIQUIDATED
56 DAMAGES DUE THE EMPLOYEE, TO THAT EMPLOYEE AND FILE AN ORDER IN
THAT

1 AMOUNT IN THE NAME OF SUCH EMPLOYEE WITH THE COUNTY CLERK OF THE
COUNTY
2 WHERE THE EMPLOYER RESIDES OR HAS A PLACE OF BUSINESS. The filing
of
3 such order or decision shall have the full force and effect of a
judg-
4 ment duly docketed in the office of such clerk. The order or
decision
5 may be enforced by and in the name of the commissioner in the
same
6 manner, and with like effect, as that prescribed by the civil
practice
7 law and rules for the enforcement of a money judgment.
8 S 13. The labor law is amended by adding a new section 219-c to
read
9 as follows:
10 S 219-C. PUBLIC NOTICE OF EMPLOYER VIOLATIONS. THE COMMISSIONER
SHALL
11 HAVE THE FOLLOWING POWERS:
12 1. WHERE AN EMPLOYER IS FOUND IN VIOLATION OF ARTICLE SIX,
NINETEEN OR
13 NINETEEN-A OF THIS CHAPTER, TO POST AND/OR AFFIX FOR A PERIOD
NOT TO
14 EXCEED ONE YEAR A NOTICE OF NO LESS THAN EIGHT AND ONE-HALF BY
ELEVEN
15 INCHES IN AN AREA VISIBLE TO EMPLOYEES SUMMARIZING THE VIOLATIONS
FOUND
16 AND OTHER INFORMATION DEEMED PERTINENT BY THE COMMISSIONER,
ACCORDING TO
17 SUCH FORM AND MANNER ORDERED BY THE COMMISSIONER; AND
18 2. WHERE THE VIOLATION IS FOR A WILLFUL FAILURE TO PAY ALL WAGES
AS
19 REQUIRED BY ARTICLE SIX, NINETEEN, OR NINETEEN-A OF THIS
CHAPTER, TO
20 POST AND/OR AFFIX FOR A PERIOD NOT TO EXCEED NINETY DAYS IN AN
AREA
21 VISIBLE TO THE GENERAL PUBLIC, AS ORDERED BY THE COMMISSIONER, A
NOTICE
22 OF NO LESS THAN EIGHT AND ONE-HALF BY ELEVEN INCHES AS TO THE
VIOLATIONS
23 FOUND, ACCORDING TO SUCH FORM AND MANNER ORDERED BY THE
COMMISSIONER.
24 ANY PERSON OTHER THAN THE COMMISSIONER OR THE COMMISSIONER'S
DULY
25 AUTHORIZED REPRESENTATIVE WHO REMOVES, ALTERS, DEFACES OR
OTHERWISE
26 INTERFERES WITH A NOTICE POSTED AND/OR AFFIXED UNDER THIS SECTION
SHALL
27 BE GUILTY OF A MISDEMEANOR.
28 S 14. Section 661 of the labor law, as added by chapter 619 of
the
29 laws of 1960, is amended to read as follows:
30 S 661. Records of employers. [Every] FOR ALL EMPLOYEES
COVERED BY
31 THIS ARTICLE, EVERY employer shall [keep] ESTABLISH, MAINTAIN,

AND

32 PRESERVE FOR NOT LESS THAN SIX YEARS CONTEMPORANEOUS, true, and
accurate
33 PAYROLL records [of] SHOWING FOR EACH WEEK WORKED THE hours worked
[by
34 each employee covered by an hourly minimum wage rate], the [wages
paid
35 to all employees, and] RATE OR RATES OF PAY AND BASIS THEREOF,
WHETHER
36 PAID BY THE HOUR, SHIFT, DAY, WEEK, SALARY, PIECE, COMMISSION, OR
OTHER
37 BASIS; GROSS WAGES; DEDUCTIONS; ALLOWANCES, IF ANY, CLAIMED AS
PART OF
38 THE MINIMUM WAGE; AND NET WAGES FOR EACH EMPLOYEE, PLUS such
other
39 information as the commissioner deems material and necessary[,
and
40 shall, on]. FOR ALL EMPLOYEES WHO ARE NOT EXEMPT FROM OVERTIME
COMPEN-
41 SATION AS ESTABLISHED IN THE COMMISSIONER'S MINIMUM WAGE
ORDERS OR
42 OTHERWISE PROVIDED BY NEW YORK STATE LAW OR REGULATION, THE
PAYROLL
43 RECORDS MUST INCLUDE THE REGULAR HOURLY RATE OR RATES OF PAY, THE
OVER-
44 TIME RATE OR RATES OF PAY, THE NUMBER OF REGULAR HOURS WORKED, AND
THE
45 NUMBER OF OVERTIME HOURS WORKED. FOR ALL EMPLOYEES PAID A PIECE
RATE,
46 THE PAYROLL RECORDS SHALL INCLUDE THE APPLICABLE PIECE RATE OR RATES
OF
47 PAY AND NUMBER OF PIECES COMPLETED AT EACH PIECE RATE. ON demand,
THE
48 EMPLOYER SHALL furnish to the commissioner or his duly authorized
repre-
49 sentative a sworn statement of the [same] HOURS WORKED, RATE OR
RATES OF
50 PAY AND BASIS THEREOF, WHETHER PAID BY THE HOUR, SHIFT, DAY, WEEK,
SALA-
51 RY, PIECE, COMMISSION, OR OTHER BASIS; GROSS WAGES; DEDUCTIONS;
AND
52 ALLOWANCES, IF ANY, CLAIMED AS PART OF THE MINIMUM WAGE, FOR
EACH
53 EMPLOYEE, PLUS SUCH OTHER INFORMATION AS THE COMMISSIONER DEEMS
MATERIAL
54 AND NECESSARY. Every employer shall keep such records open to
inspection
55 by the commissioner or his duly authorized representative at any
reason-
56 able time. Every employer of an employee shall keep a digest and
summary

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1 of this article or applicable wage order, which shall be prepared by
the
2 commissioner, posted in a conspicuous place in his establishment

and

3 shall also keep posted such additional copies of said digest and
summary
4 as the commissioner prescribes. Employers shall, on request,
be
5 furnished with copies of this article and of orders, and of digests
and
6 summaries thereof, without charge. Employers shall permit the
commis-
7 sioner or his duly authorized representative to question WITHOUT
INTER-
8 FERENCE any employee of such employer in A PRIVATE LOCATION AT the
place
9 of employment and during working hours in respect to the wages
paid to
10 and the hours worked by such employee or other employees.

11 S 15. Section 662 of the labor law, as amended by chapter 587 of
the
12 laws of 1983 and subdivision 4 as added by chapter 776 of the
laws of

13 1983, is amended to read as follows:

14 S 662. Penalties. 1. [Discrimination against employee. Any
employer
15 or his agent, or the officer or agent of any corporation, who
discharges
16 or in any other manner discriminates against any employee because
such
17 employee has made a complaint to his employer, or to the
commissioner or

18 his authorized representative, that he has not been paid in
accordance
19 with the provisions of this article, or because such employee has
caused

20 to be instituted a proceeding under or related to this
article, or
21 because such employee has testified or is about to testify in an
inves-
22 tigation or proceeding under this article, shall be guilty of a
class B

23 misdemeanor.

24 2. Payment of less than minimum wage] FAILURE TO PAY MINIMUM WAGE
OR
25 OVERTIME COMPENSATION. (A) Any employer or his OR HER agent, or
the
26 officer or agent of any corporation, PARTNERSHIP, OR LIMITED
LIABILITY

27 COMPANY, who pays or agrees to pay to any employee less than the
wage
28 applicable under this article shall be guilty of a [class B]
misdemeanor

29 and [each] UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN
FIVE
30 HUNDRED NOR MORE THAN TWENTY THOUSAND DOLLARS OR IMPRISONED FOR NOT
MORE
31 THAN ONE YEAR, AND, IN THE EVENT THAT ANY SECOND OR SUBSEQUENT
OFFENSE

32 OCCURS WITHIN SIX YEARS OF THE DATE OF CONVICTION FOR A PRIOR
OFFENSE,
33 SHALL BE GUILTY OF A FELONY FOR THE SECOND OR SUBSEQUENT OFFENSE,
AND
34 UPON CONVICTION THEREFOR, SHALL BE FINED NOT LESS THAN FIVE HUNDRED
NOR
35 MORE THAN TWENTY THOUSAND DOLLARS OR IMPRISONED FOR NOT MORE THAN
ONE
36 YEAR PLUS ONE DAY, OR PUNISHED BY BOTH SUCH FINE AND IMPRISONMENT,
FOR
37 EACH SUCH OFFENSE. EACH payment to any employee in any week of less
than
38 the wage applicable under this article shall constitute a
separate
39 offense.

40 (B) EVERY EMPLOYER WHO WILLFULLY FAILS TO PAY THE WAGES OF ALL HIS
OR
41 HER EMPLOYEES IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, AND
THE
42 OFFICERS AND AGENTS OF ANY CORPORATION, PARTNERSHIP, OR LIMITED
LIABIL-
43 ITY COMPANY WHO KNOWINGLY PERMIT THE CORPORATION, PARTNERSHIP, OR
LIMIT-
44 ED LIABILITY COMPANY TO VIOLATE THIS ARTICLE BY FAILING TO PAY THE
WAGES
45 OF ANY OF ITS EMPLOYEES IN ACCORDANCE WITH THE PROVISIONS THEREOF,
AND:

46 (I) SUCH FAILURE RESULTS IN UNDERPAYMENTS, WHICH IN THE
AGGREGATE
47 AMOUNT TO ALL WORKERS EMPLOYED BY SUCH EMPLOYER, RESULTS IN AN
AMOUNT
48 GREATER THAN ONE HUNDRED THOUSAND DOLLARS, SHALL BE GUILTY OF A
CLASS E
49 FELONY AND UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN
HALF
50 THE AMOUNT OF THE TOTAL UNDERPAYMENT NOR MORE THAN TWICE SUCH
AMOUNT, OR
51 IMPRISONED FOR NOT MORE THAN FOUR YEARS;

52 (II) SUCH FAILURE RESULTS IN UNDERPAYMENTS, WHICH IN THE
AGGREGATE
53 AMOUNT TO ALL WORKERS EMPLOYED BY SUCH EMPLOYER, RESULTS IN AN
AMOUNT
54 GREATER THAN FIVE HUNDRED THOUSAND DOLLARS, SHALL BE GUILTY OF A
CLASS D
55 FELONY AND UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN
HALF

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15

1 THE AMOUNT OF THE TOTAL UNDERPAYMENT NOR MORE THAN TWICE SUCH
AMOUNT, OR
2 IMPRISONED FOR NOT MORE THAN SEVEN YEARS;
3 (III) SUCH FAILURE RESULTS IN UNDERPAYMENTS, WHICH IN THE
AGGREGATE
4 AMOUNT TO ALL WORKERS EMPLOYED BY SUCH EMPLOYER, RESULTS IN AN
AMOUNT
5 GREATER THAN ONE MILLION DOLLARS, SHALL BE GUILTY OF A CLASS C

FELONY

6 AND UPON CONVICTION THEREFOR SHALL BE FINED NOT LESS THAN HALF
THE

7 AMOUNT OF THE TOTAL UNDERPAYMENT NOR MORE THAN TWICE SUCH
AMOUNT, OR

8 IMPRISONED FOR NOT MORE THAN FIFTEEN YEARS.

9 [3.] 2. Failure to keep records. Any employer or his OR HER agent,
or

10 the officer or agent of any corporation, PARTNERSHIP, OR LIMITED
LIABIL-

11 ITY COMPANY, who fails to keep the records required under this
article

12 or to furnish such records or any information required to be
furnished

13 under this article to the commissioner or his OR HER authorized
repre-

14 sentative upon request, or who hinders or delays the commissioner or
his

15 OR HER authorized representative in the performance of his OR HER
duties

16 in the enforcement of this article, or refuses to admit the
commissioner

17 or his OR HER authorized representative to any place of employment,
or

18 falsifies any such records or refuses to make such records
accessible to

19 the commissioner or his OR HER authorized representative, or
refuses to

20 furnish a sworn statement of such records or any other
information

21 required for the proper enforcement of this article to the
commissioner

22 or his OR HER authorized representative, shall be guilty of a [class
B]

23 misdemeanor and [each] UPON CONVICTION THEREFOR SHALL BE FINED NOT
LESS

24 THAN FIVE HUNDRED NOR MORE THAN FIVE THOUSAND DOLLARS OR IMPRISONED
FOR

25 NOT MORE THAN ONE YEAR, AND, IN THE EVENT THAT ANY SECOND OR
SUBSEQUENT

26 OFFENSE OCCURS WITHIN SIX YEARS OF THE DATE OF CONVICTION FOR A
PRIOR

27 OFFENSE, SHALL BE GUILTY OF A FELONY FOR THE SECOND OR
SUBSEQUENT

28 OFFENSE, AND UPON CONVICTION THEREFOR, SHALL BE FINED NOT LESS THAN
FIVE

29 HUNDRED NOR MORE THAN TWENTY THOUSAND DOLLARS OR IMPRISONED FOR NOT
MORE

30 THAN ONE YEAR PLUS ONE DAY, OR PUNISHED BY BOTH SUCH FINE AND
IMPRISON-

31 MENT, FOR EACH SUCH OFFENSE. EACH day's failure to keep the
records

32 requested under this article or to furnish such records or
information

33 to the commissioner or his OR HER authorized representative
shall

34 constitute a separate offense.
35 [4. Where any person has previously been convicted of a violation
of
36 this section within the preceding five years, upon conviction
for a
37 second or subsequent violation such person may be fined up to ten
thou-
38 sand dollars in addition to any other penalties including fines
other-
39 wise provided by law; provided, however, that the total additional
fine
40 that may be imposed pursuant to this subdivision for separate
offenses
41 committed in any consecutive twelve month period may not exceed
ten
42 thousand dollars.]

43 S 16. Section 663 of the labor law, as added by chapter 619 of
the
44 laws of 1960, subdivisions 1 and 2 as amended by chapter 372 of the
laws
45 of 2009 and subdivision 3 as added by chapter 497 of the laws of
1966,
46 is amended to read as follows:

47 S 663. Civil action. 1. By employee. If any employee is paid by
his or
48 her employer less than the wage to which he or she is entitled under
the
49 provisions of this article, he or she [may] SHALL recover in a
civil
50 action the amount of any such underpayments, together with costs
[and
51 such] ALL reasonable attorney's fees [as may be allowed by the
court],
52 PREJUDGMENT INTEREST AS REQUIRED UNDER THE CIVIL PRACTICE LAW AND
RULES,
53 and unless the employer proves a good faith basis to believe that
its
54 underpayment of wages was in compliance with the law, an
additional
55 amount as liquidated damages equal to [twenty-five] ONE HUNDRED
percent
56 of the total of such underpayments found to be due [the employee
and

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16

1 any]. ANY agreement between the employee, and the employer to work
for
2 less than such wage shall be no defense to such action.
3 2. By commissioner. On behalf of any employee paid less than the
wage
4 to which the employee is entitled under the provisions of this
article,
5 the commissioner may bring any legal action necessary, including
admin-
6 istrative action, to collect such claim, and the employer shall
be

7 required to pay the FULL AMOUNT OF THE UNDERPAYMENT, PLUS costs,
and
8 unless the employer proves a good faith basis to believe that its
under-
9 payment was in compliance with the law, an additional amount as
liqui-
10 dated damages [equal to twenty-five percent of the total of such
under-
11 payments found to be due the employee]. LIQUIDATED DAMAGES SHALL
BE
12 CALCULATED BY THE COMMISSIONER AS NO MORE THAN ONE HUNDRED
PERCENT OF
13 THE TOTAL AMOUNT OF UNDERPAYMENTS FOUND TO BE DUE THE EMPLOYEE. IN
ANY
14 ACTION BROUGHT BY THE COMMISSIONER IN A COURT OF COMPETENT
JURISDICTION,
15 LIQUIDATED DAMAGES SHALL BE CALCULATED AS AN AMOUNT EQUAL TO ONE
HUNDRED
16 PERCENT OF UNDERPAYMENTS FOUND TO BE DUE THE EMPLOYEE.
17 3. Limitation of time. Notwithstanding any other provision of
law, an
18 action to recover upon a liability imposed by this article must
be
19 commenced within six years. THE STATUTE OF LIMITATIONS SHALL BE
TOLLED
20 FROM THE DATE AN EMPLOYEE FILES A COMPLAINT WITH THE COMMISSIONER OR
THE
21 COMMISSIONER COMMENCES AN INVESTIGATION, WHICHEVER IS EARLIER, UNTIL
AN
22 ORDER TO COMPLY ISSUED BY THE COMMISSIONER BECOMES FINAL, OR WHERE
THE
23 COMMISSIONER DOES NOT ISSUE AN ORDER, UNTIL THE DATE ON WHICH
THE
24 COMMISSIONER NOTIFIES THE COMPLAINANT THAT THE INVESTIGATION
HAS
25 CONCLUDED. INVESTIGATION BY THE COMMISSIONER SHALL NOT BE A
PREREQUISITE
26 TO NOR A BAR AGAINST A PERSON BRINGING A CIVIL ACTION UNDER THIS
ARTI-
27 CLE.
28 4. ATTORNEYS' FEES. IN ANY CIVIL ACTION BY AN EMPLOYEE OR BY
THE
29 COMMISSIONER, THE EMPLOYEE OR COMMISSIONER SHALL HAVE THE RIGHT
TO
30 COLLECT ATTORNEYS' FEES AND COSTS INCURRED IN ENFORCING ANY COURT
JUDG-
31 MENT. ANY JUDGMENT OR COURT ORDER AWARDING REMEDIES UNDER THIS
SECTION
32 SHALL PROVIDE THAT IF ANY AMOUNTS REMAIN UNPAID UPON THE
EXPIRATION OF
33 NINETY DAYS FOLLOWING ISSUANCE OF JUDGMENT, OR NINETY DAYS AFTER
EXPIRA-
34 TION OF THE TIME TO APPEAL AND NO APPEAL THEREFROM IS THEN
PENDING,
35 WHICHEVER IS LATER, THE TOTAL AMOUNT OF JUDGMENT SHALL
AUTOMATICALLY

36 INCREASE BY FIFTEEN PERCENT.

37 S 17. This act shall take effect on the one hundred twentieth
day

38 after it shall have become a law.

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