

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/23/99

Received By: malaigm

Wanted: Soon

Identical to LRB:

For: Senate Democratic Caucus 6-2257

By/Representing: Walter

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: **Employ Priv - miscellaneous**

Extra Copies:

Pre Topic:

SDC:.....Walter - Caucus #3308,

Topic:

Wage claim liens

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 06/23/99	wjackson 06/25/99		_____			
/1			martykr 06/26/99	_____	lrb_docadmin 06/26/99		

FE Sent For:

<END>

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1/?	malaigm	1 6/25 WLJ	Km ⁶ 6/25	Up Km 6/25			

FE Sent For:

<END>

yes

SDC

GMM?

caucus number 3305

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
FM 496	
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Adopt FM 496 re: W-2 Contract Allocations and Contracting Process.

other notes

drafting instructions: Include FM 496. See above.

more instructions:

caucus number 3308

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Eliminate wage lien language included in last session's budget adjustment bill. Restore the priority given to wage claim liens under WI law before last budget adjustment bill. See attached.

other notes

drafting instructions: See above and attached.

more instructions:

caucus number 3615

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Food Stamp Waiver. BWD to request waiver from fed gov't to waive work requirements under the Food Stamp Employment and Training Program for anyone living in areas w/ 1) unemployment rate over 10% or 2) insufficient # of jobs to provide employment.

other notes

drafting instructions: See above and attached.

more instructions:

caucus number 3616

duplicate flag: y
duplicate with: 2779

Other reference numbers:	LFB Sum #:
FM 903	
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: FM 903. Technical College Education Program for W-2 Participants.

other notes

drafting instructions: FM 903. See above.

more instructions:

CN 3308

8 +

Priority Budget Motion-Eliminate wage lien language included in last session's budget adjustment bill no fiscal impact

In last session's Budget Adjustment Bill, the language included in DWD's budget regarding state wage and collection law was changed to the detriment of Wisconsin's workers. This provision eliminated the priority given to liens for unpaid wages, such as in cases of bankruptcy or plant closings. It did this by defining the lien priority according to when the lien is filed, not the nature of the lien. For all practical purposes, this gives banks and other financial institutions first priority on any remaining assets since their property lien dates will typically precede the date that wage liens are filed.

I would like to restore the priority given to wage claim liens under Wisconsin law before enactment of last session's Budget Adjustment Bill. I have enclosed the language from last session, and the Governor's partial veto.

rather than "any information it deems appropriate and necessary." Also, the provisions regarding unpaid taxes are included in the bill as part of the post-amnesty tax compliance measures.

[Act 237 Section: 194b]

5. RELEASE OF THE ADDRESS OF W-2 PARTICIPANTS INVOLVED IN LEGAL PROCEEDINGS

Joint Finance/Legislature: Require W-2 agencies to release the current address of a recipient of benefits under a W-2 subsidized employment position or as a custodial parent of an infant to a person, the person's attorney or an employe or agent of that attorney if the person is a party to a legal action or proceeding in which the recipient is a party or witness, except in certain cases of abuse or harassment. Also, add W-2 agencies to the organizations that must comply with other provisions related to the release of the address of benefit recipients involved in legal proceedings. Under current law, provisions related to the release of an address of a recipient involved in legal proceedings apply only to county departments of human services and relief agencies with respect to benefits under a relief block grant or the AFDC program.

[Act 237 Section: 196m]

6. STATE WAGE PAYMENT AND COLLECTION LAW

Joint Finance/Legislature: Modify the state wage payment and collection law to define "employe" to mean any person employed by an employer in the state, except that "employe" would not be an officer or director of a corporation, cooperative or association, a member or manager of a limited liability company, a partner of a partnership or a joint venture or the owner of a sole proprietorship.

Modify the definition of "wage" or "wages" to mean remuneration actually rendered, including salaries, commissions, holiday and vacation pay, overtime pay, bonuses and any other similar advantages for personal services actually rendered. "Wages" would not include severance pay, dismissal pay, supplemental unemployment benefit plan payments when required under a binding collective bargaining agreement or any other similar advantage payable to an employe, but not for personal services actually rendered.

Authorize DWD to attach a lien on the real and personal property in the state of the employe for the amount of any wage claim, up to a maximum of \$1,000. A lien on real property would take effect when notice of the lien was filed as under current law. The clerk of the circuit court would be required to enter notice of the lien on the judgement and lien docket. A lien on personal property would take effect when DWD filed a notice of the lien with the Department of Financial Institutions (DFI) and served a copy of the notice on the employer by personal service in the same manner as a summons is

served or by certified mail. DFI would be required to place the lien notice in the same file as financing statements that are filed with the Department. A lien on real property would take precedence over all other debts, judgements, decrees, liens and mortgages against the employer that originate after the lien takes effect except for those that have precedence under current law.

Under current law, employees have the right to file a wage claim with DWD for unpaid wages if there is a dispute with the employer regarding the amount of wages owed or if an employer fails to pay the wages agreed upon for the time actually worked. Once a claim is filed, DWD seeks to resolve the matter with the employer. Wages are defined as remuneration payable to an employee for personal services, including salaries, commissions, holiday and vacation pay, overtime pay, severance pay or dismissal pay, supplemental unemployment benefit plan payments when required under a binding collective bargaining agreement, bonuses and any other similar advantages.

Once a claim has been filed, it is reviewed and the validity of the claim is determined. If the claim is ruled valid and the employer pays the amount due, the case is closed. If the employer refuses to pay a valid wage claim, DWD is required to forward the claim to the local district attorney. The employee must then contact the district attorney and indicate if they wish to pursue the matter in court.

DWD, under its authority to act for employees, is authorized to place a lien on all property of the employer in the state for the full amount of any wage claim or deficiency. The lien takes effect when DWD files a verified petition of the lien with the clerk of the circuit court of the county in which the services or some part of the services were performed, pays the required fee and serves a copy of the petition on the employer in the same manner as a summons or by certified mail. The lien takes precedence over all other debts, judgements, decrees, liens or mortgages against the employer except for liens attached to recover certain environmental cleanup and construction costs.

This provision would modify the definition of "employee" to exclude certain officers, partners and managers and modify the definition of "wages" to exclude certain types of remuneration that was not for personal services actually performed. In addition, the process by which DWD would file a wage claim lien would be clarified, the amount of any lien that could be placed on the property of employers by DWD for unpaid wages would be limited to \$1,000 per claim and the lien would not take precedence over certain obligations previously incurred.

Veto by Governor [C-8]: Modify changes to the definition of "employee" by deleting the requirement that the person be employed in Wisconsin and deleting the exclusion of directors or officers of cooperatives or associations so that those individuals would continue to be covered by the law. The veto also deletes the modifications to the definition of "wage" or "wages" so that the current law definition is restored. Finally, the veto deletes the \$1,000 limit on wage claim liens filed by DWD.

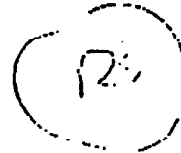
[Act 237 Sections: 354m, 354p, 354r, 354t, 9155(1f) and 9355(1f)]

[Act 237 Vetoed Sections: 354m, 354p, 354r and 9355(1f)]



State of Wisconsin
1997 - 1998 LEGISLATURE

LRB63108/1
GMM:kmg&jlg:km



LFB:.....Shanovich - Wage claim enforcement

FOR 1997-99 BUDGET - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,
TO 1997 ASSEMBLY BILL 768

1 At the locations indicated, amend the bill as follows:

2 1. Page 7, line 1: after "law;" insert "wage claim enforcement;"

3 2. Page 187, line 13: after that line insert:

4 "SECTION 354m. 109.01 (1r) of the statutes is created to read:

5 109.01 (1r) "Employee" means any person employed by an employer in this
6 state, except that "employee" does not include an officer or director of a corporation,
7 cooperative or association, a member or manager of a limited liability company, a
8 partner of a partnership or a joint venture or the owner of a sole proprietorship.

9 SECTION 354p. 109.01 (3) of the statutes, as affected by 1997 Wisconsin Act 39,
10 is amended to read:

1997 - 1998 Legislature

- 2 -

LRBb3108-1
GMM:kmg&jlg:km

1 109.01 (3) "Wage" or "wages" mean remuneration payable to an employe for
2 personal services actually rendered, including salaries, commissions, holiday and
3 vacation pay, overtime pay, ~~severance pay or dismissal pay, supplemental~~
4 ~~unemployment benefit plan payments when required under a binding collective~~
5 ~~bargaining agreement~~, bonuses and any other similar advantages for personal
6 services actually rendered agreed upon between the employer and the employe or
7 provided by the employer to the employe as an established policy. "Wage" or "wages"
8 do not include severance pay, dismissal pay, supplemental unemployment benefit
9 plan payments when required under a binding collective bargaining agreement or
10 any other similar advantages payable to an employe, but not for personal services
11 actually rendered.

12 SECTION 354r. 109.09 (2) of the statutes, as affected by 1997 Wisconsin Act 27,
13 is renumbered 109.09 (2) (a) and amended to read:

14 109.09 (2) (a) The department of workforce development, under its authority
15 under sub. (1) to maintain actions for the benefit of employes, or an employe who
16 brings an action under s. 109.03 (5) shall have a lien upon all property of the
17 employer, real or personal, located in this state for the full amount of any wage claim
18 or wage deficiency up to a maximum amount of \$1,000.

19 (b) 1. A lien under this subsection par. (a) upon real property takes effect when
20 the department of workforce development or employe files a verified petition
21 claiming notice of the lien with the clerk of the circuit court of the county in which
22 the services or some part of the services were performed, pays the fee specified in s.
23 814.61 (5) to that clerk of circuit court and serves a copy of that petition on the
24 employer by personal service in the same manner as a summons is served under s.

1997 - 1998 Legislature

- 3 -

LRBb3108/1
GMM:kmg&jlg:km

1 801.11 or by certified mail with a return receipt requested. The clerk of circuit court
2 shall enter the notice of the lien on the judgment and lien docket kept under s. 779.07.

3 3. The department of workforce development or employe must file the petition
4 notice under subd. 1. or 2. within 2 years after the date that on which the wages were
5 due. The petition notice shall specify the nature of the claim and the amount claimed,
6 describe the property upon which the claim is made and state that the petitioner
7 person filing the notice claims a lien on that property. The

8 (c) A lien shall take under par. (a) takes precedence over all other debts,
9 judgments, decrees, liens or mortgages against the employer that originate after the
10 lien takes effect as provided in par. (b) 1. or 2., except a lien under s. 292.31 (8) (i) or
11 292.81, and may be enforced in the manner provided in ss. 779.09 to 779.12, 779.20
12 and 779.21, insofar as such those provisions are applicable. The lien ceases to exist
13 if the department of workforce development or the employe does not bring an action
14 to enforce the lien within the period prescribed in s. 893.44 for the underlying wage
15 claim.

16 SECTION 354t. 109.09 (2) (b) 2. of the statutes is created to read:

17 109.09 (2) (b) 2. A lien under par. (a) upon personal property takes effect when
18 the department of workforce development or employe files a notice of the lien with
19 the department of financial institutions, pays the fee specified in s. 409.403 (5) (b)
20 to the department of financial institutions and serves a copy of the notice on the
21 employer by personal service in the same manner as a summons is served under s.
22 801.11 or by certified mail with a return receipt requested. The department of
23 financial institutions shall place the notice of the lien in the same file as financing
24 statements are filed under ss. 409.401 and 409.402."

MODIFY

~~FAY~~ *Sum?* SDC

Agency: Workforce Development - Economic Support and Child Care - TANF

caucus number 1514

duplicate flag:
duplicate with:

Other reference numbers:	Paper 1105	LFB Sum #:
	FM 862	
bill number/amendment number:		
LRB draft #		LRB P-draft: <i>sent 6/23/99</i>

description: paper 1105, FM 862. Transfer \$5 mil GPR annually from DWD to DHFS for grants for substance abuse services. DHFS to distribute the funding in Milwaukee Cnty to individuals whose income is less than or equal to 200% of poverty level. See attached for detail

other notes **Modify above as follows: Delete language in JFC motion 862 which excludes W-2 agencies from eligibility for funding.**

drafting instructions: Paper 1105, Freestanding Motion 862

more instructions:

caucus number 1527

duplicate flag:
duplicate with:

Other reference numbers:	Paper 1088	LFB Sum #:
	FM 473	
bill number/amendment number:		
LRB draft #		LRB P-draft: <i>out on phone call w/ Tina 6/23/99</i>

description: Paper 1088, FM 473. Basic Education and Technical College for W-2 participants. See motion for specifics of program.

other notes **Modify to use language from FM 903**

drafting instructions: Paper 1088, Freestanding Motion 473

more instructions:

caucus number 3308

duplicate flag:
duplicate with:

Other reference numbers:		LFB Sum #:
bill number/amendment number:		
LRB draft #		LRB P-draft:

description: Eliminate wage lien language included in last session's budget adjustment bill. Restore the priority given to wage claim liens under WI law before last budget adjustment bill. See attached.

other notes **Modify to: provide an employee, emp. Group or DWD, on behalf of an employee or empl. Group, a priority lien position superior to all other parties except with regard to debts, judgements, decrees, liens or mortgages. See attached language.**

drafting instructions: See above and attached.

more instructions:


Agency: **Workforce Development - Economic Support and Child Care - TANF**

Number of Amendments: 3

Fin. inst, as def. in 69.30(1)(b)

Amend s. 109.09(2)(b)1. To provide that a lien filed by the Department of Workforce Development or by an employee or group of employees who bring an action under s. 109.03(5) shall take precedence over all other debts, judgement, decrees, liens or mortgages against the employer with the exception of any prior lien that has been filed by a bank, savings bank, saving and loan, or other financial institution as provided in Wisconsin state statute.

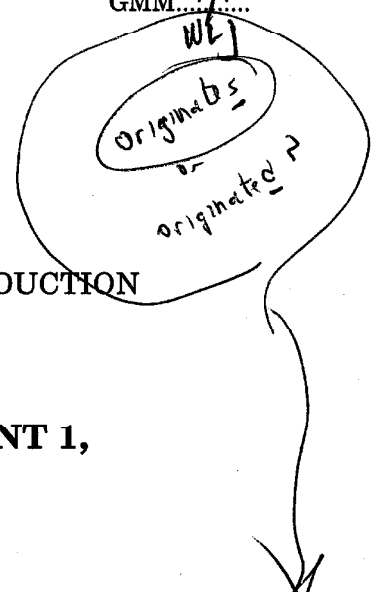
The purpose of this amendment is to provide an employee, an employee group or the Department of Workforce Development, on behalf of an employee or employee group, a priority lien position superior to all other parties except with regard to all debts, judgements, decrees, liens or mortgages previously established by a financial institution (bank, savings bank, savings and loan or other financial institution).

3308
MOP: 



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb10267 (1)
GMM.....



SDC:.....Walter - Caucus #3308, Wage claim liens

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

~~or lien~~
• A lien under par. (a)

a lien of a financial institution, as defined in s. 69.30 (1)(b) that originates before the lien under par. (a) takes effect or

1 At the locations indicated, amend the substitute amendment as follows:
2 1. Page 1092, line 2: after that line insert:
3 "SECTION 2030t. 109.09 (2) (c) of the statutes is amended to read:
4 109.09 (2) (c) A lien under par. (a) takes precedence over all other debts,
5 judgments, decrees, liens or mortgages against the employer that originate after the
6 lien takes effect as provided in par. (b) 1. or 2., except a lien under s. 292.31 (8) (i) or
7 292.81, and may be enforced in the manner provided in ss. 779.09 to 779.12, 779.20
8 and 779.21, insofar as those provisions are applicable. The lien ceases to exist if the
9 department of workforce development or the employe does not bring an action to

1 enforce the lien within the period prescribed in s. 893.44 for the underlying wage
2 claim.”.

History: 1975 c. 380; 1979 c. 32 s. 92 (9); 1985 a. 29, 220; 1989 a. 113; 1991 a. 146; 1993 a. 86, 453; 1995 a. 227; 1997 a. 27, 237.

3 **2.** Page 1566, line 17: after that line insert:

4 ^{mX}
4 “(7~~m~~) WAGE CLAIM LIENS. Notwithstanding section 109.09 (2) (c), 1997 stats., a
5 lien that exists under section 109.09 (2) (a), 1997 stats., on the day before the effective
6 date of this subsection takes precedence over all other debts, judgments, decrees,
7 liens or mortgages against an employer that originated before that lien took effect,
8 except a lien under section 292.31 (8) (i) or 292.81 of the statutes.”. ✓

9 (END)

a lien of a financial institution, as defined
in section 69.30 (1)(b) of the statutes, or
~~that originated before~~



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1026/1
GMM:wlj:km

SDC:.....Walter - Caucus #3308, Wage claim liens

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1092, line 2: after that line insert:

3 **"SECTION 2030t.** 109.09 (2) (c) of the statutes is amended to read:

4 109.09 (2) (c) A lien under par. (a) takes precedence over all other debts,
5 judgments, decrees, liens or mortgages against the employer ~~that originate after the~~
6 ~~lien takes effect as provided in par. (b) 1. or 2.,~~ except a lien of a financial institution,
7 as defined in s. 69.30 (1) (b), that originates before the lien under par. (a) takes effect
8 or a lien under s. 292.31 (8) (i) or 292.81, and. A lien under par. (a) may be enforced
9 in the manner provided in ss. 779.09 to 779.12, 779.20 and 779.21, insofar as those
10 provisions are applicable. The lien ceases to exist if the department of workforce

1 development or the employe does not bring an action to enforce the lien within the
2 period prescribed in s. 893.44 for the underlying wage claim.”.

3 **2.** Page 1566, line 17: after that line insert:

4 “(mx) WAGE CLAIM LIENS. Notwithstanding section 109.09 (2) (c), 1997 stats., a
5 lien that exists under section 109.09 (2) (a), 1997 stats., on the day before the effective
6 date of this subsection takes precedence over all other debts, judgments, decrees,
7 liens or mortgages against an employer that originated before that lien took effect,
8 except a lien of a financial institution, as defined in section 69.30 (1) (b) of the
9 statutes, or a lien under section 292.31 (8) (i) or 292.81 of the statutes.”.

10

(END)