

2003 DRAFTING REQUEST

Senate Amendment (SA-SSA(LRBs0071/1)-AB2)

Received: **05/29/2003**

Received By: **gmalaise**

Wanted: **05/30/2003**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Jonathan Klein**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - wage claims**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Wage claim lien priority

Instructions:

See Attached--clarify that priority applies to first \$3,000 earned in last six months even if total wages owed is greater or wages are owed for a longer period.

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> |
|--------------|------------------------|---------------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | gmalaise 05/29/2003 | jdyer 05/30/2003 | | _____ | | | |
| | | jdyer 05/30/2003 | | _____ | | | |
| /1 | | | jfrantze | _____ | sbasford | sbasford | |

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|--------------|------------------------|--------------------|------------------------------|----------------|----------------------|----------------------|-----------------|
| | | | 05/30/2003 _____ | | 05/30/2003 | 05/30/2003 | |
| /2 | gmalaise 06/02/2003 | jdye 06/02/2003 | jfrantze 06/02/2003 _____ | | lemery 06/02/2003 | lemery 06/02/2003 | |

FE Sent For:

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| /1 | | <i>1/2 g jld</i> | jfrantze | | sbasford | sbasford | |
| | | | <i>10/6/2</i> | <i>Self</i> | | | |
| | | | | <i>6/2</i> | | | |

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See Attached--clarify that ^(P)priority applies to first \$3,000 earned in last six months even if total wages owed is greater or wages are owed for a longer period. _(S)

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/? | gmalaise | 1 5/30 jld | 7/6/30 | 7/6/30 | | | |

FE Sent For:

<END>

Malaise, Gordon

From: Klein, Jonathan
Sent: Tuesday, May 27, 2003 10:28 AM
To: Malaise, Gordon; Marchant, Robert
Subject: Senate Sub Amendment to AB 2

I just finished a phone conversation with Nick Zavos regarding the Senate Substitute Amendment to AB 2. He may be calling to discuss two possible amendments to the amendment. 1.) a cross reference to ~~define commercial lending~~, and 2.) rewording the "to the extent" language in ~~109.99 (2) (c)~~. Thanks for your help on this.

Jonathan Klein
Office of Senator Dale Schultz
(800) 978-8008
(608) 266-0703

Malaise, Gordon

From: Zavos, Nicholas
Sent: Wednesday, May 28, 2003 2:46 PM
To: Malaise, Gordon
Cc: Marchant, Robert
Subject: AB 2

Hi Gordon -

Jonathan in Sen. Schultz's office asked that I work with you on getting an amendment to the sub to AB 2. There are two changes they wanted.

1) ~~First, they want to include a definition of "commercial lender." They sent me the attached memo on what they want to do with that.~~



942074_2.DOC

2) Second, they wanted to modify that sentence in section 4 that we talked about the other day. We had talked about the fact that a litigious party might try to argue that only liens of \$3000 or less will get any superpriority. I think we both agreed that flipping the clauses around might solve the problem. Something to the effect of "Subject to subd. 3., up to \$3000 of a lien under par. (a) shall take precedence over the lien of a commercial lending institution that originates before the lien under par. (a) takes effect if the \$3000 represents wages earned by an employee within the 6 months preceding the date on which the employee files the wage claim under sub. (1) or brings an action under s. 109.03 (5) or the date on which the department receives the we claim under s. 109.10 (4) (a), whichever is applicable"

Unfortunately they are talking about having a hearing on this on Tuesday June 3.

Let me know if this makes sense and how that timeframe looks.

Nick

Nicholas R. Zavos
Staff Attorney
Wisconsin Legislative Council
(608) 266-1308
nicholas.zavos@legis.state.wi.us

2003

Date (time) needed

Fri. 5/30

LRBa 0581/1

AMENDMENT

GMM: jld:

See form AMENDMENTS — COMPONENTS & ITEMS.

SA [AMENDMENT]

TO ~~S A~~ AMENDMENT (LRBa /),

TO SA SUBSTITUTE AMENDMENT (LRBs 0071/1),

TO 2003 SB ~~SJR SR~~ AB AJR AR 2 (LRB /)

At the locations indicated, amend the Substitute Amendment as follows:

(fill ONLY if "engrossed ..." or "as shown by")

#. Page 3..., line 16.: delete lines 16 to 24 ✓

#. Page 4..., line 1.: delete lines 1 and 2 ✓ and substitute:

#. Page ..., line ...:

#. Page ..., line ...:

#. Page ..., line ...:



1 in which the person is privy to confidential matters involving the
2 employer-employee relationship.

3 SECTION 3. 109.09 (2) (c) of the statutes is renumbered 109.09 (2) (c) 1. and
4 amended to read:

5 109.09 (2) (c) 1. A lien under par. (a) takes precedence over all other debts,
6 judgments, decrees, liens, or mortgages against the employer, except a lien of a
7 ~~financial institution, as defined in s. 69.30 (1) (b), that originates before the lien~~
8 ~~under par. (a) takes effect~~ commercial lending institution as provided in subd. 2. and
9 3. or a lien under s. 292.31 (8) (i) or 292.81, regardless of whether those other debts,
10 judgments, decrees, liens, or mortgages originate before or after the lien under par.
11 (a) takes effect. A lien under par. (a) may be enforced in the manner provided in ss.
12 779.09 to 779.12, 779.20, and 779.21, insofar as those provisions are applicable. The
13 lien ceases to exist if the department of workforce development or the employee does
14 not bring an action to enforce the lien within the period prescribed in s. 893.44 for
15 the underlying wage claim. (4d) ✓

16 SECTION 4. 109.09 (2) (c) 2. of the statutes is created to read:

17 109.09 (2) (c) 2. Except as provided in this subdivision, a lien under par. (a) does
18 not take precedence over a lien of a commercial lending institution against the
19 employer that originates before the lien under par. (a) takes effect. Subject to subd.
20 3., a lien under par. (a) takes precedence over a lien of a commercial lending
21 institution against the employer that originates before the lien under par. (a) takes
22 effect only ~~to the extent that the lien under par. (a) is for unpaid wages of \$3,000 or~~
23 ~~less~~ earned by an employee within the 6 months preceding the date on which the
24 employee files the wage claim under sub. (1) or brings the action under s. 109.03 (5)

as to the first \$3,000 ✓ of unpaid wages covered under
the lien and only as to wages

1 or the date on which the department receives the wage claim under s. 109.10 (4) (a),
2 whichever is applicable. ¹¹ ,

3 SECTION 5. 109.09 (2) (c) 3. of the statutes is created to read:

4 ~~109.09 (2) (c) 3. Notwithstanding subd. 2., a lien of a financial institution, as
5 defined in s. 69.30 (1) (b), that exists on the day before the effective date of this
6 subdivision ... [revisor inserts date], and that originates before a lien under par. (a)
7 takes effect takes precedence over the lien under par. (a), and a lien of a financial
8 institution for any amount advanced by the financial institution after a lien under
9 par. (a) takes effect under a contract entered into before the effective date of this
10 subdivision [revisor inserts date], including any extension or renewal of such a
11 contract, takes precedence over the lien under par. (a). Notwithstanding subd. 2., a
12 lien under par. (a) that exists on the day before the effective date of this subdivision
13 [revisor inserts date], takes precedence over a lien of a commercial lending
14 institution that is not a financial institution, as defined in 69.30 (1) (b), regardless
15 of whether the lien of the commercial lending institution originates before or after
16 the lien under par. (a) takes effect.~~

17 SECTION 6. 186.01 (2) of the statutes is amended to read:

18 186.01 (2) "Credit union" means, except as specifically provided under ss.
19 186.41 (1) and 186.45 (1), a cooperative, nonprofit corporation, incorporated under
20 this chapter to encourage thrift among its members, create a source of credit at a fair
21 and reasonable cost, and provide an opportunity for its members to improve their
22 economic and social conditions.

23 SECTION 7. 186.02 (2) (a) 1. of the statutes is amended to read:

24 186.02 (2) (a) 1. ~~The conditions of residence or occupation which qualify persons~~
25 that determine eligibility for membership.

(End) ✓

Malaise, Gordon

From: Zavos, Nicholas
Sent: Monday, June 02, 2003 9:49 AM
To: Malaise, Gordon
Subject: FW: Memo from Nick Zavos, Legislative Council
Hi Gordon -

Just when you thought it was over - - I got this email this morning.

-----Original Message-----

From: Klein, Jonathan
Sent: Monday, June 02, 2003 8:09 AM
To: Zavos, Nicholas
Subject: FW: Memo from Nick Zavos, Legislative Council

I forwarded your memo to rose at the WBA and she responded with the following. Do you think her suggested change would be a good idea?

Jonathan

-----Original Message-----

From: Rose Oswald Poels [mailto:ropoels@wisbank.com]
Sent: Friday, May 30, 2003 5:29 PM
To: Klein, Jonathan; dqj@supranet.net; Jodi Bloch; daryll@communitybankers.org; bthompson@wcul.org; Bilot, Erin
Subject: RE: Memo from Nick Zavos, Legislative Council

Jonathan,

I realize Jodi called you this afternoon to indicate that we generally had no problem with the two new senate amendments to the SSA to AB2. However, in reading the one regarding the \$3,000 amount more closely, I think it would be possible for someone to now read that sentence to say that the employee receives a priority as to the first \$3,000 AND any other wages earned within the 6 months preceding the wage claim date. Obviously, we only agreed to a priority of a maximum of \$3,000 for that six month period. Consequently, I would like to ask that the following words be added to Page 1, Line 11 of this Senate Amendment to SSA to AB 2 such that Line 11 would now read:

"to such wages if earned by an employee within the 6 months preceding the date on which"

I think this would finally clear up any possible ambiguities that might exist in the drafting of this provision.

Thank you for your prompt attention to this very important matter.

Rose

Rose Oswald Poels
Vice President - Legal
Wisconsin Bankers Association
4721 South Biltmore Lane
P.O. Box 8880
Madison, WI 53708-8880

06/02/2003

608/441-1200

<http://www.wisbank.com>

The information contained in this electronic communication and any attached documentation is intended to be general information only and does not constitute legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship.

-----Original Message-----

From: Klein, Jonathan [mailto:Jonathan.Klein@legis.state.wi.us]

Sent: Friday, May 30, 2003 2:16 PM

To: dqj@supranet.net; Jodi Bloch; Rose Oswald Poels; daryll@communitybankers.org; bthompson@wcul.org; Bilot, Erin

Subject: FW: Memo from Nick Zavos, Legislative Council

This explains the substitute amendment to AB 2 and the amendments to the sub.

-----Original Message-----

From: Learned, Julie

Sent: Friday, May 30, 2003 2:07 PM

To: Klein, Jonathan

Subject: Memo from Nick Zavos, Legislative Council

06/02/2003



State of Wisconsin
2003 - 2004 LEGISLATURE

Today!

LRBa0581/1
GMM:jld:jf

2
RMR

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT (LRBs0071/1),
TO 2003 ASSEMBLY BILL 2**

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

2 1. Page 3, line 16: delete lines 16 to 24.

3 2. Page 4, line 1: delete lines 1 and 2 and substitute:

4 "SECTION 4d. 109.09 (2) (c) 2. of the statutes is created to read:

5 109.09 (2) (c) 2. Except as provided in this subdivision, a lien under par. (a) does
6 not take precedence over a lien of a commercial lending institution against the
7 employer that originates before the lien under par. (a) takes effect. Subject to subd.
8 3., a lien under par. (a) takes precedence over a lien of a commercial lending
9 institution against the employer that originates before the lien under par. (a) takes
10 effect only as to the first \$3,000 of unpaid wages covered under the lien ~~and only as~~
11 ~~to wages~~ earned by an employee within the 6 months preceding the date on which
12 the employee files the wage claim under sub. (1) or brings the action under s. 109.03

that are

1 (5) or the date on which the department receives the wage claim under s. 109.10 (4)

2 (a), whichever is applicable.”.

3 (END)