



2007 ASSEMBLY BILL 403

June 14, 2007 - Introduced by Representatives GARTHWAITE, SOLETSKI, BERCEAU, BLACK, BOYLE, CULLEN, HILGENBERG, HIXSON, JORGENSEN, KESSLER, KREUSER, MASON, POCAN, RICHARDS, SHERIDAN, SINICKI, SMITH, TURNER, VAN AKKEREN, ZEPNICK and TOLES, cosponsored by Senators LEHMAN, BRESKE, DECKER, HANSEN and RISSER. Referred to Committee on Financial Institutions.

1 **AN ACT to repeal** 109.09 (2) (c) 1., 109.09 (2) (c) 2. and 109.09 (2) (c) 3.; and **to**
2 **renumber and amend** 109.09 (2) (c) 1m. of the statutes; **relating to:** the
3 priority of a wage claim lien over a prior lien of a commercial lending
4 institution.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Workforce Development (DWD) must investigate and attempt to adjust any claim by an employee that his or her employer has not paid the employee any wages that are owed to the employee (wage claim). Currently, DWD or an employee who brings a wage claim action has a lien upon all property of the employer, real and personal, located in this state for the full amount of any wages owed to the employee (wage claim lien). Currently, a wage claim lien takes precedence over all other debts, judgments, decrees, liens, or mortgages against an employer, except for a lien of a commercial lending institution that originates before the wage claim lien takes effect (prior lien), regardless of whether those other debts, judgments, decrees, liens, or mortgages originated before or after the wage claim lien takes effect. Current law provides, however, that a wage claim lien takes precedence over a prior lien of a commercial lending institution as to the first \$3,000 of unpaid wages covered under the wage claim lien that are earned within the six months preceding the filing of the wage claim with DWD or the commencement of an action by the employee to recover the wages due.

This bill eliminates that \$3,000 cap and six-month time limit so that under the bill a wage claim lien covering any amount of wages earned at any time takes

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precedence over a lien of a commercial lending institution, regardless of whether the lien of the commercial lending institution originated before or after the wage claim lien takes effect.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 109.09 (2) (c) 1. of the statutes is repealed.

2 **SECTION 2.** 109.09 (2) (c) 1m. of the statutes is renumbered 109.09 (2) (c) and
3 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, except ~~a lien of a~~
6 ~~commercial lending institution as provided in subd. 2. and 3. or a lien under s. 292.31~~
7 (8) (i) or 292.81, regardless of whether those other debts, judgments, decrees, liens,
8 or mortgages originate before or after the lien under par. (a) takes effect. A lien under
9 par. (a) may be enforced in the manner provided in ss. 779.09 to 779.12, 779.20, and
10 779.21, insofar as those provisions are applicable. The lien ceases to exist if the
11 department of workforce development or the employee does not bring an action to
12 enforce the lien within the period prescribed in s. 893.44 for the underlying wage
13 claim.

14 **SECTION 3.** 109.09 (2) (c) 2. of the statutes is repealed.

15 **SECTION 4.** 109.09 (2) (c) 3. of the statutes is repealed.

16 **SECTION 5. Nonstatutory provisions.**

17 (1) WAGE CLAIM LIENS. Notwithstanding section 109.09 (2) (c), 2005 stats., a lien
18 that exists under section 109.09 (2) (a) of the statutes on the day before the effective
19 date of this subsection takes precedence over a lien of a commercial lending

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1 institution, as defined in section 109.09 (2) (c) 1., 2005 stats., that originated before
2 the lien under section 109.09 (2) (a) of the statutes took effect.

3 (END)