

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 24-0124.02 Yelana Love x2295

HOUSE BILL 24-1008

HOUSE SPONSORSHIP

Duran and Froelich, Brown, deGruy Kennedy, Epps, Garcia, Hamrick, Hernandez, Joseph, Lieder, Lindstedt, Mabrey, Mauro, Ricks, Rutinel, Story, Velasco, Vigil

SENATE SPONSORSHIP

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House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO EXPAND GENERAL CONTRACTOR**
102 **ACCOUNTABILITY FOR WAGE CLAIMS INVOLVING CONTRACTORS**
103 **IN THE CONSTRUCTION INDUSTRY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

For wage claims brought by individuals working in the construction industry, the bill:

- Requires that a subcontractor that receives a written demand for payment forward a copy of the written demand for payment to the general contractor within 3 business

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

- days after receipt;
- Specifies that a general contractor and a subcontractor that is a direct employer of an employee are jointly and severally liable for all debts owed based on a wage claim or investigation that are incurred by the subcontractor acting under, by, or for the general contractor; and
- Allows a general contractor to require the following information from each subcontractor acting under, by, or for the general contractor:
 - Pay data;
 - Contact information; and
 - An affidavit attesting to whether the subcontractor has participated in a civil or administrative proceeding within the last 5 years and, if so, the outcome of the proceeding.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-4-101, **add** (1.5),
 3 (8.7), (11.5), and (12.5) as follows:

4 **8-4-101. Definitions.** As used in this article 4, unless the context
 5 otherwise requires:

6 (1.5) "CONSTRUCTION CONTRACT" MEANS AN EXPRESS OR IMPLIED
 7 AGREEMENT:

8 (a) FOR THE CONSTRUCTION, RECONSTRUCTION, ALTERATION,
 9 MAINTENANCE, MOVING, OR DEMOLITION OF ANY BUILDING, STRUCTURE,
 10 OR IMPROVEMENT; OR

11 (b) RELATING TO THE EXCAVATION OF OR OTHER DEVELOPMENT
 12 OF OR IMPROVEMENT TO LAND.

13 (8.7) "GENERAL CONTRACTOR" MEANS ANY PERSON, INCLUDING
 14 A CONSTRUCTION MANAGER, JOINT VENTURE, OR ANY COMBINATION
 15 THEREOF, ALONG WITH THE PERSON'S SUCCESSORS, HEIRS, OR ASSIGNS,
 16 THAT ENTERS INTO A CONSTRUCTION CONTRACT WITH AN OWNER.

17 "GENERAL CONTRACTOR" INCLUDES AN OWNER THAT ENTERS INTO A

1 CONSTRUCTION CONTRACT WITH MORE THAN ONE CONTRACTOR OR
2 SUBCONTRACTOR.

3 (11.5) "OWNER" MEANS ANY PERSON WITH AN OWNERSHIP
4 INTEREST IN REAL PROPERTY, WHETHER THE INTEREST IS IN FEE, AS
5 VENDEE UNDER A CONTRACT TO PURCHASE, AS LESSEE, OR ANOTHER
6 INTEREST OR ESTATE LESS THAN FEE.

7 (12.5) "SUBCONTRACTOR" MEANS ANY PERSON THAT IS A PARTY
8 TO AN EXPRESS OR IMPLIED CONTRACT WITH A GENERAL CONTRACTOR OR
9 WITH A GENERAL CONTRACTOR'S SUBCONTRACTORS AT ANY TIER TO
10 PERFORM ANY PORTION OF WORK WITHIN THE SCOPE OF THE GENERAL
11 CONTRACTOR'S CONSTRUCTION CONTRACT WITH THE OWNER, INCLUDING
12 A PERSON THAT HAS NO DIRECT PRIVITY OF CONTRACT WITH THE GENERAL
13 CONTRACTOR.

14 **SECTION 2.** In Colorado Revised Statutes, 8-4-109, **add** (3)(a.3)
15 as follows:

16 **8-4-109. Termination of employment - payments required -**
17 **civil penalties - payments to surviving spouse or heir.** (3) (a.3) (I) IF
18 AN EMPLOYER THAT RECEIVES A WRITTEN DEMAND FOR PAYMENT UNDER
19 SUBSECTION (3)(a) OF THIS SECTION IS A SUBCONTRACTOR, THE EMPLOYER
20 SHALL FORWARD A COPY OF THE WRITTEN DEMAND FOR PAYMENT TO THE
21 GENERAL CONTRACTOR WITHIN THREE BUSINESS DAYS AFTER RECEIVING
22 THE WRITTEN DEMAND. THE EMPLOYER SHALL ALSO SIMULTANEOUSLY
23 SEND TO THE WAGE CLAIMANT A COPY OF THE CORRESPONDENCE SENT TO
24 THE GENERAL CONTRACTOR AND THE GENERAL CONTRACTOR'S NAME AND
25 ADDRESS.

26 (II) AN EMPLOYER THAT FAILS TO FORWARD A WRITTEN DEMAND
27 FOR PAYMENT TO A GENERAL CONTRACTOR AS REQUIRED IN SUBSECTION

1 (3)(a.3)(I) OF THIS SECTION IS SUBJECT TO A FINE OF TWO THOUSAND
2 DOLLARS, PAID TO THE GENERAL CONTRACTOR, IN ADDITION TO ANY
3 AMOUNTS OWED PURSUANT TO SECTION 8-4-110.5 OR ANY OTHER LAW.

4 **SECTION 3.** In Colorado Revised Statutes, **add** 8-4-110.5 as
5 follows:

6 **8-4-110.5. General contractor responsibility for wage claims**
7 **in the construction industry.** (1) (a) A GENERAL CONTRACTOR AND A
8 SUBCONTRACTOR THAT IS A DIRECT EMPLOYER OF AN EMPLOYEE HAVE
9 JOINT AND SEVERAL LIABILITY FOR ALL DEBTS OWED, BASED ON A WAGE
10 CLAIM OR INVESTIGATION AND PURSUANT TO A JUDICIAL OR
11 ADMINISTRATIVE ORDER, THAT ARE INCURRED BY THE SUBCONTRACTOR
12 ACTING UNDER, BY, OR FOR THE GENERAL CONTRACTOR.

13 (b) UNLESS OTHERWISE PROVIDED BY LAW, AFTER A JUDGMENT,
14 WAGE DETERMINATION, OR HEARING OFFICER DECISION HAS BEEN
15 ENTERED, PROPERTY OF THE GENERAL CONTRACTOR MAY BE ATTACHED
16 FOR THE PAYMENT OF ANY DEBT DETERMINED TO BE OWED, BASED ON A
17 WAGE CLAIM OR INVESTIGATION AND PURSUANT TO A JUDICIAL OR
18 ADMINISTRATIVE ORDER, BY A SUBCONTRACTOR ACTING UNDER, BY, OR
19 FOR THE GENERAL CONTRACTOR.

20 (2) PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, A
21 SUBCONTRACTOR SHALL INDEMNIFY A GENERAL CONTRACTOR FOR ALL
22 AMOUNTS PAID AS A RESULT OF THE SUBCONTRACTOR'S VIOLATION UNLESS
23 THE VIOLATION IS DUE TO THE GENERAL CONTRACTOR'S LACK OF PAYMENT
24 TO THE SUBCONTRACTOR IN ACCORDANCE WITH THE TERMS OF THE
25 CONTRACT BETWEEN THE GENERAL CONTRACTOR AND THE
26 SUBCONTRACTOR.

27 (3) A GENERAL CONTRACTOR MAY REQUIRE THE FOLLOWING

1 INFORMATION FROM EACH SUBCONTRACTOR ACTING UNDER, BY, OR FOR
2 THE GENERAL CONTRACTOR:

3 (a) PAY DATA SHOWING THE HOURS WORKED, PAY, OVERTIME, AND
4 DEDUCTIONS FOR EACH INDIVIDUAL WORKER ENGAGED BY THE
5 SUBCONTRACTOR, REGARDLESS OF WHETHER THE INDIVIDUAL WORKER IS
6 CLASSIFIED AS AN EMPLOYEE OR AN INDEPENDENT CONTRACTOR'S
7 INDIVIDUAL LABORER. THE SUBCONTRACTOR SHALL REDACT THESE
8 RECORDS TO DISCLOSE ONLY THE LAST FOUR DIGITS OF THE INDIVIDUAL
9 WORKER'S SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER
10 IDENTIFICATION NUMBER.

11 (b) CONTACT INFORMATION FOR ALL ADDITIONAL
12 SUBCONTRACTORS THAT PERFORM ANY PORTION OF WORK WITHIN THE
13 SCOPE OF THE SUBCONTRACTOR'S CONTRACT WITH THE GENERAL
14 CONTRACTOR OR WITH ANOTHER SUBCONTRACTOR THAT IS IN PRIVITY OF
15 CONTRACT WITH THE GENERAL CONTRACTOR; AND

16 (c) (I) AN AFFIDAVIT ATTESTING TO WHETHER THE
17 SUBCONTRACTOR OR ANY OF ITS CURRENT PRINCIPALS HAS PARTICIPATED
18 IN ANY CIVIL OR ADMINISTRATIVE PROCEEDING WITHIN THE PRECEDING
19 FIVE YEARS THAT INVOLVED ANY ALLEGATIONS OF A WAGE AND HOUR
20 VIOLATION AGAINST THE SUBCONTRACTOR OR PRINCIPAL UNDER LOCAL,
21 STATE, OR FEDERAL LAW; AND

22 (II) IF THE PROCEEDING IS COMPLETE, THE OUTCOME OF THE
23 PROCEEDING, INCLUDING ANY DAMAGES, FEES, OR PENALTY AMOUNTS
24 PAID TO WORKERS OR TO A GOVERNMENT AGENCY.

25 (4) A SUBCONTRACTOR'S FAILURE TO COMPLY WITH THIS SECTION
26 DOES NOT RELIEVE A GENERAL CONTRACTOR FROM LIABILITY UNDER
27 SUBSECTION (1) OF THIS SECTION.

1 (5) (a) NOTHING IN THIS SECTION DIMINISHES THE RIGHTS,
2 PRIVILEGES, OR REMEDIES OF ANY EMPLOYEE UNDER ANY COLLECTIVE
3 BARGAINING AGREEMENT.

4 (b) A COLLECTIVE BARGAINING AGREEMENT MAY WAIVE THE
5 REQUIREMENTS OF THIS SECTION IF THE AGREEMENT:

6 (I) IS ENTERED INTO BY A BONA FIDE BUILDING AND
7 CONSTRUCTION TRADE LABOR ORGANIZATION THAT HAS ESTABLISHED
8 ITSELF OR ITS AFFILIATES AS THE COLLECTIVE BARGAINING
9 REPRESENTATIVE FOR PERSONS PERFORMING WORK ON A PROJECT;

10 (II) EXPLICITLY REFERENCES THIS SECTION; AND

11 (III) DOES NOT DIMINISH OR IMPAIR THE RIGHTS OF AN EMPLOYEE
12 PROVIDED UNDER ANY OTHER SECTION OF THIS ARTICLE 4.

13 **SECTION 4. Applicability.** This act applies to wage claims
14 brought and investigations commenced on or after the effective date of
15 this act.

16 **SECTION 5. Safety clause.** The general assembly finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, or safety or for appropriations for
19 the support and maintenance of the departments of the state and state
20 institutions.