

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0835.01 Christy Chase x2008

SENATE BILL 22-161

SENATE SPONSORSHIP

Danielson and Jaquez Lewis,

HOUSE SPONSORSHIP

Duran and Froelich,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING THE MODERNIZATION OF PROCEDURES FOR THE
102 ENFORCEMENT OF LAWS GOVERNING THE
103 EMPLOYER-EMPLOYEE RELATIONSHIP.

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>.)

The bill updates and modifies laws pertaining to the payment of wages, employee misclassification, and workplace safety, and the enforcement procedures and remedies for violations of those laws, as follows:

- Changes the penalty for failure to provide requested

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

information to the division of labor standards and statistics in the department of labor and employment (DLSS) from a misdemeanor criminal offense to a daily penalty of up to \$50 (**section 1** of the bill);

- Requires an employer to: Provide notice to an employee, within 10 days after the employment terminates, before deducting from wages or compensation any amount of money or property the employee failed to return or repay upon termination of employment; pay the employee the deducted amount within 14 days after the employee returns or repays the money or property if the employee did so within 14 days after notice is provided; and pay 2 times the amount of the deduction if the employer fails to provide the required notice (**section 2**);
- Imposes automatic penalties, and adjusts the amount of the penalties for multiple violations within 5 years, on an employer that fails to pay past-due wages within 14 days after a written demand or civil or administrative action for the past-due wages is sent to or served on the employer (**section 3**);
- Repeals the requirement that an employee dismiss an action against an employer after the employer makes a legal tender for the full amount claimed in the action (**section 3**), and eliminates the authority of a court to award an employer reasonable attorney fees and costs in an action in which the employee claimed wages in excess of the greater of \$7,500 or the jurisdictional limit for small claims court and the employee does not recover an amount greater than the amount the employer tendered (**section 4**);
- For wage claims on or after January 1, 2023, increases the threshold for wage claims the director of the DLSS may adjudicate from \$7,500 or less to \$15,000 or less (**section 5**);
- Allows the director of the DLSS to use existing authority under labor laws to gather information pertinent to wage claims from employers, employees, and other persons or entities (**section 5**);
- If the DLSS determines that an employer has violated wage laws, allows employees who filed the wage claims to request the DLSS to notify similarly situated employees that the employer may be engaging in a pattern or practice of nonpayment of wages (**section 5**);
- Allows recovery of attorney fees, an additional fine of 50% of the amount of past-due wages, and a penalty of the greater of 50% of past-due wages or \$3,000 from an

employer that fails to pay an employee past-due wages within 60 days after the determination in favor of the employee (**section 5**);

- For a citation, notice of assessment, or order issued against an employer on or after January 1, 2023, requires the DLSS, upon request of an employee, to file a certified copy of the citation, notice, or order with the appropriate clerk of court, after which the clerk is required to enter the citation, notice, or order as a judgment of the court, and the judgment becomes a lien against the employer's property that is superior to all other liens except property tax liens (**section 6**);
- Authorizes the DLSS to issue a notice of administrative lien and levy, similar to a child support enforcement lien, when an employer fails to pay past-due wages, fines, or penalties, which lien attaches to the employer's real or personal property that is in the possession, custody, or control of another person (**section 6**);
- Allows an employee who alleges that the employer discriminated or retaliated against the employee for filing or participating in a wage claim to file a civil action to seek relief, including back pay, reinstatement or front pay, payment of unlawfully withheld wages, interest on past-due wages, penalties, liquidated damages, injunctive relief, and attorney fees and costs. The DLSS, after an investigation of a discrimination or retaliation claim, may also order similar relief to an employee, other than attorney fees and costs (**section 7**);
- Requires employers to ensure the workplace is constructed, operated, and equipped, and any machinery and equipment in the workplace is placed, operated, and lighted, in a manner that provides reasonable and adequate protections to the lives, health, and safety of all employees, and authorizes a new worker and employee unit in the department of law, in addition to an employee injured or threatened with injury, to enforce the workplace safety requirements (**section 8**);
- Establishes the worker and employee unit (unit) in the department of law to investigate and enforce wage theft, unemployment insurance and misclassification of employees, and workplace safety claims under specified circumstances (**sections 9 through 12**); and
- Modifies certain provisions of the mechanics' lien law to streamline its use in the context of workers enforcing wage claims for work performed on real property (**sections 13**

through 23).

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-1-114, **amend** (2)
3 as follows:

4 **8-1-114. Employers and employees to furnish information -**
5 **penalty.** (2) Any employer or employee who fails or refuses to furnish
6 ~~such~~ information as may be required by the division under authority of
7 ~~this article is guilty of a misdemeanor and, upon conviction thereof, shall~~
8 ~~be punished by a fine of two hundred dollars if an employer and~~
9 ~~twenty-five dollars if an employee~~ ARTICLE 1 SHALL PAY A PENALTY OF
10 NOT LESS THAN FIFTY DOLLARS FOR EACH DAY THAT THE FAILURE OR
11 REFUSAL CONTINUES.

12 **SECTION 2.** In Colorado Revised Statutes, 8-4-105, **amend** (1)
13 introductory portion and (1)(e) as follows:

14 **8-4-105. Payroll deductions permitted - notice required -**
15 **penalty.** (1) ~~No~~ AN employer shall NOT make a deduction from the
16 wages or compensation of an employee except as follows:

17 (e) (I) A deduction for the amount of money or the value of
18 property that the employee failed to properly pay or return to the
19 employer in the case where a terminated employee was entrusted during
20 ~~his or her~~ THE EMPLOYEE'S employment with the collection, disbursement,
21 or handling of such money or property, BUT ONLY AFTER PROVIDING
22 NOTICE OF THE DEDUCTION AS SPECIFIED IN SUBSECTION (1)(e)(II) OF THIS
23 SECTION. AN EMPLOYER THAT FAILS TO PROVIDE THE REQUIRED NOTICE OF
24 THE DEDUCTION IS LIABLE TO THE EMPLOYEE FOR AN AMOUNT EQUAL TO
25 TWO TIMES THE AMOUNT OF THE DEDUCTION.

1 (II) The employer ~~shall have~~ HAS ten calendar days after the
2 termination of employment to:

3 (A) Audit and adjust the accounts and property value of any items
4 entrusted to the employee before the employee's wages or compensation
5 shall be paid as provided in section 8-4-109. This is an exception to the
6 pay requirements in section 8-4-109. The penalty provided in section
7 8-4-109 shall apply only from the date of demand made after the
8 expiration of the ten-day period allowed for payment of the employee's
9 wages or compensation.

10 (B) PROVIDE NOTICE TO THE EMPLOYEE THAT THE EMPLOYER IS
11 DEDUCTING FROM THE EMPLOYEE'S WAGES OR COMPENSATION THE
12 AMOUNT OF MONEY OR THE VALUE OF PROPERTY THAT THE EMPLOYEE
13 FAILED TO PROPERLY PAY OR RETURN TO THE EMPLOYER, WHICH NOTICE
14 MUST INCLUDE A WRITTEN ACCOUNTING SPECIFYING THE AMOUNT OF
15 MONEY OR THE SPECIFIC PROPERTY THAT THE EMPLOYEE FAILED TO PAY
16 OR RETURN, THE REPLACEMENT VALUE OF THE PROPERTY, AND, TO THE
17 EXTENT KNOWN, WHEN THE MONEY OR PROPERTY WAS PROVIDED TO THE
18 EMPLOYEE AND WHEN THE EMPLOYER BELIEVES THE EMPLOYEE SHOULD
19 HAVE PAID THE MONEY OR RETURNED THE PROPERTY TO THE EMPLOYER.

20 (III) AFTER AN EMPLOYER PROVIDES THE NOTICE REQUIRED BY
21 SUBSECTION (1)(e)(II)(B) OF THIS SECTION AND MAKES A DEDUCTION
22 FROM THE WAGES OR COMPENSATION OF AN EMPLOYEE, IF THE EMPLOYEE,
23 WITHIN FOURTEEN DAYS AFTER THE EMPLOYER PROVIDES THE NOTICE,
24 PAYS THE MONEY OR RETURNS THE PROPERTY THAT WAS THE BASIS FOR
25 THE DEDUCTION, THE EMPLOYER SHALL PAY THE EMPLOYEE THE AMOUNT
26 OF THE DEDUCTION WITHIN FOURTEEN DAYS AFTER THE EMPLOYEE PAYS
27 THE MONEY OR RETURNS THE PROPERTY TO THE EMPLOYER.

1 (IV) If, ~~upon such audit and adjustment of~~ AFTER AUDITING AND
2 ADJUSTING the accounts and property value of any items entrusted to the
3 employee PURSUANT TO SUBSECTION (1)(e)(II)(A) OF THIS SECTION AND
4 PROVIDING NOTICE PURSUANT TO SUBSECTION (1)(e)(II)(B) OF THIS
5 SECTION, it is found that any money or property entrusted to the employee
6 by the employer has not been properly paid or returned TO the employer
7 as provided by the terms of any agreement between the employer and the
8 employee, the employee ~~shall not be~~ IS NOT entitled to the benefit of
9 payment pursuant to section 8-4-109, but the EMPLOYEE'S claim for
10 unpaid wages or compensation ~~of such employee~~ shall be disposed of as
11 provided for by this ~~article~~ ARTICLE 4.

12 **SECTION 3.** In Colorado Revised Statutes, 8-4-109, **amend**
13 (1)(a) introductory portion and (3) as follows:

14 **8-4-109. Termination of employment - payments required -**
15 **civil penalties - payments to surviving spouse or heir.** (1) (a) ~~When an~~
16 ~~interruption in the employer-employee relationship by volition of the~~
17 ~~employer occurs,~~ The wages or compensation for labor or service earned,
18 vested, determinable, and unpaid ~~at the time of such discharge~~ AS OF THE
19 MOST RECENT REGULAR PAYDAY is due and payable immediately. If at
20 such time the employer's accounting unit, responsible for the drawing of
21 payroll checks, is not regularly scheduled to be operational, then THE
22 EMPLOYER SHALL MAKE the wages due the ~~separated~~ CURRENT OR FORMER
23 employee ~~shall be made~~ available to the CURRENT OR FORMER employee
24 no later than six hours after the start of ~~such~~ THE employer's accounting
25 unit's next regular workday; except that, if the accounting unit is located
26 off the work site, the employer shall deliver the check for wages due the
27 ~~separated~~ CURRENT OR FORMER employee no later than twenty-four hours

1 after the start of ~~such~~ THE employer's accounting unit's next regular
2 workday to one of the following locations selected by the employer:

3 (3) (a) If an employer refuses to pay wages or compensation in
4 accordance with subsection (1) of this section, the employee, ~~his or her~~
5 THE EMPLOYEE'S designated agent, or the division may send a written
6 demand for the payment ON BEHALF OF THE EMPLOYEE OR A GROUP OF
7 SIMILARLY SITUATED EMPLOYEES OR MAY FILE AN ADMINISTRATIVE CLAIM
8 OR CIVIL ACTION FOR THE PAYMENT.

9 (a.5) If the employer disputes the amount of wages or
10 compensation claimed by an employee under this ~~article~~ ARTICLE 4 and
11 if, within fourteen days after the written demand is sent OR THE
12 ADMINISTRATIVE CLAIM OR CIVIL ACTION IS SENT TO OR SERVED ON THE
13 EMPLOYER, the employer makes a legal tender of the FULL amount ~~that the~~
14 ~~employer in good faith believes is due~~ OF ALL WAGES THAT THE
15 EMPLOYEE, THE EMPLOYEE'S DESIGNATED AGENT, OR THE DIVISION
16 DEMANDS ARE OWED, the employer shall not be liable for any penalty
17 unless, in a legal proceeding, including a civil action or an administrative
18 procedure under sections 8-4-111 and 8-4-111.5, the employee recovers
19 a greater sum than the amount ~~so~~ THE EMPLOYER tendered.

20 (b) If AN EMPLOYER FAILS OR REFUSES TO PAY, IN THE MANNER
21 SPECIFIED IN SUBSECTION (3)(d) OF THIS SECTION, an employee's earned,
22 vested, and determinable wages or compensation ~~is not paid~~ within
23 fourteen days after the written demand is sent ~~in the manner set forth in~~
24 ~~paragraph (d) of this subsection (3)~~ OR WITHIN FOURTEEN DAYS AFTER A
25 CIVIL ACTION OR ADMINISTRATIVE CLAIM FOR THE WAGES OR
26 COMPENSATION IS SENT TO OR SERVED ON THE EMPLOYER, the employer
27 ~~shall be~~ IS liable to the employee OR GROUP OF SIMILARLY SITUATED

1 EMPLOYEES for the AMOUNT OF THE EARNED, VESTED, DETERMINABLE,
2 AND UNPAID wages or compensation ~~and a~~ PLUS AN AUTOMATIC penalty
3 of: ~~the sum of the following amounts of wages or compensation due or,~~
4 ~~if greater, the employee's average daily earnings for each day, not to~~
5 ~~exceed ten days, until such payment or other settlement satisfactory to the~~
6 ~~employee is made:~~

7 (I) ~~One hundred twenty-five percent of that~~ THREE TIMES THE
8 amount of ~~such~~ THE UNPAID wages or compensation, ~~up to and including~~
9 ~~seven thousand five hundred dollars; and~~ FOR THE EMPLOYER'S FIRST
10 FAILURE OR REFUSAL TO PAY THE UNPAID WAGES OR COMPENSATION TO
11 EMPLOYEES;

12 (II) ~~Fifty percent of that~~ THE GREATER OF THREE TIMES THE
13 amount of ~~such~~ THE UNPAID wages or compensation ~~that exceed seven~~ OR
14 ONE thousand ~~five hundred~~ dollars, FOR THE EMPLOYER'S SECOND FAILURE
15 OR REFUSAL TO PAY WAGES OR COMPENSATION TO EMPLOYEES WITHIN THE
16 FIVE YEARS IMMEDIATELY PRECEDING THE CLAIM FOR WHICH PENALTY
17 UNDER THIS SUBSECTION (3)(b)(II) IS ASSESSED; AND

18 (III) THE GREATER OF FOUR TIMES THE AMOUNT OF THE UNPAID
19 WAGES OR COMPENSATION OR THREE THOUSAND DOLLARS, FOR THE
20 EMPLOYER'S THIRD OR SUBSEQUENT FAILURE OR REFUSAL TO PAY WAGES
21 OR COMPENSATION TO EMPLOYEES WITHIN THE FIVE YEARS IMMEDIATELY
22 PRECEDING THE CLAIM FOR WHICH PENALTY UNDER THIS SUBSECTION
23 (3)(b)(III) IS ASSESSED.

24 (c) If the employee can show that the employer's failure to pay is
25 willful, the penalty required under ~~paragraph (b) of this subsection (3)~~
26 ~~shall increase~~ SUBSECTION (3)(b) OF THIS SECTION IS INCREASED by fifty
27 percent. Evidence that a judgment OR WAGE DETERMINATION OF THE

1 DIVISION has, within the previous five years, been entered against the
2 employer for failure to pay wages or compensation is admissible as
3 evidence of willful conduct.

4 (d) (I) The employer shall send or deliver payment, by check,
5 draft, or voucher in the employee's name, to the employee at the address
6 contained in the written demand OR ADMINISTRATIVE CLAIM OR CIVIL
7 ACTION; or make the payment by direct deposit authorized under section
8 8-4-102 (2) if the employee has not revoked the authorization. The
9 employer may, but is not required to, make the payment by direct deposit
10 to an account specified by the employee in the demand, ADMINISTRATIVE
11 CLAIM, OR COURT ACTION, even if the employee has not previously
12 authorized direct deposit of the employee's compensation, or make the
13 payment by another method requested by the employee in the demand,
14 ADMINISTRATIVE CLAIM, OR COURT ACTION, if applicable. If the employee
15 has not previously authorized direct deposit of compensation and the
16 demand, ADMINISTRATIVE CLAIM, OR COURT ACTION does not state an
17 address to which the payment should be mailed, the employer shall make
18 the payment as follows:

19 (A) To the employee's last-known address according to the
20 records of the employer; or

21 (B) If applicable and if the employer so elects, as otherwise
22 requested by the employee in the demand, ADMINISTRATIVE CLAIM, OR
23 COURT ACTION.

24 (II) The employee or ~~his or her~~ THE EMPLOYEE'S designated agent
25 may commence a civil action to recover the penalty set forth in this
26 subsection (3). ~~For an action filed in a small claims court, established~~
27 ~~pursuant to part 4 of article 6 of title 13, C.R.S., if the employer has not~~

1 received a written demand at least fourteen days before the employer is
2 served with the complaint or other document commencing the action,
3 service of the complaint or other document serves as the written demand
4 under this subsection (3). If an employer makes a legal tender of the full
5 amount claimed in the action within fourteen days after service of the
6 complaint or other document commencing the action, the employee shall
7 dismiss the action.

8 **SECTION 4.** In Colorado Revised Statutes, 8-4-110, **amend** (1)
9 as follows:

10 **8-4-110. Disputes - fees.** (1) If, in any AN ADMINISTRATIVE
11 CLAIM OR CIVIL action ~~the employee fails to recover a greater sum than~~
12 ~~the amount tendered by the employer, the court may award the employer~~
13 ~~reasonable costs and attorney fees incurred in such action when, in any~~
14 ~~pleading or other court filing, the employee claims wages or~~
15 ~~compensation that exceed the greater of seven thousand five hundred~~
16 ~~dollars in wages or compensation or the jurisdictional limit for the small~~
17 ~~claims court, whether or not the case was filed in small claims court or~~
18 ~~whether or not the total amount sought in the action was within small~~
19 ~~claims court jurisdictional limits. If, in any such action in which the~~
20 ~~employee seeks to recover any amount of wages or compensation, the~~
21 ~~employee recovers a sum greater than the amount tendered by the~~
22 ~~employer, the DIVISION OR court, AS APPLICABLE, may award the~~
23 ~~employee reasonable costs and attorney fees incurred in such THE~~
24 ~~ADMINISTRATIVE CLAIM OR CIVIL action. If an employer fails or refuses to~~
25 ~~make a tender within fourteen days after the demand OR ADMINISTRATIVE~~
26 ~~CLAIM OR CIVIL ACTION, then such failure or refusal shall MUST be treated~~
27 as a tender of no money for any purpose under this ~~article~~ ARTICLE 4.

1 **SECTION 5.** In Colorado Revised Statutes, 8-4-111, **amend** (1),
2 (2)(a)(I) introductory portion, and (2)(c); and **add** (2)(f) as follows:

3 **8-4-111. Enforcement - duty of director - duties of district or**
4 **city attorneys - rules.** (1) (a) (I) It is the duty of the director to:

5 (A) Inquire diligently for any violation of this ~~article, and to~~
6 ARTICLE 4;

7 (B) Institute the actions for penalties or fines provided for in this
8 ~~article~~ ARTICLE 4 in such cases as ~~he or she may deem~~ THE DIRECTOR
9 DEEMS proper; and ~~to~~

10 (C) Enforce generally the provisions of this ~~article. For wages and~~
11 ~~compensation earned on and after January 1, 2015~~ ARTICLE 4.

12 (II) (A) BEFORE JANUARY 1, 2023, the director may establish an
13 administrative procedure to receive complaints and adjudicate claims for
14 nonpayment of wages or compensation of seven thousand five hundred
15 dollars or less.

16 (B) ON AND AFTER JANUARY 1, 2023, THE DIRECTOR MAY
17 ESTABLISH AN ADMINISTRATIVE PROCEDURE TO RECEIVE COMPLAINTS AND
18 ADJUDICATE CLAIMS FOR NONPAYMENT OF WAGES OR COMPENSATION OF
19 FIFTEEN THOUSAND DOLLARS OR LESS PER CLAIMANT.

20 (III) The procedures ESTABLISHED PURSUANT TO SUBSECTION
21 (1)(a)(II) OF THIS SECTION may include claims of employees where no
22 interruption of the employer-employee relationship has occurred.

23 (IV) The penalties AND FINES established by section 8-4-109 (3)
24 apply to actions instituted by the director OR ADJUDICATED AFTER A
25 COMPLAINT WAS RECEIVED under this ~~article~~ ARTICLE 4 when no
26 interruption of the employer-employee relationship has occurred.

27 (b) The director shall promulgate rules providing for notice to

1 employees of an employee's rights under this section and section
2 8-4-111.5, of the limitations on the amount of wages, compensation, and
3 penalties available under the administrative remedy, and of the
4 employee's option to bring a claim for wages and compensation in court
5 without pursuing the administrative remedy unless the employee has
6 accepted payment pursuant to ~~paragraph (c) of subsection (2)~~ SUBSECTION
7 (2)(e) of this section.

8 (c) FOR PURPOSES OF INVESTIGATING WAGE COMPLAINTS AND
9 FACILITATING THE COLLECTION OF UNPAID WAGES BEFORE OR AFTER A
10 DETERMINATION PURSUANT TO THIS SECTION, THE DIVISION MAY APPLY
11 THE INFORMATION-GATHERING PROVISIONS OF ARTICLE 1 OF THIS TITLE 8
12 TO ANY EMPLOYER, EMPLOYEE, OR OTHER PERSON OR ENTITY.

13 (2) (a) (I) If one or more employees files a wage complaint with
14 the division claiming unpaid wages or compensation of seven thousand
15 five hundred dollars or less OR, ON AND AFTER JANUARY 1, 2023, OF
16 FIFTEEN THOUSAND DOLLARS OR LESS, per employee, exclusive of
17 penalties and fines, the division shall investigate the wage complaint. The
18 division shall initiate the administrative procedure by sending a notice of
19 complaint to the employer by mail or electronic means in accordance with
20 rules as the director may promulgate when the complaint states a claim
21 for relief. The notice of the complaint must include:

22 (c) (I) (A) If the division determines that an employer has violated
23 this ~~article~~ ARTICLE 4 for nonpayment of wages or compensation, the
24 division shall issue a citation and notice of assessment for the amount
25 determined that is owed, which amount must include all wages and
26 compensation owed, penalties pursuant to section 8-4-109, and any fines
27 pursuant to section 8-4-113.

1 (B) THE DIVISION SHALL NOTIFY THE WORKER AND EMPLOYEE
2 PROTECTION UNIT IN THE DEPARTMENT OF LAW CREATED IN SECTION
3 24-31-1202, AT LEAST ONCE EVERY SIX MONTHS, OF ANY
4 DETERMINATIONS PURSUANT TO THIS SUBSECTION (2)(c) THAT WERE
5 BASED, IN WHOLE OR IN PART, ON A FINDING THAT THE EMPLOYER
6 MISCLASSIFIED ONE OR MORE EMPLOYEES AS INDEPENDENT CONTRACTORS.

7 (II) UPON A DETERMINATION PURSUANT TO SUBSECTION (2)(c)(I)
8 OF THIS SECTION, THE EMPLOYEE OR EMPLOYEES WHO FILED THE WAGE
9 COMPLAINT MAY FILE A MOTION PURSUANT TO RULES ADOPTED BY THE
10 DIRECTOR REQUESTING THE DIVISION TO EXERCISE ITS DISCRETION TO
11 REQUIRE THE EMPLOYER TO PROVIDE NOTICE, PURSUANT TO DIRECTOR
12 RULES AND ORDERS, TO SIMILARLY SITUATED EMPLOYEES OF THE
13 EMPLOYER THAT A CLAIMANT HAS PRESENTED WAGE CLAIMS THAT MAY
14 BE PART OF A PATTERN OR PRACTICE.

15 (f) IF AN EMPLOYER FAILS TO PAY AN EMPLOYEE THE AMOUNT THE
16 DIVISION DETERMINES, PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION,
17 OR A HEARING OFFICER DETERMINES, PURSUANT TO SECTION 8-4-111.5, TO
18 BE OWED WITHIN SIXTY DAYS AFTER THE DIVISION'S DETERMINATION OR
19 THE HEARING OFFICER'S DECISION, WHICHEVER IS APPLICABLE, THE
20 FOLLOWING MAY BE RECOVERED FROM THE EMPLOYER:

21 (I) ATTORNEY FEES INCURRED IN PURSUING A CIVIL ACTION TO
22 ENFORCE THE DIVISION'S DETERMINATION OR THE HEARING OFFICER'S
23 DECISION;

24 (II) AN ADDITIONAL FINE EQUAL TO FIFTY PERCENT OF THE
25 AMOUNT DETERMINED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION;
26 AND

27 (III) A PENALTY EQUAL TO THE GREATER OF FIFTY PERCENT OF THE

1 AMOUNT DETERMINED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION
2 OR THREE THOUSAND DOLLARS.

3 **SECTION 6.** In Colorado Revised Statutes, **amend** 8-4-113 as
4 follows:

5 **8-4-113. Fines pursuant to enforcement - wage theft**
6 **enforcement fund - created - administrative lien and levy of employer**
7 **assets - definition.** (1) (a) (I) If a case against an employer is enforced
8 pursuant to section 8-4-111, any employer who without good faith legal
9 justification fails to pay the wages of each of ~~his or her~~ THE EMPLOYER'S
10 employees shall forfeit to the people of the state of Colorado a fine in an
11 amount determined by the director or hearing officer but no more than the
12 sum of fifty dollars per day for each such failure to pay each employee,
13 commencing from the date that such wages first became due and payable.

14 (II) The division may collect the fine AND ANY PENALTY IMPOSED
15 PURSUANT TO THIS SUBSECTION (1)(a) through its citation and notice of
16 assessment issued pursuant to section 8-4-111 (2) or after a hearing
17 conducted pursuant to section 8-4-111.5.

18 (b) The director or hearing officer shall impose a fine of two
19 hundred fifty dollars on an employer who fails to respond to a notice of
20 complaint or to any other notice from the division to which a response is
21 required. The director or hearing officer may waive or reduce the fine
22 only if ~~he or she~~ THE DIRECTOR OR HEARING OFFICER finds good cause for
23 an extension of the time for the employer to file the response.

24 (2) (a) THE DIVISION MAY, AND, ON OR AFTER JANUARY 1, 2023,
25 AT THE REQUEST OF A WORKER SHALL, FILE a certified copy of any
26 citation, notice of assessment, or order imposing wages due, fines, ~~or~~
27 penalties, OR OTHER RELIEF pursuant to this ~~article may be filed~~ ARTICLE

1 4 with the clerk of any court having jurisdiction over the parties at any
2 time after the entry of the CITATION, NOTICE, OR order. ~~The certified copy~~
3 ~~shall be recorded by~~ THE DIVISION MAY FILE ONE CERTIFIED COPY OF THE
4 CITATION, NOTICE, OR ORDER FOR ALL AMOUNTS OWED TO, OR FOR OTHER
5 RELIEF FOR, ALL EMPLOYEES.

6 (b) The clerk of the ~~district~~ court SHALL RECORD THE CITATION,
7 NOTICE, OR ORDER in the judgment book of ~~said~~ THE court and MAKE AN
8 entry ~~thereof made~~ in the judgment docket. ~~and it shall thenceforth have~~
9 ~~all~~ UPON RECORDING, THE CITATION, NOTICE OF ASSESSMENT, OR ORDER
10 HAS the effect of AND MAY BE EXECUTED AS a judgment of the ~~district~~
11 court. ~~and execution may issue thereon out of said court as in other cases.~~

12 (c) (I) UPON RECORDING, THE AGGREGATE AMOUNT OF THE
13 CITATION, NOTICE OF ASSESSMENT, OR ORDER BECOMES A LIEN UPON THE
14 TITLE TO AND INTEREST IN ALL REAL, INTANGIBLE, AND PERSONAL
15 PROPERTY OF THE EMPLOYER AGAINST WHOM THE JUDGMENT IS ISSUED
16 AND HAS THE SAME EFFECT AND MAY BE EXTENDED AS A CIVIL JUDGMENT
17 OF THE COURT. THE JUDGMENT IS SUFFICIENT TO SUPPORT THE ISSUANCE
18 OF WRITS OF GARNISHMENT IN THE MANNER PROVIDED BY LAW IN THE
19 CASE OF A JUDGMENT THAT IS WHOLLY OR PARTIALLY UNSATISFIED.

20 (II) THE COURT SHALL MAIL A COPY OF THE JUDGMENT TO THE
21 EMPLOYER WITHIN THREE DAYS AFTER THE DIVISION HAS FILED THE
22 CITATION, NOTICE, OR ORDER WITH THE CLERK OF THE COURT.

23 (III) A LIEN ESTABLISHED PURSUANT TO THIS SUBSECTION (2)(c)
24 IS SUPERIOR TO ANY OTHER LIEN ON THE SAME PROPERTY, OTHER THAN A
25 LIEN FOR PROPERTY TAXES OWED ON THE PROPERTY.

26 (3) (a) The division shall transmit all fines AND PENALTIES
27 collected FOR THE STATE pursuant to this section to the state treasurer,

1 who shall credit the same to the wage theft enforcement fund, which fund
2 is created and referred to in this section as the "fund". The ~~moneys~~
3 MONEY in the fund ~~are~~ IS subject to annual appropriation by the general
4 assembly to the division for the direct and indirect costs associated with
5 implementing this ~~article~~ ARTICLE 4.

6 (b) The state treasurer may invest any ~~moneys~~ MONEY in the fund
7 not expended for the purpose of this ~~article~~ ARTICLE 4 as provided by law.
8 The state treasurer shall credit all interest and income derived from the
9 investment and deposit of ~~moneys~~ MONEY in the fund to the fund. Any
10 unexpended and unencumbered ~~moneys~~ MONEY remaining in the fund at
11 the end of a fiscal year ~~remain~~ REMAINS in the fund and must not be
12 credited or transferred to the general fund or another fund.

13 (4) (a) IF AN EMPLOYER FAILS TO PAY WAGES DETERMINED TO BE
14 DUE TO THE EMPLOYER'S EMPLOYEES OR FINES OR PENALTIES DETERMINED
15 TO BE DUE PURSUANT TO THIS ARTICLE 4, THE DIVISION MAY ISSUE A
16 NOTICE OF ADMINISTRATIVE LIEN AND LEVY TO ANY PERSON THAT HAS
17 POSSESSION, CUSTODY, OR CONTROL OF THE EMPLOYER'S ASSETS. THE
18 DIVISION MAY ISSUE THE NOTICE OF ADMINISTRATIVE LIEN AND LEVY
19 WHEN AN EMPLOYER IS PAST DUE ON PAYING WAGES DETERMINED TO BE
20 DUE TO ITS EMPLOYEES AND ANY FINES OR PENALTIES DETERMINED TO BE
21 DUE PURSUANT TO THIS ARTICLE 4 WITHOUT AN ORDER STAYING OR
22 REVERSING THE APPLICABLE DEADLINE FOR PAYMENT. THE NOTICE MUST
23 INCLUDE THE FOLLOWING STATEMENTS AND INFORMATION:

24 (I) THE NAME AND ADDRESS OF THE PERSON THAT HAS
25 POSSESSION, CUSTODY, OR CONTROL OF THE EMPLOYER'S ASSETS;

26 (II) THE EMPLOYER'S NAME, LAST-KNOWN ADDRESS, AND
27 TAXPAYER IDENTIFICATION NUMBER, IF KNOWN;

1 (III) THE TOTAL AMOUNT OWED FOR PAST-DUE WAGES, FINES, AND
2 PENALTIES, AS IDENTIFIED BY THE DIVISION AS PROVIDED IN THIS ARTICLE
3 4;

4 (IV) A STATEMENT THAT:

5 (A) THE NOTICE OF ADMINISTRATIVE LIEN AND LEVY TAKES
6 EFFECT, AND IS SUPERIOR TO ANY OTHER LIEN ON THE SAME ASSETS,
7 OTHER THAN A LIEN FOR PROPERTY TAXES, UPON THE RECEIPT OF THE
8 NOTICE BY THE PERSON;

9 (B) UNLESS THE DIVISION CONSENTS TO AN EARLIER DISPOSITION,
10 THE PERSON MAY NOT TRANSFER OR DISPOSE OF THE ASSETS IN THE
11 POSSESSION, CUSTODY, OR CONTROL OF THE PERSON FROM THE DATE THE
12 PERSON RECEIVED THE NOTICE UNTIL FURTHER ORDER; AND

13 (C) A PERSON THAT RECEIVES NOTICE PURSUANT TO THIS
14 SUBSECTION (4) AND THAT TRANSFERS OR DISPOSES OF THE ASSETS AFTER
15 RECEIPT OF THE NOTICE IS LIABLE FOR THE AMOUNT OF THE PAST-DUE
16 WAGES, FINES, AND PENALTIES OWED BY THE EMPLOYER, TO THE EXTENT
17 OF THE VALUE OF THE TRANSFERRED OR DISPOSED OF ASSETS;

18 (V) INSTRUCTIONS ON THE REMITTANCE, TRANSMISSION, OR
19 TRANSFER OF THE WITHHELD OR SURRENDERED AMOUNTS OR OTHER
20 ASSETS, INCLUDING THE REQUIREMENT THAT EACH CHECK, REMITTANCE,
21 TRANSMISSION, OR TRANSFER:

22 (A) BE PAYABLE TO, TRANSMITTED TO, OR TRANSFERRED TO THE
23 DIVISION OR OTHER PAYEE OR TRANSFEREE DESIGNATED BY THE DIVISION
24 IN THE NOTICE AND SENT TO THE ADDRESS INDICATED IN THE NOTICE OR
25 OTHERWISE TRANSMITTED OR TRANSFERRED AS SPECIFIED IN THE NOTICE;

26 (B) BE SURRENDERED WITHIN THIRTY DAYS AFTER THE DATE OF
27 THE NOTICE OF THE LIEN AND LEVY; AND

1 (C) INCLUDE THE DIVISION CASE NUMBER ON THE FACE OF THE
2 CHECK, REMITTANCE, TRANSMISSION, OR TRANSFER;

3 (VI) A STATEMENT THAT, IF NO ASSETS ARE AVAILABLE FOR
4 SURRENDER, THE PERSON MUST RETURN THE REMITTANCE NOTICE WITHIN
5 THIRTY DAYS AFTER THE DATE OF THE NOTICE OF THE LIEN AND LEVY; AND

6 (VII) A STATEMENT THAT THE ADMINISTRATIVE LIEN AND LEVY IS
7 AUTOMATICALLY INACTIVATED ONCE THE PERSON RETURNS THE
8 REMITTANCE NOTICE OR SURRENDERS THE ASSETS HELD BY THE PERSON.

9 (b) (I) IN ORDER TO ATTACH AND COLLECT AN EMPLOYER'S ASSETS
10 THAT ARE IN THE POSSESSION, CUSTODY, OR CONTROL OF ANOTHER
11 PERSON FOR PURPOSES OF COLLECTING PAST-DUE WAGES, FINES, AND
12 PENALTIES, THE DIVISION IS AUTHORIZED TO SERVE, BY FIRST-CLASS OR
13 OVERNIGHT MAIL, BY PERSONAL DELIVERY, OR, IF MUTUALLY AGREED
14 UPON, THROUGH ELECTRONIC MEANS PUBLISHED BY THE PERSON, A NOTICE
15 OF ADMINISTRATIVE LIEN AND LEVY ON ANY PERSON THAT HAS
16 POSSESSION, CUSTODY, OR CONTROL OF THE EMPLOYER'S ASSETS. A
17 NOTICE OF ADMINISTRATIVE LIEN AND LEVY IS EFFECTIVE IF IT IS
18 DELIVERED OR MAILED TO THE PRINCIPAL OFFICE OR ANY BRANCH OFFICE
19 OF THE PERSON THAT HAS POSSESSION, CUSTODY, OR CONTROL OF THE
20 EMPLOYER'S ASSETS.

21 (II) THE ADMINISTRATIVE LIEN AND LEVY APPLIES AGAINST ALL
22 ASSETS OF THE EMPLOYER THAT ARE IN THE POSSESSION, CUSTODY, OR
23 CONTROL OF THE PERSON SERVED WITH THE NOTICE AT THE TIME OF, AND
24 WITHIN SIXTY DAYS AFTER, RECEIPT OF THE NOTICE.

25 (III) THE DIVISION SHALL PROVIDE A COPY OF THE
26 ADMINISTRATIVE LIEN AND LEVY TO THE EMPLOYER AND SHALL INCLUDE
27 INFORMATION ON THE EMPLOYER'S RIGHT TO FILE AN APPLICABLE

1 EXCEPTION, EXEMPTION, OR APPEAL, AS SPECIFIED BY THE DIRECTOR BY
2 RULE, INCLUDING AN EXCEPTION, EXEMPTION, OR APPEAL FOR CUSTODIAL
3 ACCOUNTS PURSUANT TO SECTION 11-50-110, THE EARNINGS LIMITATIONS
4 SET FORTH IN SECTION 13-54-104 (3), OR THE APPEAL POLICY FOR JOINTLY
5 OWNED OR SHARED ACCOUNTS.

6 (IV) UPON SATISFACTION OF THE PAST-DUE WAGE, FINE, OR
7 PENALTY OBLIGATIONS GIVING RISE TO THE ADMINISTRATIVE LIEN AND
8 LEVY, THE EMPLOYER MAY REQUEST AND BE PROVIDED CONFIRMATION
9 THAT THE LIEN IS EXTINGUISHED.

10 (c) THIS SUBSECTION (4) APPLIES TO ALL PAST-DUE WAGE, FINE,
11 AND PENALTY OBLIGATIONS ORDERED AS PART OF ANY PROCEEDING,
12 REGARDLESS OF WHEN THE ORDER WAS ENTERED, AND ALL EMPLOYERS
13 THAT OWE WAGES, FINES, OR PENALTIES ARE SUBJECT TO NOTICE OF
14 ADMINISTRATIVE LIEN AND LEVY AS DESCRIBED IN THIS SUBSECTION (4).

15 (d) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO
16 IMPLEMENT THIS SUBSECTION (4).

17 (e) AS USED IN THIS SUBSECTION (4), "ASSET" MEANS ANY:

18 (I) REAL, INTANGIBLE, OR PERSONAL PROPERTY OF AN EMPLOYER;

19 (II) AN EMPLOYER'S RIGHT TO REAL, INTANGIBLE, OR PERSONAL
20 PROPERTY;

21 (III) PAYMENTS DUE TO AND ACCOUNTS RECEIVABLE OF AN
22 EMPLOYER; AND

23 (IV) CREDITS OR DEBTS INVOLVING THE EMPLOYER.

24 **SECTION 7.** In Colorado Revised Statutes, **amend** 8-4-120 as
25 follows:

26 **8-4-120. Discrimination and retaliation prohibited - employee**
27 **protections - criminal penalties - civil remedies.** (1) ~~No~~ AN employer

1 shall NOT intimidate, threaten, restrain, coerce, blacklist, discharge, or in
2 any manner discriminate OR RETALIATE against any employee who has:

3 (a) Filed any complaint or instituted or caused to be instituted any
4 proceeding under this article 4 or ~~related~~ ANY OTHER law OR RULE
5 RELATED TO WAGES OR HOURS; or ~~who has~~

6 (b) Testified OR PROVIDED OTHER EVIDENCE, or may testify OR
7 PROVIDE OTHER EVIDENCE, in any proceeding on behalf of ~~himself,~~
8 ~~herself,~~ THE EMPLOYEE or another PERSON regarding afforded protections
9 under this article 4 OR UNDER ANY OTHER LAW OR RULE RELATED TO
10 WAGES OR HOURS.

11 (2) ~~Any~~ AN employer who violates ~~the provisions of~~ this section
12 commits a class 2 misdemeanor.

13 (3) (a) AN EMPLOYEE WHO ALLEGES A VIOLATION OF SUBSECTION
14 (1) OF THIS SECTION MAY FILE A CIVIL ACTION IN A COURT OF COMPETENT
15 JURISDICTION AGAINST THE EMPLOYER ALLEGED TO HAVE VIOLATED THIS
16 SECTION TO SEEK LEGAL AND EQUITABLE RELIEF AS APPROPRIATE TO
17 REMEDY THE VIOLATION, INCLUDING:

18 (I) BACK PAY;

19 (II) REINSTATEMENT OF EMPLOYMENT OR, IF REINSTATEMENT IS
20 NOT FEASIBLE, FRONT PAY;

21 (III) THE PAYMENT OF WAGES UNLAWFULLY WITHHELD;

22 (IV) INTEREST ON UNPAID WAGES AT A RATE OF TWELVE PERCENT
23 PER ANNUM FROM THE DATE THE WAGES WERE FIRST DUE;

24 (V) THE PAYMENT OF A PENALTY OF ONE HUNDRED DOLLARS PER
25 DAY FOR EACH EMPLOYEE WHOSE RIGHTS UNDER THIS SECTION WERE
26 VIOLATED AND FOR EACH DAY THAT THE VIOLATION OCCURRED OR
27 CONTINUED;

1 (VI) LIQUIDATED DAMAGES IN AN AMOUNT UP TO THREE TIMES
2 THE AMOUNT OF THE UNPAID WAGES; AND

3 (VII) INJUNCTIVE RELIEF.

4 (b) IF THE EMPLOYEE PREVAILS IN A CIVIL ACTION BROUGHT
5 PURSUANT TO THIS SUBSECTION (3), THE COURT SHALL AWARD THE
6 EMPLOYEE REASONABLE ATTORNEY FEES AND COSTS.

7 (4) THE DIVISION MAY INVESTIGATE AND ENFORCE
8 DISCRIMINATION OR RETALIATION PROHIBITED BY THIS ARTICLE 4 OR
9 ARTICLE 6 OF THIS TITLE 8 AND, AFTER INVESTIGATION, MAY ORDER THE
10 RELIEF SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION.

11 **SECTION 8.** In Colorado Revised Statutes, **add** part 3 to article
12 13.5 of title 8 as follows:

13 PART 3

14 WORKPLACE SAFETY

15 **8-13.5-301. Workplace safety - duty to provide reasonable and**
16 **adequate protections - enforcement - definition.** (1) ANY PLACE
17 WHERE AN EMPLOYEE PERFORMS WORK MUST BE CONSTRUCTED,
18 EQUIPPED, ARRANGED, OPERATED, AND CONDUCTED IN A MANNER THAT
19 PROVIDES REASONABLE AND ADEQUATE PROTECTION TO THE LIVES,
20 HEALTH, AND SAFETY OF ALL EMPLOYEES. ALL MACHINERY, EQUIPMENT,
21 AND DEVICES IN THE WORKPLACE MUST BE PLACED, OPERATED, GUARDED,
22 AND LIGHTED IN A MANNER THAT PROVIDES REASONABLE AND ADEQUATE
23 PROTECTION TO ALL EMPLOYEES USING OR WORKING IN PROXIMITY TO THE
24 MACHINERY, EQUIPMENT, OR DEVICES.

25 (2) (a) THE WORKER AND EMPLOYEE PROTECTION UNIT IN THE
26 DEPARTMENT OF LAW CREATED IN SECTION 24-31-1202 AND ANY
27 EMPLOYEE INJURED OR THREATENED WITH INJURY DUE TO A VIOLATION OF

1 SUBSECTION (1) OF THIS SECTION MAY ENFORCE THIS SECTION.

2 (b) AN EMPLOYEE WHO PREVAILS IN AN ACTION BROUGHT TO
3 ENFORCE THIS SECTION IS ENTITLED TO AN AWARD OF REASONABLE
4 ATTORNEY FEES AND COSTS.

5 (3) AS USED IN THIS SECTION, "EMPLOYEE" HAS THE SAME
6 MEANING AS SPECIFIED IN SECTION 8-4-101 (5).

7 **SECTION 9.** In Colorado Revised Statutes, 8-72-114, **amend** (9)
8 as follows:

9 **8-72-114. Employee misclassification - investigations -**
10 **enforcement - advisory opinions - rules - employee misclassification**
11 **advisory opinion fund - statewide study - report - definitions -**
12 **legislative declaration.** (9) (a) Subject to the approval of the executive
13 director, the director may enter into an interagency agreement with the
14 department of law for assistance in enforcing this section. The director is
15 authorized to transfer to the department of law from the unemployment
16 revenue fund created in section 8-77-106 such money as is necessary to
17 pay for reasonable costs associated with enforcement actions by the
18 department of law.

19 (b) REGARDLESS OF WHETHER THE DIRECTOR HAS ENTERED INTO
20 AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT OF LAW PURSUANT
21 TO SUBSECTION (9)(a) OF THIS SECTION, AT LEAST ONCE EVERY SIX
22 MONTHS, THE DIRECTOR SHALL SHARE WITH THE WORKER AND EMPLOYEE
23 PROTECTION UNIT IN THE DEPARTMENT OF LAW CREATED IN SECTION
24 24-31-1202 ANY ORDERS ISSUED PURSUANT TO THIS SECTION FINDING
25 THAT ANY EMPLOYERS HAVE ENGAGED IN THE MISCLASSIFICATION OF
26 EMPLOYEES.

27 **SECTION 10.** In Colorado Revised Statutes, 24-31-101, **amend**

1 (1)(i) as follows:

2 **24-31-101. Powers and duties of attorney general.** (1) The
3 attorney general:

4 (i) May INDEPENDENTLY INITIATE AND bring civil and criminal
5 actions to enforce state laws, including actions brought pursuant to:

6 (I) The "Colorado Antitrust Act of 1992", ~~in~~ article 4 of title 6;

7 (II) The "Colorado Consumer Protection Act", ~~in~~ article 1 of title
8 6;

9 (III) The "Unfair Practices Act", ~~in~~ article 2 of title 6;

10 (IV) Article 12 of title 6; ~~and sections~~

11 (V) SECTION 6-1-110;

12 (VI) SECTION 11-51-603.5;

13 (VII) SECTION 24-34-505.5; ~~and~~

14 (VIII) SECTION 25.5-4-306;

15 (IX) ARTICLE 4 OF TITLE 8, SUBJECT TO SECTION 24-31-1203 (2);

16 (X) PART 3 OF ARTICLE 13.5 OF TITLE 8; AND

17 (XI) THE "COLORADO EMPLOYMENT SECURITY ACT", ARTICLES
18 70 TO 82 OF TITLE 8, SUBJECT TO SECTION 24-31-1203 (1).

19 **SECTION 11.** In Colorado Revised Statutes, 24-31-102, **amend**
20 (1)(h) and (1)(i); and **add** (1)(j) as follows:

21 **24-31-102. Offices, boards, and divisions.** (1) The department
22 of law, the chief executive officer of which is the attorney general,
23 includes the following:

24 (h) The financial empowerment office, created in part 11 of this
25 article 31; ~~and~~

26 (i) ~~Notwithstanding section 24-1-107, any other division, office,~~
27 ~~or unit established by the attorney general or by law.~~ THE WORKER AND

1 EMPLOYEE PROTECTION UNIT, CREATED IN PART 12 OF THIS ARTICLE 31;
2 AND

3 (j) NOTWITHSTANDING SECTION 24-1-107, ANY OTHER DIVISION,
4 OFFICE, OR UNIT ESTABLISHED BY THE ATTORNEY GENERAL OR BY LAW.

5 **SECTION 12.** In Colorado Revised Statutes, **add** part 12 to
6 article 31 of title 24 as follows:

7 **PART 12**

8 **ENFORCEMENT OF WORKER PROTECTION LAWS**

9 **24-31-1201. Definitions.** AS USED IN THIS PART 12, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "DIVISION OF LABOR STANDARDS AND STATISTICS" MEANS THE
12 DIVISION OF LABOR STANDARDS AND STATISTICS IN THE DEPARTMENT OF
13 LABOR AND EMPLOYMENT CREATED PURSUANT TO SECTION 8-1-103.

14 (2) "DIVISION OF UNEMPLOYMENT INSURANCE" MEANS THE
15 DIVISION OF UNEMPLOYMENT INSURANCE IN THE DEPARTMENT OF LABOR
16 AND EMPLOYMENT CREATED PURSUANT TO SECTION 8-71-101.

17 (3) "UNIT" MEANS THE WORKER AND EMPLOYEE PROTECTION UNIT
18 CREATED IN SECTION 24-31-1202.

19 **24-31-1202. Worker and employee protection unit - creation**
20 **- duties.** (1) THERE IS CREATED WITHIN THE DEPARTMENT OF LAW AND
21 UNDER THE CONTROL OF THE OFFICE OF THE ATTORNEY GENERAL THE
22 WORKER AND EMPLOYEE PROTECTION UNIT.

23 (2) IN ADDITION TO ANY OTHER AUTHORITIES GRANTED BY LAW,
24 THE UNIT HAS THE FOLLOWING POWERS AND DUTIES:

25 (a) ISSUE OR CAUSE TO BE ISSUED CIVIL INVESTIGATIVE DEMANDS
26 AND SUBPOENAS OR OTHER PROCESS IN AID OF INVESTIGATIONS AND
27 PROSECUTIONS;

1 (b) ADMINISTER OATHS AND TAKE SWORN STATEMENTS UNDER
2 PENALTY OF PERJURY; AND

3 (c) SERVE AND EXECUTE, IN ANY COUNTY, SEARCH WARRANTS
4 THAT RELATE TO INVESTIGATIONS.

5 **24-31-1203. Worker misclassification - wage determinations**
6 **- investigation and enforcement by the unit - coordination with**
7 **department of labor and employment.** (1) (a) THE UNIT MAY
8 INVESTIGATE ALLEGED VIOLATIONS OF, AND BRING AN ACTION AGAINST
9 AN EMPLOYER TO ENFORCE, SECTION 8-72-114, REGARDLESS OF WHETHER
10 A COMPLAINT IS FILED AGAINST THE EMPLOYER PURSUANT TO SAID
11 SECTION, TO ENFORCE THAT SECTION IF THE DIVISION OF UNEMPLOYMENT
12 INSURANCE DIRECTLY REFERS A FINDING OF MISCLASSIFICATION TO THE
13 UNIT TO PURSUE FURTHER REMEDIES.

14 (b) THE UNIT MAY INVESTIGATE AND ENFORCE AN ALLEGED
15 MISCLASSIFICATION THAT IS NOT DESCRIBED IN SUBSECTION (1)(a) OF THIS
16 SECTION IF THE UNIT PROVIDES WRITTEN NOTICE TO THE DIVISION OF
17 UNEMPLOYMENT INSURANCE OF THE UNIT'S INTENT TO PURSUE A
18 MISCLASSIFICATION INVESTIGATION AND THE DIVISION OF UNEMPLOYMENT
19 INSURANCE:

- 20 (I) DECLINES TO INVESTIGATE THE MATTER;
- 21 (II) HAS INVESTIGATED THE MATTER AND MADE A FORMAL
22 DETERMINATION; OR
- 23 (III) FAILS TO RESPOND TO THE UNIT WITHIN THIRTY DAYS AFTER
24 THE DATE OF THE NOTICE.

25 (2) (a) THE UNIT MAY ENFORCE WAGE DETERMINATIONS MADE BY
26 THE DIVISION OF LABOR STANDARDS AND STATISTICS PURSUANT TO
27 ARTICLE 4 OF TITLE 8 IF THE DIVISION OF LABOR STANDARDS AND

1 STATISTICS REFERS THE WAGE DETERMINATION TO THE UNIT FOR
2 ENFORCEMENT.

3 (b) IF THE DIVISION OF LABOR STANDARDS AND STATISTICS HAS
4 NOT REFERRED A WAGE DETERMINATION TO THE UNIT, THE UNIT MAY
5 ENFORCE THE WAGE DETERMINATION IF THE UNIT PROVIDES WRITTEN
6 NOTICE TO THE DIVISION OF LABOR STANDARDS AND STATISTICS OF THE
7 UNIT'S INTENT TO ENFORCE THE WAGE DETERMINATION AND THE DIVISION
8 OF LABOR STANDARDS AND STATISTICS:

9 (I) DECLINES TO PURSUE ENFORCEMENT OF THE WAGE
10 DETERMINATION;

11 (II) HAS ATTEMPTED TO PURSUE ENFORCEMENT OF THE WAGE
12 DETERMINATION AND HAS BEEN UNSUCCESSFUL IN ENFORCING THE
13 DETERMINATION IN FULL AFTER THE LATER OF TWELVE MONTHS AFTER
14 THE DETERMINATION OR THE CONCLUSION OF ANY APPEALS; OR

15 (III) FAILS TO RESPOND TO THE UNIT WITHIN THIRTY DAYS AFTER
16 THE DATE OF THE NOTICE; OR

17 (IV) HAS NOT INITIATED AN INVESTIGATION.

18 **SECTION 13.** In Colorado Revised Statutes, **add** 38-22-100.3 as
19 follows:

20 **38-22-100.3. Definitions.** AS USED IN THIS ARTICLE 22, UNLESS
21 THE CONTEXT OTHERWISE REQUIRES:

22 (1) "INDIVIDUAL LABORER" MEANS AN INDIVIDUAL WHO WAS A
23 LABORER OR MECHANIC WORKING BY THE DAY, WEEK, MONTH, HOUR, OR
24 PIECE BUT WITHOUT FURNISHING MATERIALS FOR THE WORK.

25 (2) "PERSON" MEANS A NATURAL PERSON, FIRM, ASSOCIATION,
26 CORPORATION, OR OTHER LEGAL ENTITY. "PERSON" DOES NOT INCLUDE A
27 LABOR ORGANIZATION AS DEFINED IN SECTION 24-34-401 (6).

1 (3) "VALUE OF LABOR", "VALUE OF THE LABOR", OR "VALUE OF
2 SUCH LABOR" MEANS AN AMOUNT EQUAL TO THE GREATER OF:

3 (a) THE PROMISED CONTRACTUAL RATE; OR

4 (b) THE APPLICABLE MINIMUM OR OVERTIME RATE, AS SET FORTH
5 IN RULES OF THE DIRECTOR OF THE DIVISION OF LABOR STANDARDS AND
6 STATISTICS IN THE DEPARTMENT OF LABOR AND EMPLOYMENT PURSUANT
7 TO ARTICLE 6 OF TITLE 8, TIMES THE NUMBER OF HOURS WORKED.

8 **SECTION 14.** In Colorado Revised Statutes, 38-22-101, **amend**
9 (1), (2), and (3); and **repeal** (6) as follows:

10 **38-22-101. Liens in favor of whom - when filed - definition of**
11 **person.** (1) Every person who furnishes or supplies laborers, machinery,
12 tools, or equipment in the prosecution of the work, and mechanics,
13 materialmen, contractors, subcontractors, builders, and all persons of
14 every class, INCLUDING INDIVIDUAL LABORERS, performing labor upon or
15 furnishing directly to the owner or persons furnishing labor, laborers, or
16 materials to be used in construction, alteration, improvement, addition to,
17 or repair, either in whole or in part, of any building, mill, bridge, ditch,
18 flume, aqueduct, reservoir, tunnel, fence, railroad, wagon road, tramway,
19 or any other structure or improvement upon land, including adjacent curb,
20 gutter, and sidewalk, and also architects, engineers, draftsmen, and
21 artisans who have furnished designs, plans, plats, maps, specifications,
22 drawings, estimates of cost, surveys, or superintendence, or who have
23 rendered other professional or skilled service, or bestowed labor in whole
24 or in part, describing or illustrating, or superintending such structure, or
25 work done or to be done, or any part connected therewith, shall have a
26 lien upon the property upon which they have furnished laborers or
27 supplied machinery, tools, or equipment or rendered service or bestowed

1 labor or for which they have furnished materials or mining or milling
2 machinery or other fixtures, for the value of such laborers, machinery,
3 tools, or equipment supplied, or services rendered or labor done or
4 laborers or materials furnished, whether at the instance of the owner, or
5 of any other person acting by the owner's authority or under the owner, as
6 agent, contractor, or otherwise for the laborers, machinery, tools, or
7 equipment supplied, or work or labor done or services rendered or
8 laborers or materials furnished by each, respectively, whether supplied or
9 done or furnished or rendered at the instance of the owner of the building
10 or other improvement, or the owner's agent. ~~and~~ Every contractor,
11 architect, engineer, subcontractor, builder, agent, or other person having
12 charge of the construction, alteration, addition to, or repair, either in
13 whole or in part, of said building or other improvement shall be held to
14 be the agent of the owner for the purposes of this ~~article~~ ARTICLE 22.

15 (2) (a) In case of a contract for the work, between the reputed
16 owner and a contractor, the lien shall extend to the entire contract price,
17 and such contract shall operate as a lien in favor of all persons performing
18 labor or services or furnishing laborers or materials under contract,
19 express or implied, with said contractor, to the extent of the whole
20 contract price; and after all such liens are satisfied, then as a lien for any
21 balance of such contract price in favor of the contractor.

22 (b) FOR PURPOSES OF THIS SUBSECTION (2), LABOR PERFORMED BY
23 AN INDIVIDUAL LABORER IS DEEMED TO BE PERFORMED UNDER CONTRACT
24 FOR WORK BETWEEN THE REPUTED OWNER AND A CONTRACTOR.

25 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS
26 SECTION, all such contracts ~~shall~~ MUST be in writing when the amount to
27 be paid ~~thereunder~~ UNDER THE CONTRACT exceeds five hundred dollars

1 and ~~shall~~ MUST be subscribed by the parties ~~thereto~~ TO THE CONTRACT.
2 The OWNER OR REPUTED OWNER SHALL FILE THE contract, or a
3 memorandum ~~thereof~~ OF THE CONTRACT, setting forth the names of all the
4 parties to the contract, a description of the property to be affected ~~thereby~~,
5 ~~together with~~ BY THE CONTRACT, a statement of the general character of
6 the work to be done, the estimated total amount to be paid ~~thereunder~~,
7 ~~together with~~ UNDER THE CONTACT, AND the times or stages of the work
8 for making payments ~~shall be filed by the owner or reputed owner~~, in the
9 office of the county clerk and recorder of the county where the property,
10 or the principal portion ~~thereof~~ OF THE PROPERTY, is situated before the
11 work is commenced under and in accordance with the terms of the
12 contract. In case such contract, or a memorandum ~~thereof~~ OF THE
13 CONTRACT, is not so filed, the labor done and materials furnished by all
14 persons ~~shall be~~ ARE deemed to have been done and furnished at the
15 personal instance of the owner, and such persons shall have a lien for the
16 value ~~thereof~~ OF THE LABOR AND MATERIALS.

17 (b) A WRITTEN CONTRACT IS NOT REQUIRED WHEN THE LABOR IS
18 PERFORMED BY AN INDIVIDUAL LABORER AND THE INDIVIDUAL LABORER
19 IS ESTABLISHING A LIEN FOR THE VALUE OF THE LABOR THE INDIVIDUAL
20 LABORER PERFORMED.

21 (6) ~~For purposes of this article, "person" means a natural person,~~
22 ~~firm, association, corporation, or other legal entity; except that it shall not~~
23 ~~include a labor organization as defined in section 24-34-401 (6), C.R.S.~~

24 **SECTION 15.** In Colorado Revised Statutes, 38-22-105, **amend**
25 (2) as follows:

26 **38-22-105. Property subject to lien - notice.** (2) (a) Such
27 interest so owned or claimed ~~shall be~~ IS subject to any lien given by the

1 provisions of this ~~article~~ ARTICLE 22, unless such owner or person, within
2 five days after obtaining notice of the erection, construction, alteration,
3 removal, addition, repair, or other improvement, gives notice that ~~his or~~
4 ~~her~~ THE OWNER'S OR PERSON'S interests ~~shall not be~~ ARE NOT subject to
5 any lien for the same by serving a written or printed notice to that effect,
6 personally, upon all persons performing labor or furnishing laborers,
7 materials, machinery, or other fixtures therefor, or within five days after
8 such owner or person has obtained notice of the erection, construction,
9 alteration, removal, addition, repair, or other improvement, or notice of
10 the intended erection, construction, alteration, removal, addition, repair,
11 or other improvement, gives such notice by posting and keeping posted
12 a written or printed notice in some conspicuous place upon said land or
13 upon the building or other improvements situate ~~thereon~~ ON THE LAND OR
14 BUILDING.

15 (b) THIS SUBSECTION (2) DOES NOT APPLY TO A LIEN FOR THE
16 VALUE OF LABOR PERFORMED BY AN INDIVIDUAL LABORER ON THE
17 PROPERTY.

18 **SECTION 16.** In Colorado Revised Statutes, 38-22-106, **amend**
19 (1) as follows:

20 **38-22-106. Priority of lien - attachments.** (1) (a) EXCEPT AS
21 PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, all liens established by
22 virtue of this ~~article~~ ARTICLE 22 ~~shall~~ relate back to the time of the
23 commencement of work under the contract between the owner and the
24 first contractor, or, if said contract is not in writing, then such liens ~~shall~~
25 relate back to and take effect as of the time of the commencement of the
26 work upon the structure or improvement, and ~~shall~~ have priority over any
27 lien or encumbrance subsequently intervening, or which may have been

1 created prior thereto but which was not then recorded and of which the
2 lienor, under this ~~article~~ ARTICLE 22, did not have actual notice. Nothing
3 ~~contained~~ in this section, however, shall be construed as impairing any
4 valid encumbrance upon any such land duly made and recorded prior to
5 the signing of such contract or the commencement of work upon such
6 improvements or structure.

7 (b) A LIEN HELD BY AN INDIVIDUAL LABORER FOR THE VALUE OF
8 THE LABOR PERFORMED BY THE INDIVIDUAL LABORER RELATES BACK TO
9 THE DATE THE PROPERTY WAS PURCHASED BY THE OWNER THAT
10 REQUESTED THE IMPROVEMENTS UPON WHICH THE LIEN IS BASED AND
11 TAKES PRIORITY OVER ALL OTHER LIENS ON THE PROPERTY THAT WERE
12 CREATED AFTER THAT DATE, OTHER THAN A LIEN FOR PROPERTY TAXES
13 OWED ON THE PROPERTY.

14 **SECTION 17.** In Colorado Revised Statutes, 38-22-108, **amend**
15 (1) introductory portion and (1)(a) as follows:

16 **38-22-108. Rank of liens.** (1) Every person given a lien by this
17 ~~article~~ ARTICLE 22 whose contract, either express or implied, is with the
18 owner or reputed owner or owner's agent or other representative, is a
19 principal contractor and all others are subcontractors; and in every case
20 in which different liens are claimed against the same property, the rank
21 of each lien, or class of liens, as between the different lien claimants,
22 shall be declared and ordered to be satisfied in the decree or judgment in
23 the following order named:

24 (a) The liens of all those who were laborers or mechanics working
25 by the day, WEEK, MONTH, HOUR, or piece, but without furnishing material
26 ~~therefor~~ FOR THE WORK, either as principal or subcontractors;

27 **SECTION 18.** In Colorado Revised Statutes, 39-22-109, **amend**

1 (4) and (10) as follows:

2 **38-22-109. Lien statement.** ~~(4) All such lien statements claimed~~
3 ~~for labor and work by the day or piece, but without furnishing laborers or~~
4 ~~materials therefor, must be filed for record after the last labor for which~~
5 ~~the lien claimed has been performed and at any time before the expiration~~
6 ~~of two months next after the completion of the building, structure, or~~
7 ~~other improvement~~ AN INDIVIDUAL LABORER ASSERTING A LIEN FOR THE
8 VALUE OF THE LABOR PERFORMED BY THE INDIVIDUAL LABORER MUST FILE
9 THE LIEN STATEMENT NO LATER THAN ONE YEAR AFTER THE DAY ON
10 WHICH THE INDIVIDUAL LABORER LAST PERFORMED LABOR ON THE
11 PROPERTY.

12 (10) Within the applicable time period provided in subsections (4)
13 and (5) of this section and subject to the provisions of section 38-22-125,
14 any lien claimant granted a lien pursuant to section 38-22-101 may file
15 with the county clerk and recorder of the county in which the real
16 property is situated a notice stating the legal description or address or
17 such other description as will identify the real property; the name of the
18 person with whom ~~he~~ THE CLAIMANT has contracted; and the claimant's
19 name, address, and telephone number OR THE NAME, ADDRESS, AND
20 TELEPHONE NUMBER OF THE CLAIMANT'S ATTORNEY. One such notice may
21 be filed upon more than one property, and, in the case of a subdivision,
22 one notice may describe only the part thereof upon which the claimant has
23 or will obtain a lien pursuant to section 38-22-101. The filing of said
24 notice ~~shall serve~~ SERVES as notice that said person may thereafter file a
25 lien statement and shall extend the time for filing of the mechanic's lien
26 statement to four months after completion of the structure or other
27 improvement or six months after the date of filing of said notice,

1 whichever occurs first. Unless sooner terminated as provided in
2 subsection (11) of this section, the notice provided for in this subsection
3 (10) ~~shall automatically terminate~~ TERMINATES six months after the date
4 said notice is filed. In the event that said structure or other improvements
5 have not been completed prior to the termination of said notice, a
6 claimant, prior to said termination date, may file a new or amended notice
7 ~~which shall remain~~ THAT REMAINS effective for an additional period of six
8 months after the date of filing or four months after the date of completion
9 of said structure or other improvements, whichever occurs first.

10 **SECTION 19.** In Colorado Revised Statutes, **amend** 38-22-110
11 as follows:

12 **38-22-110. Action commenced within six months.** (1) (a) ~~No~~
13 EXCEPT AS PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, A lien
14 claimed by virtue of this ~~article~~ ARTICLE 22, as against the owner of the
15 property or as against one primarily liable for the debt upon which the
16 lien is based or as against anyone who is neither the owner of the property
17 nor one primarily liable for such debt, shall NOT hold the property longer
18 than six months after the last work or labor is performed, or laborers or
19 materials are furnished, or after the completion of the building, structure,
20 or other improvement, or the completion of the alteration, addition to, or
21 repair thereof, as prescribed in section 38-22-109, unless an action has
22 been commenced within that time to enforce the same, and unless also a
23 notice stating that such action has been commenced is filed for record
24 within that time in the office of the county clerk and recorder of the
25 county in which said property is situate.

26 (b) A LIEN CLAIMED BY AN INDIVIDUAL LABORER FOR THE VALUE
27 OF THE LABOR PERFORMED BY THE INDIVIDUAL LABORER HOLDS THE

1 PROPERTY FOR NO LONGER THAN ONE YEAR AFTER THE DAY ON WHICH THE
2 INDIVIDUAL LABORER OR THE INDIVIDUAL LABORER'S AGENT FILED THE
3 LIEN UNLESS, WITHIN THAT TIME, THE INDIVIDUAL LABORER COMMENCES
4 AN ACTION TO ENFORCE THE LIEN AND FILES A NOTICE THAT AN ACTION
5 HAS BEEN COMMENCED WITH THE OFFICE OF THE COUNTY CLERK AND
6 RECORDER OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED; EXCEPT
7 THAT THE LIEN DOES NOT EXPIRE WHILE THE ACTION TO ENFORCE THE LIEN
8 IS PENDING.

9 (2) Where two or more liens are claimed of record against the
10 same property, the commencement of any action and the filing of the
11 notice of the commencement of such action within ~~that~~ THE time
12 SPECIFIED IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION, AS
13 APPLICABLE, by any one or more of such lien claimants in which action
14 all the lien claimants as appear of record are made parties, either plaintiff
15 or defendant, ~~shall be~~ ARE sufficient.

16 **SECTION 20.** In Colorado Revised Statutes, **amend** 38-22-115
17 as follows:

18 **38-22-115. Parties to action.** (1) Principal contractors and all
19 other persons personally liable for the debt for which the lien is claimed
20 shall be made parties to actions to enforce liens under this ~~article~~ ARTICLE
21 22, and service of summons shall be made either personally or by
22 publication in the same manner and with like effect as is provided by law
23 in cases of attachment and other proceedings in rem.

24 (2) AN INDIVIDUAL LABORER MAY PURSUE AN ACTION TO ENFORCE
25 A LIEN UNDER THIS ARTICLE 22 IN THE SAME PROCEEDING IN WHICH THE
26 INDIVIDUAL LABORER PURSUES A WAGE, HOUR, OR OTHER CLAIM RELATED
27 TO THE LABOR PERFORMED ON THE PROPERTY AGAINST THE PROPERTY

1 OWNER, AN EMPLOYER, OR ANY OTHER PERSON.

2 **SECTION 21.** In Colorado Revised Statutes, **amend** 38-22-116
3 as follows:

4 **38-22-116. Costs - attorney fees.** (1) EXCEPT AS PROVIDED IN
5 SUBSECTION (2) OF THIS SECTION, the court shall divide the costs between
6 the parties liable ~~therefor~~ FOR THE COSTS, according to the justice of the
7 case.

8 (2) IN AN ACTION BROUGHT BY AN INDIVIDUAL LABORER FOR THE
9 VALUE OF THE LABOR PERFORMED BY THE INDIVIDUAL LABORER, IF THE
10 INDIVIDUAL LABORER PREVAILS, THE COURT SHALL AWARD REASONABLE
11 ATTORNEY FEES AND COSTS TO THE INDIVIDUAL LABORER.

12 **SECTION 22.** In Colorado Revised Statutes, **amend** 38-22-118
13 as follows:

14 **38-22-118. Satisfaction of lien - failure to release.** (1) (a) The
15 claimant of any ~~such~~ lien, the statement of which has been filed, on the
16 payment of the amount ~~thereof~~ OF THE LIEN, together with the costs of
17 filing and recording such lien, and the acknowledgment of satisfaction,
18 and accrued costs of suit in case a suit has been brought ~~thereon~~ TO
19 ENFORCE THE LIEN, at the request of any person interested in the property
20 charged therewith, shall enter or cause to be entered an acknowledgment
21 of satisfaction of the same of record. ~~and if he~~ EXCEPT AS PROVIDED IN
22 SUBSECTION (1)(b) OF THIS SECTION, IF THE CLAIMANT neglects or refuses
23 to ~~do so~~ ENTER OR CAUSE TO BE ENTERED AN ACKNOWLEDGMENT OF
24 SATISFACTION OF THE LIEN within ten days after the written request of any
25 person so interested, ~~he~~ THE CLAIMANT shall forfeit and pay to such
26 person the sum of ten dollars per day for every day of such neglect or
27 refusal, to be recovered in the same manner as other debts.

1 (b) THE PENALTY SPECIFIED IN SUBSECTION (1)(a) OF THIS SECTION
2 DOES NOT APPLY TO A CLAIMANT WHO IS AN INDIVIDUAL LABORER
3 CLAIMING A LIEN FOR THE VALUE OF THE LABOR PERFORMED BY THE
4 INDIVIDUAL LABORER.

5 (2) A valid tender of payment, refused by any such claimant, shall
6 be equivalent to a payment for the purpose of this section. Any such
7 statement may be satisfied of record in the same manner as mortgages.

8 **SECTION 23.** In Colorado Revised Statutes, 38-22-119, **amend**
9 (1) as follows:

10 **38-22-119. Agreement to waive - effect.** (1) (a) ~~NO~~ EXCEPT AS
11 PROVIDED IN SUBSECTION (1)(b) OF THIS SECTION, AN AGREEMENT TO WAIVE,
12 ABANDON, OR REFRAIN FROM ENFORCING ANY LIEN PROVIDED FOR BY THIS ~~ARTICLE~~
13 ~~SHALL BE~~ ARTICLE 22 IS NOT BINDING EXCEPT AS BETWEEN THE PARTIES TO SUCH
14 CONTRACT. THE PROVISIONS OF THIS ~~ARTICLE~~ ARTICLE 22 SHALL RECEIVE A LIBERAL
15 CONSTRUCTION IN ALL CASES.

16 (b) A PROSPECTIVE AGREEMENT TO WAIVE, ABANDON, OR REFRAIN
17 FROM ENFORCING A LIEN FOR WHICH A LIEN STATEMENT HAS NOT YET
18 BEEN FILED IS NOT EFFECTIVE AGAINST AN INDIVIDUAL LABORER
19 ASSERTING A LIEN FOR THE VALUE OF THE LABOR PERFORMED BY THE
20 INDIVIDUAL LABORER.

21 **SECTION 24. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly; except
24 that, if a referendum petition is filed pursuant to section 1 (3) of article V
25 of the state constitution against this act or an item, section, or part of this
26 act within such period, then the act, item, section, or part will not take
27 effect unless approved by the people at the general election to be held in

- 1 November 2022 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.