

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

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 24-0124.02 Yelana Love x2295

HOUSE BILL 24-1008

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Appropriations

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO EXPAND GENERAL CONTRACTOR**
102 **ACCOUNTABILITY FOR WAGE CLAIMS INVOLVING CONTRACTORS**
103 **IN THE CONSTRUCTION INDUSTRY, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

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

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.

SENATE
2nd Reading Unamended
May 4, 2024

HOUSE
3rd Reading Unamended
April 19, 2024

HOUSE
Amended 2nd Reading
April 18, 2024

- demand for payment forward a copy of the written demand for payment to the general contractor within 3 business 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. Legislative declaration.** (1) The general assembly
 3 finds and declares that:

4 (a) Wage theft, the failure to pay an employee the employee's
 5 legally earned wages, is the largest form of theft in the United States, and
 6 the Colorado Fiscal Institute estimates that wage theft transfers nearly
 7 \$728 million dollars to employers from the pockets of approximately
 8 438,260 Colorado workers each year. Minor workers, women, and
 9 workers of color are disproportionately impacted by wage theft.

10 (b) Wage theft not only affects Coloradans' ability to pay rent and
 11 put food on the table, but it also denies our state and local governments
 12 between \$25 million and \$42 million in revenue each year;

13 (c) To combat wage theft, the state must keep up with changes in
 14 the marketplace. One of the most significant changes involves the
 15 increasing use of labor market intermediaries to directly employ workers.
 16 Too often, this fissuring of the labor market is used to outsource an

1 employer's responsibility to workers required by labor and employment
2 laws.

3 (d) Construction is an industry with extraordinary labor market
4 fissuring, with layers upon layers of contractors, subcontractors, labor
5 brokers, staffing agencies, etc. This incentivizes wage theft by favoring
6 inexpensive subcontractors. It also creates barriers to wage recovery
7 because undercapitalized subcontractors can't or won't pay wages.

8 (e) Due in part to these practices, workers in the construction
9 industry are disproportionately likely to experience wage theft. Federal
10 Department of Labor, Wage and Hour Division data show that Colorado's
11 construction industry has double the number of wage theft violations that
12 it should have in proportion to the number of workers in the industry.
13 This is consistent with Colorado Department of Labor and Employment
14 data showing that while only 7% of Colorado workers are in construction,
15 construction workers make up 17% of administrative wage theft
16 complaints that are found valid after a full agency investigation.

17 (f) Federal data also show that in fiscal years 2022 and 2023, the
18 construction industry saw the highest dollar amount of wage theft of any
19 industry, totaling over \$35 million in federal fiscal year 2023 alone. In
20 addition, the construction industry has among the highest number of
21 individual workers who are victims of wage theft.

22 (g) To effectively combat wage theft in the construction industry,
23 the state needs a tailored solution to ensure not only that workers have
24 substantive legal protection against wage theft, but also that the state has
25 the right alignment of business incentives to prevent wage theft before it
26 happens and the right access to capital to ensure that workers can recover
27 stolen wages;

1 (h) Creating general contractor accountability for wage theft
2 committed on their projects by a subcontractor at any tier provides such
3 a tailored solution. Such accountability will enlist general contractors in
4 the fight against wage theft, incentivize engagement with law-abiding
5 subcontractors who pay their workers correctly, and encourage general
6 contractors to root out bad actors who underbid for contracts knowing
7 they will make up the difference by denying their workers the wages they
8 earned.

9 (i) While creating general contractor liability for wage claims, this
10 act will also ensure that general contractors can efficiently seek
11 reimbursement from subcontractor employers for any amounts paid out
12 for wage claims owed to the subcontractors' employees. In this way, the
13 act will ensure that workers get paid, but will not leave general
14 contractors on the hook for a subcontractor's wage debts.

15 (j) This act narrowly focuses on general contractor liability for
16 wage debts owed to the workers on their projects who were engaged by
17 the general contractor's subcontractors at any tier. Such liability does not
18 extend to wage debts owed to the workers of general contractor suppliers
19 or other business partners. Also, liability for debts owed based on a wage
20 claim or investigation does not include liability for a subcontractor's
21 retaliatory acts.

22 (k) This act does not alter the division of labor standards and
23 statistics' existing obligation to treat a notice of citation or a notice of
24 assessment issued to an employer for a violation of wage law as a public
25 record pursuant to section 8-1-115 (1)(b), Colorado Revised Statutes, and
26 does not require the additional publication of a notice of citation or a
27 notice of assessment issued to a general contractor that is not the

1 employer of an employee who is the victim of wage theft;

2 (l) With this act, Colorado hopes not only to ensure that workers
3 get paid their legally earned wages, but also to partner with the many
4 general contractors who are abiding by the law and want to ensure all
5 workers on their job sites are paid in full and on time; and

6 (m) Therefore, the general assembly declares that wage theft is an
7 unacceptable business practice, and the state should use or adopt all
8 available tools to prevent wage theft before it happens and give workers
9 the means to recover stolen wages.

10 **SECTION 2.** In Colorado Revised Statutes, 8-4-101, **add** (1.5),
11 (8.7), (11.5), and (12.5) as follows:

12 **8-4-101. Definitions.** As used in this article 4, unless the context
13 otherwise requires:

14 (1.5) "CONSTRUCTION CONTRACT" MEANS AN EXPRESS OR IMPLIED
15 AGREEMENT:

16 (a) FOR THE CONSTRUCTION, RECONSTRUCTION, ALTERATION,
17 MAINTENANCE, MOVING, OR DEMOLITION OF ANY BUILDING, STRUCTURE,
18 OR IMPROVEMENT; OR

19 (b) RELATING TO THE EXCAVATION OF OR OTHER DEVELOPMENT
20 OF OR IMPROVEMENT TO LAND.

21 (8.7) "GENERAL CONTRACTOR" MEANS ANY PERSON, INCLUDING
22 A CONSTRUCTION MANAGER, JOINT VENTURE, OR ANY COMBINATION
23 THEREOF, ALONG WITH THE PERSON'S SUCCESSORS, HEIRS, OR ASSIGNS,
24 THAT ENTERS INTO A CONSTRUCTION CONTRACT WITH AN OWNER.
25 "GENERAL CONTRACTOR" INCLUDES AN OWNER THAT ENTERS INTO A
26 CONSTRUCTION CONTRACT WITH MORE THAN ONE CONTRACTOR OR
27 SUBCONTRACTOR, IF SUCH CONTRACT RELATES TO REAL PROPERTY OTHER

1 THAN PROPERTY FOR WHICH THE OWNER COULD CLAIM THE HOMESTEAD
2 EXEMPTION PURSUANT TO PART 2 OF ARTICLE 41 OF TITLE 38.

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 3.** 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 4.** 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
8 ENTERING INTO A CONSTRUCTION CONTRACT IN THIS STATE IS LIABLE FOR
9 ALL AMOUNTS OWED TO AN EMPLOYEE PURSUANT TO THIS ARTICLE 4 OR
10 ARTICLE 6 OF THIS TITLE 8 FOR THE EMPLOYEE'S LABOR, CONSTRUCTION,
11 OR OTHER WORK INCLUDED WITHIN THE SCOPE OF THE CONSTRUCTION
12 CONTRACT, INCLUDING AMOUNTS OWED BY A SUBCONTRACTOR AT ANY
13 TIER ACTING UNDER, BY, OR FOR THE GENERAL CONTRACTOR OR THE
14 GENERAL CONTRACTOR'S SUBCONTRACTORS.

15 (b) THE GENERAL CONTRACTOR'S RESPONSIBILITY UNDER
16 SUBSECTION (1)(a) OF THIS SECTION DOES NOT EXTEND TO DAMAGES
17 OWED FOR RETALIATION COMMITTED BY A SUBCONTRACTOR PURSUANT TO
18 SECTION 8-4-120 (3).

19 (2) UNLESS THE VIOLATION IS CAUSED BY THE GENERAL
20 CONTRACTOR'S LACK OF PAYMENT TO THE SUBCONTRACTOR IN
21 ACCORDANCE WITH THE TERMS OF THE CONTRACT BETWEEN THE GENERAL
22 CONTRACTOR AND THE SUBCONTRACTOR:

23 (a) A SUBCONTRACTOR EMPLOYER SHALL INDEMNIFY THE
24 GENERAL CONTRACTOR FOR:

25 (I) ALL AMOUNTS OWED BY THE GENERAL CONTRACTOR PURSUANT
26 TO SUBSECTION (1) OF THIS SECTION DUE TO THE SUBCONTRACTOR'S
27 VIOLATION OF THIS ARTICLE 4 OR ARTICLE 6 OF THIS TITLE 8; AND

1 (II) ALL ATTORNEY FEES PAID BY THE GENERAL CONTRACTOR TO
2 DEFEND AGAINST LIABILITY FOR SUBCONTRACTOR VIOLATIONS OF THIS
3 ARTICLE 4 OR ARTICLE 6 OF THIS TITLE 8;

4 (b) A GENERAL CONTRACTOR MAY BRING A CROSSCLAIM FOR
5 INDEMNIFICATION AGAINST THE SUBCONTRACTOR EMPLOYER IN ANY
6 ACTION RELATED TO THE WAGE CLAIM.

7 (3) A SUBCONTRACTOR'S FAILURE TO INDEMNIFY THE GENERAL
8 CONTRACTOR IS NOT A DEFENSE TO ANY ACTION BROUGHT AGAINST THE
9 GENERAL CONTRACTOR PURSUANT TO SUBSECTION (1) OF THIS SECTION.

10 (4) A GENERAL CONTRACTOR MAY REQUIRE THE FOLLOWING
11 INFORMATION FROM EACH SUBCONTRACTOR ACTING UNDER, BY, OR FOR
12 THE GENERAL CONTRACTOR:

13 (a) PAY DATA SHOWING THE HOURS WORKED, PAY, OVERTIME, AND
14 DEDUCTIONS FOR EACH INDIVIDUAL WORKER ENGAGED BY THE
15 SUBCONTRACTOR, REGARDLESS OF WHETHER THE INDIVIDUAL WORKER IS
16 CLASSIFIED AS AN EMPLOYEE OR AN INDEPENDENT CONTRACTOR'S
17 INDIVIDUAL LABORER. THE SUBCONTRACTOR SHALL REDACT THESE
18 RECORDS TO DISCLOSE ONLY THE LAST FOUR DIGITS OF THE INDIVIDUAL
19 WORKER'S SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER
20 IDENTIFICATION NUMBER.

21 (b) CONTACT INFORMATION FOR ALL ADDITIONAL
22 SUBCONTRACTORS THAT PERFORM ANY PORTION OF WORK WITHIN THE
23 SCOPE OF THE SUBCONTRACTOR'S CONTRACT WITH THE GENERAL
24 CONTRACTOR OR WITH ANOTHER SUBCONTRACTOR THAT IS IN PRIVITY OF
25 CONTRACT WITH THE GENERAL CONTRACTOR; AND

26 (c) (I) AN AFFIDAVIT ATTESTING TO WHETHER THE
27 SUBCONTRACTOR OR ANY OF ITS CURRENT PRINCIPALS HAS PARTICIPATED

1 IN ANY CIVIL OR ADMINISTRATIVE PROCEEDING WITHIN THE PRECEDING
2 FIVE YEARS THAT INVOLVED ANY ALLEGATIONS OF A WAGE AND HOUR
3 VIOLATION AGAINST THE SUBCONTRACTOR OR PRINCIPAL UNDER LOCAL,
4 STATE, OR FEDERAL LAW; AND

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

8 (5) A SUBCONTRACTOR'S FAILURE TO COMPLY WITH THIS SECTION
9 DOES NOT RELIEVE A GENERAL CONTRACTOR FROM LIABILITY UNDER
10 SUBSECTION (1) OF THIS SECTION.

11 (6) (a) NOTHING IN THIS SECTION DIMINISHES THE RIGHTS,
12 PRIVILEGES, OR REMEDIES OF ANY EMPLOYEE UNDER ANY COLLECTIVE
13 BARGAINING AGREEMENT.

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

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

20 (II) CONTAINS A GRIEVANCE PROCEDURE THAT RESULTS IN A FINAL
21 AND BINDING DECISION;

22 (III) MAY BE USED TO RECOVER UNPAID WAGES ON BEHALF OF
23 EMPLOYEES COVERED BY THE AGREEMENT;

24 (IV) PROVIDES FOR THE COLLECTION OF UNPAID CONTRIBUTIONS
25 TO FRINGE BENEFIT TRUST FUNDS ESTABLISHED PURSUANT TO 29 U.S.C.
26 SEC. 186 (c)(5) AND (c)(6), BY OR ON BEHALF OF SUCH TRUST FUNDS; AND

27 (V) DOES NOT DIMINISH OR IMPAIR THE RIGHTS OF AN EMPLOYEE

1 PROVIDED UNDER ANY OTHER SECTION OF THIS ARTICLE 4.

2 **SECTION 5. Appropriation.** (1) For the 2024-25 state fiscal
3 year, \$55,179 is appropriated to the department of labor and employment
4 for use by the division of labor standards and statistics. This appropriation
5 is from the general fund. To implement this act, the division may use this
6 appropriation for program costs related to labor standards. This amount
7 is based on an assumption that the division will require an additional 0.5
8 FTE.

9 (2) For the 2024-25 state fiscal year, \$44,807 is appropriated to
10 the department of personnel for use by the executive director's office.
11 This appropriation is from the general fund. To implement this act, the
12 department may use this appropriation for the purchase of legal services.

13 (3) For the 2024-25 state fiscal year, \$44,807 is appropriated to
14 the department of law. This appropriation is from reappropriated funds
15 received from the department of personnel under subsection (2) of this
16 section and is based on an assumption that the department of law will
17 require an additional 0.2 FTE. To implement this act, the department of
18 law may use this appropriation to provide legal services for the
19 department of personnel.

20 **SECTION 6. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect July 1, 2025; except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within the ninety-day period after final adjournment of the general
25 assembly, then the act, item, section, or part will not take effect unless
26 approved by the people at the general election to be held in November
27 2024 and, in such case, will take effect July 1, 2025, or on the date of the

1 official declaration of the vote thereon by the governor, whichever is
2 later.

3 (2) This act applies to wage claims brought and investigations
4 commenced on or after the applicable effective date of this act.