

# JUDICIAL IMPACT FISCAL NOTE

<b>Bill Number:</b> 6053 SB	<b>Title:</b> Wage Liens	<b>Agency:</b> 055 – Administrative Office of the Courts (AOC)
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## Part I: Estimates

☐ **No Fiscal Impact**

### Estimated Cash Receipts to:

	FY 2020	FY 2021	2019-21	2021-23	2023-25
<b>Total:</b>					

### Estimated Expenditures from:

STATE	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE – Staff Years					
<b>Account</b>					
General Fund – State (001-1)					
State Subtotal					
<b>COUNTY</b>					
County FTE Staff Years					
<b>Account</b>					
Local - Counties					
Counties Subtotal					
<b>CITY</b>					
City FTE Staff Years					
<b>Account</b>					
Local – Cities					
Cities Subtotal					
Local Subtotal					
<b>Total Estimated Expenditures:</b>					

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form parts I-V

☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

Legislative Contact:	Phone:	Date:
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OFM Review:	Phone:	Date:

## **Part II: Narrative Explanation**

This bill would establish the Washington Wage Recovery act. The bill would address wage liens and the ability of employees to file, in the appropriate court, judgements against employers that owe the claimants unpaid wages, any other compensation, interest, statutory damages, liquidated damages or any other statutory penalties that may be owed for violation of a state or federal wage law. Currently the employee has to obtain a judgement prior to applying for a lien on the employer's property; SB 6053 would allow the employee to place a lien on the employer's property prior to receiving a judgement from the court. This is intended to help employees gain priority over other creditors and increases the chances of the employee being paid for wages owed.

### **Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts**

Section 3(1)(a) – Would define when a person has a wage lien for wage claims; (i) any property in the State of Washington that is owned or is subsequently acquired by the person's employer; (ii) any property in the State of Washington that is owned or subsequently acquired by an officer, vice principal, or agent of the employer who is personally liable for a wage claim under RCW 49.52.070; and (iii) Any real property in the State of Washington that the person has maintained, for all wage claims for maintenance of that property.

Section 3(1)(b) – Would define that a person does not have wage claim on any property that is or would be subject to lien under chapter 60.04 RCW.

Section 3(1)(c) – Would allow for a wage lien to be effective against the estate of an employer.

Section 3(2) – Would define when a wage lien is not effective;

- (a) With respect to goods as defined in RCW 62A.9A-102, a buyer in the ordinary course of business as defined in RCW 62A.1-201(b)(9).
- (b) When third persons acquire title to the property prior to the actual notice of the wage lien; or
- (c) The interest in real property of any person, who, prior to the filing of the wage lien notice required under this chapter, was a grantee under a recorded instrument conveying such interest, provided the person acquired the interest in good faith, for value and without actual notice of the wage lien.

Section 3(3) – Would define that Chapter 62A.9A RCW does not apply to a wage lien on personal property under this chapter.

Section 3(4) – Would define when those that possess amounts payable to the employer are obligated to pay the party with the wage lien to clear the debt instead of the employer.

Section 4(1) – Would establish the steps needed to establish a wage lien on real property;

- (a) The claimant must file the wage lien in the county where the property is located and include; (i) the name, telephone numbers, and address of the lien claimant and if the lien has been assigned, the name of the person who assigned the lien; (ii) The name of the employer; (iii) the address, legal description, and parcel number of the property to be charged with the lien; (iv) the name of the owner of the property; (v) the amount of the wage lien; (vi) the signature of the lien claimant or authorized representative; (vii) and acknowledgment and certification as set forth in subsection (4) of this section;
- (b) Pay a filing fee to the county auditor as required by RCW 36.18.010; and
- (c) Mail a copy of the notice filed to the employer's registered agent, or address by certified return receipt mail.

Section 4(2) – Would establish the steps needed to establish a wage lien on personal property, other than a vehicle or vessel;

- (a) The claimant must file the wage lien with the department of licensing; (i) the name, telephone numbers, and address of the lien claimant and if the lien has been assigned, the name of the person who assigned the lien; (ii) The name of the employer; (iii) the description of the personal property subject to the wage or a statement that the wage lien covers all personal property; (iv) the name of the registered owner; (v) the amount of the wage lien; (vi) the signature of the lien claimant or authorized representative; (vii) and acknowledgment and certification as set forth in subsection (4) of this section;
- (b) Pay a filing fee to the Department of Licensing.
- (c) Mail a copy of the notice filed to the employer's registered agent, or address by certified return receipt mail.

Section 4(3) – Would establish the steps needed to establish a wage lien on a vehicle or vessel;

- (a) The claimant must file the wage lien with the department of licensing; (i) the name, telephone numbers, and address of the lien claimant and if the lien has been assigned, the name of the person who assigned the lien; (ii) The name of the employer; (iii) A description of the vehicle or vessel subject to the wage lien and identifying numbers. (iv) the name of the registered owner; (v) the amount of the wage lien; (vi) the signature of the lien claimant or authorized representative; (vii) and acknowledgment and certification as set forth in subsection (4) of this section;
- (b) Pay a filing fee to the Department of Licensing.
- (c) Mail a copy of the notice filed to the employer's registered agent, or address by certified return receipt mail.

Section 6(1) – Would require after a wage claim affecting title to real property has been commenced in any court, but no later than eight months after the recording of the wage lien, the claimant must file with the auditor of the county where the property is situated a notice of pendency of the wage claim, containing;

- (a) the names of the parties and assignees
- (b) the object of the action;
- (c) a description of the real property located within the county; and
- (d) the name of the court where the action was filed and the cause number for the action.

Section 6(2) – Would require the county auditor to index the notice in a manner similar to the auditor practice for indexing a notice filed under RCW 4.28.320 or 4.28.325.

Section 6(3) – Would make the filing of the notice a constructive notice to a purchaser or encumbrancer of the property, and every subsequent purchaser or encumbrancer, and is bound by all proceedings taken after the filing of the notice to same extent as if he or she were a part to the action.

Section 6(4) – Would allow the court in which the action was commenced, at any time after the action is settled, with notice and on a showing of good cause, order the notice canceled by the county auditor.

Section 7(1) – Would allow a wage lien to be foreclosed on by action in;

- (a) superior court for real property;
- (b) district court if the value of the claim does not exceed the jurisdictional limit of the district court.
- (c) superior court if the value of the claim exceeds the jurisdictional limit of the district court.

Section 7(2) - Would require that an action to foreclose on a wage lien must be filed within eight months of the date of the wage lien.

Section 7(3) – Would authorize the court where the wage claim was filed to foreclose on the property subject to the lien.

Section 7(4)(a) – Would allow judgements on wage claims from federal, state or municipal courts to establish the amount owed for the purpose of foreclosure.

Section 7(4)(b) – Would require when a judgement on a wage claim is from a court that is not authorized to adjudicate the foreclosure of the wage lien, a separate action to foreclose must be filed within ninety days of the date of that court's judgement.

Section 7(5)(b)(ii) – Would allow the claimant after a final and binding citation and notice of assessment has been issued by the department, to pursue foreclosure action on his or her own without the department's assistance.

Section 7(5)(c) – Would require the foreclosure pursuant to this subsection by the claimant affecting real property must be commenced by the filing of an action in superior court in the county where the real property is located within ninety days of the date of the department's citation.

Section 7(6) – Would allow for a foreclosure action to be brought by the employee, the department, and administrative agency of a local government, the United States Department of Labor, the Office of the Attorney General, or a representative or class representative. Multiple wage claims against the same employer may be joined in a single proceeding, but the court may order separate trials or hearings.

Section 8(1) – Would allow that claims of lien after being recorded, may be foreclosed and enforced as provided in section 7 of this act. The court would have the power to order the sale of the property.

Section 8(2) – Would require that a person cannot begin action to foreclose a lien upon any property while a prior action to foreclose on the same property is pending, unless the person is joined as a party in the same action.

Section 8(3) – Would allow the court to grant application for joinder unless doing so would create an undue delay or hardship.

Section 8(4) – Would allow the court to motion and consolidate actions when there is more than one foreclosure pending.

Section 9(1)(a) – Would require a wage lien be extinguished if an action for the claim is not brought within eight months of the date of the wage lien being recorded.

Section 9(1)(b) – Would require a wage lien be extinguished if the wage claim is dismissed and no appeal is filed within the applicable appeals period.

Section 9 (1)(c) – Would require a wage lien be extinguished if the wage claim is paid and accepted by the employee's wage claim.

Section 9 (2) – Would require the claimant file a release of the wage lien when the lien is extinguished within fifteen days at the place where the wage lien was recorded and pay a filing fee established by the agency where the notice is filed. If the claimant fails to file a release the employer or affected party may petition the court for an order releasing the wage lien. If the claimant acted unreasonable and in bad faith in refusing to file a release of the wage lien, the affected party would be entitled to recover attorney fees and costs incurred. The court, in its discretion, may also issue a fine not to exceed one thousand dollars.

Section 13(1) – Would allow for any owner of property subject to a claim of lien who believes the claim of lien to be frivolous and made without reasonable cause may apply by motion to the appropriate court for an order directing the lien claimant to appear before the court and show cause why the relief requested should not be granted.

Section 13(2) – Would require the lien be released with prejudice if the claimant fails to appear at the time and place noted and the claimant would be ordered to pay the costs requested by the applicant, including reasonable attorneys' fees.

Section 13(3) – Would allow if no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee pursuant to RCW 36.18.016(18). If an action has been filed to foreclose the lien claim, the application shall be made a part of the action.

Section 13(4) – Would allow that if the lien is found to be frivolous and made without reasonable cause the court shall issue an order releasing the lien. If the court determines the lien is not frivolous the court shall issue an order so stating and awarding costs and attorneys' fees to the lien claimant to be paid by the applicant.

## **II.B - Cash Receipt Impact**

None.

## **II.C – Expenditures**

Indeterminate, but expected to be minimal. There would be small IT system changes that would be managed within existing resources. District and superior courts could see an increase in case filings.