

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2049

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COWLES, HARDY, FAST AND JENNINGS

[Introduced January 9, 2019; Referred

to the Committee on Industry and Labor then the Judiciary.]

1 A BILL to amend and reenact §21-5-7 and §38-2-6 of the Code of West Virginia, 1931, as
2 amended, relating to a prime contractor's responsibility for wages and benefits of
3 employees of a subcontractor.

Be it enacted by the Legislature of West Virginia:

CHAPTER 21. LABOR.

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

§21-5-7. Prime contractor's responsibility for wages and benefits.

1 (a) Whenever any person, firm or corporation shall contract with another for the
2 performance of any work which the prime contracting person has undertaken to perform for
3 another, the prime contractor shall become civilly liable to employees engaged in the performance
4 of work under such contract for the payment of wages and fringe benefits, exclusive of liquidated
5 damages as provided in subsection (e), section four of this article, to the extent that the employer
6 of such employee fails to pay such wages and fringe benefits.

7 (b) Any individual or entity seeking redress pursuant to subsection (a) must:

8 (1) Notify the prime contractor, by certified mail, of the missing wages or fringe benefits
9 within 100 days of the date the wages or fringe benefits become payable to the employee.

10 (2) Commence the action within one year of the date the employee delivered notice to the
11 prime contractor pursuant to subsection (b)(1);

12 (3) Produce verifiable proof, such as a pay stub or bank statement, to substantiate the
13 missing wages or fringe benefits; and

14 ~~Provided, That such employees have exhausted~~ (4) Exhaust all feasible remedies
15 ~~contained in this article against such employer, but~~ Provided, That if the prime contractor has
16 ~~failed to notify the commissioner as required by section sixteen of this article, then the employee~~
17 ~~shall not be required to exhaust any remedies against the employer: Provided, however, That~~

- 18 such employer shall become civilly liable to such prime contractor for any sum of money paid by
19 him or her under this section.

NOTE: The purpose of this bill is to provide notice to a prime contractor, within 100 days, of a subcontractor's failure to pay wages or fringe benefits.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.