

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Appropriations

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, 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>.)

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

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.

follows:

- Changes the penalty for failure to provide requested 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 employee's 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. THE DIVISION SHALL TRANSMIT ANY PENALTY
12 IMPOSED AND COLLECTED PURSUANT TO THIS SECTION TO THE STATE
13 TREASURER, WHO SHALL CREDIT THE MONEY TO THE WAGE THEFT
14 ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

15 **SECTION 2.** In Colorado Revised Statutes, 8-1-116, **amend** (2)
16 as follows:

17 **8-1-116. Investigators to have access to premises - penalty.**
18 (2) Any person who hinders or obstructs the director or any such person
19 authorized by the director in the exercise of any power conferred by this
20 article 1, or any employer who in bad faith refuses reasonable access to
21 the employer's premises, or any person who gives advance notice of any
22 inspection to be conducted under this article 1 without authority from the
23 director or the director's designee commits a class 2 misdemeanor IS
24 SUBJECT TO A PENALTY OF NOT LESS THAN FIFTY DOLLARS FOR EACH DAY

1 THAT THE CONDUCT CONTINUES. THE DIVISION SHALL TRANSMIT ANY
2 PENALTY IMPOSED AND COLLECTED PURSUANT TO THIS SECTION TO THE
3 STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE WAGE THEFT
4 ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

5 **SECTION 3.** In Colorado Revised Statutes, 8-1-117, **amend** (2)
6 as follows:

7 **8-1-117. Director to have access to books - penalty.** (2) Any
8 employer ~~who~~ THAT refuses to exhibit and furnish ~~said~~ THE director or
9 any agents of the division an inspection of any books, records, and
10 payrolls of ~~such~~ THE employer, showing or reflecting in any way upon the
11 amount of wage expenditure of ~~such employers~~ THE EMPLOYER, and other
12 data, facts, and statistics appertaining to the purposes of this ~~article~~
13 ARTICLE 1 or ~~who~~ THAT refuses to admit ~~such~~ THE director or any agent
14 of the division to any place of employment shall pay a penalty of not less
15 than fifty dollars for each day that ~~such~~ THE failure, neglect, or refusal
16 continues. THE DIVISION SHALL TRANSMIT ANY PENALTY IMPOSED AND
17 COLLECTED PURSUANT TO THIS SECTION TO THE STATE TREASURER, WHO
18 SHALL CREDIT THE MONEY TO THE WAGE THEFT ENFORCEMENT FUND
19 CREATED IN SECTION 8-4-113 (3).

20 **SECTION 4.** In Colorado Revised Statutes, 8-1-140, **amend** (2)
21 as follows:

22 **8-1-140. Violation - penalty.** (2) If any employer, employee, or
23 any other person fails, refuses, or neglects to perform any duty lawfully
24 enjoined within the time prescribed by the director or fails, neglects, or
25 refuses to obey any lawful order made by the director or any judgment or
26 decree made by any court as provided in this ~~article~~ ARTICLE 1, for each
27 such violation, ~~such~~ THE employer, employee, or any other person shall

1 pay a penalty of not less than one hundred dollars for each day such THE
2 violation, failure, neglect, or refusal continues. THE DIVISION SHALL
3 TRANSMIT ANY PENALTY IMPOSED AND COLLECTED PURSUANT TO THIS
4 SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO
5 THE WAGE THEFT ENFORCEMENT FUND CREATED IN SECTION 8-4-113 (3).

6 **SECTION 5.** In Colorado Revised Statutes, **amend 8-1-142** as
7 follows:

8 **8-1-142. Collection of penalties.** All penalties provided for in this
9 article ARTICLE 1 shall be collected in a civil action brought against the
10 employer or employee in the name of the director, WHICH CIVIL ACTION
11 MAY BE AN ADMINISTRATIVE ACTION OR A JUDICIAL ACTION AUTHORIZED
12 BY LAW. Any fine provided in this article ARTICLE 1 is considered a
13 penalty and recoverable in a civil action as provided in this section unless
14 the violation of this article ARTICLE 1, for the punishment of which said
15 fine is provided, is designated as a misdemeanor or other crime.

16 **SECTION 6.** In Colorado Revised Statutes, 8-4-105, **amend** (1)
17 introductory portion and (1)(e) as follows:

18 **8-4-105. Payroll deductions permitted - notice required -**
19 **penalty.** (1) ~~No~~ AN employer shall NOT make a deduction from the
20 wages or compensation of an employee except as follows:

21 (e) (I) A deduction for the amount of money or the value of
22 property that the employee failed to properly pay or return to the
23 employer in the case where a terminated employee was entrusted during
24 ~~his or her~~ THE EMPLOYEE'S employment with the collection, disbursement,
25 or handling of such money or property, BUT ONLY AFTER PROVIDING
26 NOTICE OF THE DEDUCTION AS SPECIFIED IN SUBSECTION (1)(e)(II) OF THIS
27 SECTION.

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 7.** 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 EMPLOYEE
19 SEPARATION OR AS OF THE MOST RECENT REGULAR PAYDAY is due and
20 payable immediately. If at such time the employer's accounting unit,
21 responsible for the drawing of payroll checks, is not regularly scheduled
22 to be operational, then THE EMPLOYER SHALL MAKE the wages due the
23 ~~separated~~ CURRENT OR FORMER employee ~~shall be made~~ available to the
24 CURRENT OR FORMER employee no later than six hours after the start of
25 ~~such~~ THE employer's accounting unit's next regular workday; except that,
26 if the accounting unit is located off the work site, the employer shall
27 deliver the check for wages due the ~~separated~~ CURRENT OR FORMER

1 employee no later than twenty-four hours after the start of ~~such~~ THE
2 employer's accounting unit's next regular workday to one of the following
3 locations selected by the employer:

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

10 (a.5) If the employer disputes the amount of wages or
11 compensation claimed by an employee under this ~~article~~ ARTICLE 4 and
12 if, within fourteen days after the written demand is sent OR THE
13 ADMINISTRATIVE CLAIM OR CIVIL ACTION IS SENT TO OR SERVED ON THE
14 EMPLOYER, the employer makes a legal tender of the FULL amount ~~that the~~
15 ~~employer in good faith believes is due~~ OF ALL WAGES THAT THE
16 EMPLOYEE, THE EMPLOYEE'S DESIGNATED AGENT, OR THE DIVISION
17 DEMANDS ARE OWED FOR ANY VIOLATION OF THIS ARTICLE 4, the employer
18 shall not be liable for any penalty unless, in a legal proceeding, including
19 a civil action or an administrative procedure under sections 8-4-111 and
20 8-4-111.5, the employee recovers a greater sum than the amount ~~so~~ THE
21 EMPLOYER tendered.

22 (b) ON OR AFTER JANUARY 1, 2023, if AN EMPLOYER FAILS OR
23 REFUSES TO PAY, IN THE MANNER SPECIFIED IN SUBSECTION (3)(d) OF THIS
24 SECTION, an employee's ALL earned, vested, and determinable wages or
25 compensation ~~is not paid~~ within fourteen days after the written demand
26 is sent ~~in the manner set forth in paragraph (d) of this subsection (3) OR~~
27 WITHIN FOURTEEN DAYS AFTER A CIVIL ACTION OR ADMINISTRATIVE CLAIM

1 FOR THE WAGES OR COMPENSATION IS SENT TO OR SERVED ON THE
2 EMPLOYER, the employer ~~shall be~~ IS liable to the employee OR GROUP OF
3 SIMILARLY SITUATED EMPLOYEES for the AMOUNT OF THE EARNED,
4 VESTED, DETERMINABLE, AND UNPAID wages or compensation ~~and a~~ PLUS
5 AN AUTOMATIC penalty of: ~~the sum of the following amounts of wages or~~
6 ~~compensation due or, if greater, the employee's average daily earnings for~~
7 ~~each day, not to exceed ten days, until such payment or other settlement~~
8 ~~satisfactory to the employee is made:~~

9 (I) ~~One hundred twenty-five percent of that~~ THE GREATER OF TWO
10 ~~TIMES THE amount of such~~ THE UNPAID wages or compensation up to and
11 ~~including seven thousand five hundred dollars; and~~ OR ONE THOUSAND
12 DOLLARS; OR

13 (II) ~~Fifty percent of that~~ IF THE EMPLOYEE CAN SHOW THAT THE
14 EMPLOYER'S FAILURE OR REFUSAL TO PAY WAGES OR COMPENSATION WAS
15 WILLFUL, THE WAGE CLAIM IS FOR LESS THAN FIFTY THOUSAND DOLLARS,
16 AND THE EMPLOYEE IS NOT A HIGHLY COMPENSATED EMPLOYEE, AS
17 DEFINED IN THE ANNUAL COLORADO OVERTIME AND MINIMUM PAY
18 STANDARDS (COMPS) ORDER ADOPTED BY THE DIRECTOR, THE GREATER
19 ~~OF THREE TIMES THE amount of such~~ THE UNPAID wages or compensation
20 ~~that exceed seven~~ OR THREE thousand five hundred dollars.

21 ~~(c) If the employee can show that the employer's failure to pay is~~
22 willful, the penalty required under paragraph (b) of this subsection (3)
23 shall increase by fifty percent. Evidence that a judgment OR WAGE
24 DETERMINATION OF THE DIVISION has, within the previous five years, been
25 entered against the employer for failure to pay wages or compensation is
26 admissible as evidence of willful conduct. AN EMPLOYER'S FAILURE OR
27 REFUSAL TO PAY WAGES OR COMPENSATION IS PER SE WILLFUL IF THE

1 EMPLOYEE CAN SHOW THAT THE CLAIM FOR WHICH A PENALTY UNDER
2 SUBSECTION (3)(b) OF THIS SECTION IS ASSESSED IS THE EMPLOYER'S
3 SECOND OR SUBSEQUENT FAILURE OR REFUSAL TO PAY TO EMPLOYEES
4 WAGES OR COMPENSATION OF THE SAME OR SIMILAR TYPE WITHIN THE
5 FIVE YEARS IMMEDIATELY PRECEDING THE CLAIM.

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

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

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

26 (II) The employee or ~~his or her~~ THE EMPLOYEE'S designated agent
27 may commence a civil action to recover the penalty set forth in this

1 subsection (3). For an action filed in a small claims court, established
2 pursuant to part 4 of article 6 of title 13, C.R.S., if the employer has not
3 received a written demand at least fourteen days before the employer is
4 served with the complaint or other document commencing the action,
5 service of the complaint or other document serves as the written demand
6 under this subsection (3): If, an WITHIN FOURTEEN DAYS AFTER A WRITTEN
7 DEMAND IS SENT TO OR AN ADMINISTRATIVE CLAIM OR A CIVIL ACTION IS
8 SENT TO OR SERVED ON THE EMPLOYER, THE employer makes a FULL legal
9 tender of the full amount claimed in the action within fourteen days after
10 service of the complaint or other document commencing the action ALL
11 AMOUNTS DEMANDED FOR ALL EMPLOYEES, the employee shall dismiss the
12 action.

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

15 **8-4-110. Disputes - fees.** (1) (a) THE COURT MAY AWARD THE
16 EMPLOYER REASONABLE COSTS AND ATTORNEY FEES INCURRED IN A CIVIL
17 ACTION IF, WITHIN FOURTEEN DAYS AFTER A WRITTEN DEMAND LETTER IS
18 SENT TO OR A CIVIL ACTION IS SERVED ON THE EMPLOYER FOR UNPAID
19 WAGES OR COMPENSATION:

20 (I) THE EMPLOYER MAKES FULL LEGAL TENDER OF ALL AMOUNTS
21 DEMANDED FOR ALL EMPLOYEES; AND

22 (II) THE EMPLOYEES RECEIVING SUCH TENDER ULTIMATELY FAIL
23 TO RECOVER A TOTAL SUM THAT IS GREATER THAN THE AMOUNT THE
24 EMPLOYER TENDERED.

25 (b) If, in any AN ADMINISTRATIVE CLAIM OR CIVIL action the
26 employee fails to recover a greater sum than the amount tendered by the
27 employer, the court may award the employer reasonable costs and

1 attorney fees incurred in such action when, in any pleading or other court
2 filing, the employee claims wages or compensation that exceed the
3 greater of seven thousand five hundred dollars in wages or compensation
4 or the jurisdictional limit for the small claims court, whether or not the
5 case was filed in small claims court or whether or not the total amount
6 sought in the action was within small claims court jurisdictional limits. If,
7 in any such action in which the employee seeks to recover any amount of
8 wages or compensation, the employee recovers a sum greater than the
9 amount tendered by the employer:

10 (I) The court, IN A CIVIL ACTION, may award the employee
11 reasonable costs and attorney fees incurred in ~~such~~ THE CIVIL action; AND

12 (II) THE DIVISION, IN AN ADMINISTRATIVE CLAIM, MAY AWARD THE
13 EMPLOYEE REASONABLE COSTS INCURRED IN THE ADMINISTRATIVE CLAIM
14 AND MAY ALSO AWARD ATTORNEY FEES TO AN EMPLOYEE WHO RECOVERS
15 MORE THAN FIVE THOUSAND DOLLARS IN UNPAID WAGES IN THE
16 ADMINISTRATIVE CLAIM.

17 (c) If an employer fails or refuses to make a tender within fourteen
18 days after the demand OR ADMINISTRATIVE CLAIM OR CIVIL ACTION, then
19 such failure or refusal ~~shall~~ MUST be treated as a tender of no money for
20 any purpose under this ~~article~~ ARTICLE 4.

21 **SECTION 9.** In Colorado Revised Statutes, 8-4-111, **amend** (1),
22 (2)(a)(I) introductory portion, and (2)(c); and **add** (2)(f) as follows:

23 **8-4-111. Enforcement - duty of director - duties of district or**
24 **city attorneys - rules.** (1) (a) (I) It is the duty of the director to:

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

27 (B) Institute the actions for penalties or fines provided for in this

1 ~~article~~ ARTICLE 4 in such cases as ~~he or she may deem~~ THE DIRECTOR
2 DEEMS proper; and to

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

5 (II) The director may establish an administrative procedure to
6 receive complaints and adjudicate claims for nonpayment of wages or
7 compensation of seven thousand five hundred dollars or less.

8 ==
9 (III) The procedures ESTABLISHED PURSUANT TO SUBSECTION
10 (1)(a)(II) OF THIS SECTION may include claims of employees where no
11 interruption of the employer-employee relationship has occurred.

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

16 (b) The director shall promulgate rules providing for notice to
17 employees of an employee's rights under this section and section
18 8-4-111.5, of the limitations on the amount of wages, compensation, and
19 penalties available under the administrative remedy, and of the
20 employee's option to bring a claim for wages and compensation in court
21 without pursuing the administrative remedy unless the employee has
22 accepted payment pursuant to ~~paragraph (c) of subsection (2)~~ SUBSECTION
23 (2)(e) of this section.

24 (c) FOR PURPOSES OF INVESTIGATING WAGE COMPLAINTS AND
25 FACILITATING THE COLLECTION OF UNPAID WAGES BEFORE OR AFTER A
26 DETERMINATION PURSUANT TO THIS SECTION, THE DIVISION MAY APPLY
27 THE INFORMATION-GATHERING PROVISIONS OF ARTICLE 1 OF THIS TITLE 8

1 TO ANY EMPLOYER, EMPLOYEE, OR OTHER PERSON OR ENTITY.

2 (2) (a) (I) If one or more employees files a wage complaint with
3 the division claiming unpaid wages or compensation of seven thousand
4 five hundred dollars or less per employee, exclusive of penalties and
5 finances, the division shall investigate the wage complaint. THE DIVISION
6 MAY INVESTIGATE ANY WAGE COMPLAINT MADE ON BEHALF OF A GROUP
7 OF SIMILARLY SITUATED EMPLOYEES. IF THE DIVISION DECLINES TO
8 INVESTIGATE A GROUP COMPLAINT, SIMILARLY SITUATED EMPLOYEES MAY
9 CONSENT IN WRITING TO PARTICIPATE AS PARTIES TO THAT COMPLAINT,
10 AND THE DIVISION MAY PURSUE A DIRECT INVESTIGATION INFORMED BY
11 AND CONCURRENT WITH THAT COMPLAINT. The division shall initiate the
12 administrative procedure by sending a notice of complaint to the
13 employer by mail or electronic means in accordance with rules as the
14 director may promulgate when the complaint states a claim for relief. The
15 notice of the complaint must include:

16 (c) (I) If the division determines that an employer has violated
17 this ~~article~~ ARTICLE 4 for nonpayment of wages or compensation, the
18 division shall issue a citation and notice of assessment for the amount
19 determined that is owed, which amount must include all wages and
20 compensation owed, penalties pursuant to section 8-4-109, and any fines
21 pursuant to section 8-4-113.

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

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

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

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

(III) A PENALTY EQUAL TO THE GREATER OF FIFTY PERCENT OF THE AMOUNT DETERMINED PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION OR THREE THOUSAND DOLLARS.

SECTION 10. In Colorado Revised Statutes, **amend** 8-4-113 as follows:

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

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

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

11 (2) (a) THE DIVISION MAY, AND, ON OR AFTER JANUARY 1, 2023,
12 AT THE REQUEST OF A WORKER SHALL, FILE a certified copy of any
13 citation, notice of assessment, or order imposing wages due, fines, ~~or~~
14 penalties, OR OTHER RELIEF pursuant to this ~~article may be filed~~ ARTICLE
15 4 with the clerk of any court having jurisdiction over the parties at any
16 time after the entry of the CITATION, NOTICE, OR order. ~~The certified copy~~
17 ~~shall be recorded by~~ THE DIVISION MAY FILE ONE CERTIFIED COPY OF THE
18 CITATION, NOTICE, OR ORDER FOR ALL AMOUNTS OWED TO, OR FOR OTHER
19 RELIEF FOR, ALL EMPLOYEES.

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

26 (c) (I) UPON RECORDING PURSUANT TO SUBSECTION (2)(b) OF
27 THIS SECTION, THE JUDGMENT IS SUFFICIENT TO SUPPORT THE ISSUANCE OF

1 WRITS OF GARNISHMENT IN THE MANNER PROVIDED BY LAW IN THE CASE
2 OF A JUDGMENT THAT IS WHOLLY OR PARTIALLY UNSATISFIED.

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

6 ==
7 (3) (a) The division shall transmit all fines == collected FOR THE
8 STATE pursuant to this section OR SECTION 8-1-114 (2), 8-1-116 (2),
9 8-1-117 (2), OR 8-1-140 (2) to the state treasurer, who shall credit the
10 same to the wage theft enforcement fund, which fund is created and
11 referred to in this section as the "fund". The ~~moneys~~ MONEY in the fund
12 ~~are~~ IS subject to annual appropriation by the general assembly to the
13 division for the direct and indirect costs associated with implementing
14 this ~~article~~ ARTICLE 4.

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

22 (4) (a) ON OR AFTER JANUARY 1, 2023, IF AN EMPLOYER FAILS TO
23 PAY WAGES DETERMINED TO BE DUE TO THE EMPLOYER'S EMPLOYEES OR
24 FINES OR PENALTIES DETERMINED TO BE DUE PURSUANT TO THIS ARTICLE
25 4, THE DIVISION MAY ISSUE A NOTICE OF ADMINISTRATIVE LIEN AND LEVY
26 TO ANY PERSON THAT HAS POSSESSION, CUSTODY, OR CONTROL OF THE
27 EMPLOYER'S ASSETS. THE DIVISION MAY ISSUE THE NOTICE OF

1 ADMINISTRATIVE LIEN AND LEVY WHEN AN EMPLOYER IS PAST DUE ON
2 PAYING WAGES DETERMINED TO BE DUE TO ITS EMPLOYEES AND ANY FINES
3 OR PENALTIES DETERMINED TO BE DUE PURSUANT TO THIS ARTICLE 4
4 WITHOUT AN ORDER STAYING OR REVERSING THE APPLICABLE DEADLINE
5 FOR PAYMENT. THE NOTICE MUST INCLUDE THE FOLLOWING STATEMENTS
6 AND INFORMATION:

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

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

11 (III) THE TOTAL AMOUNT OWED FOR PAST-DUE WAGES, FINES, AND
12 PENALTIES, AS IDENTIFIED BY THE DIVISION AS PROVIDED IN THIS ARTICLE
13 4;

14 (IV) A STATEMENT THAT:

15 (A) THE NOTICE OF ADMINISTRATIVE LIEN AND LEVY TAKES
16 EFFECT, AND IS SUPERIOR TO ANY OTHER LIEN ON THE SAME ASSETS THAT
17 IS FILED LATER IN TIME; ==

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

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

27 (V) INSTRUCTIONS ON THE REMITTANCE, TRANSMISSION, OR

1 TRANSFER OF THE WITHHELD OR SURRENDERED AMOUNTS OR OTHER
2 ASSETS, INCLUDING THE REQUIREMENT THAT EACH CHECK, REMITTANCE,
3 TRANSMISSION, OR TRANSFER:

4 (A) BE PAYABLE TO, TRANSMITTED TO, OR TRANSFERRED TO THE
5 DIVISION OR OTHER PAYEE OR TRANSFEREE DESIGNATED BY THE DIVISION
6 IN THE NOTICE AND SENT TO THE ADDRESS INDICATED IN THE NOTICE OR
7 OTHERWISE TRANSMITTED OR TRANSFERRED AS SPECIFIED IN THE NOTICE;

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

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

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

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

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

1 OF THE PERSON THAT HAS POSSESSION, CUSTODY, OR CONTROL OF THE
2 EMPLOYER'S ASSETS.

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

7 (III) THE DIVISION SHALL PROVIDE A COPY OF THE
8 ADMINISTRATIVE LIEN AND LEVY TO THE EMPLOYER AND SHALL INCLUDE
9 INFORMATION ON THE EMPLOYER'S RIGHT TO FILE AN APPLICABLE
10 EXCEPTION, EXEMPTION, OR APPEAL, AS SPECIFIED BY THE DIRECTOR BY
11 RULE, INCLUDING AN EXCEPTION, EXEMPTION, OR APPEAL FOR CUSTODIAL
12 ACCOUNTS PURSUANT TO SECTION 11-50-110, THE EARNINGS LIMITATIONS
13 SET FORTH IN SECTION 13-54-104 (3), OR THE APPEAL POLICY FOR JOINTLY
14 OWNED OR SHARED ACCOUNTS.

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

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

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

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

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

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

3 (III) PAYMENTS DUE TO AND ACCOUNTS RECEIVABLE OF AN
4 EMPLOYER; AND

5 (IV) CREDITS OR DEBTS INVOLVING THE EMPLOYER.

6 **SECTION 11.** In Colorado Revised Statutes, **amend** 8-4-120 as
7 follows:

8 **8-4-120. Discrimination and retaliation prohibited - employee**
9 **protections - criminal penalties - civil remedies.** (1) ~~No~~ AN employer
10 shall NOT intimidate, threaten, restrain, coerce, blacklist, discharge, or in
11 any manner discriminate OR RETALIATE against any employee who has:

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

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

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

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

27 (I) BACK PAY;

1 (II) REINSTATEMENT OF EMPLOYMENT OR, IF REINSTATEMENT IS
2 NOT FEASIBLE, FRONT PAY;

3 (III) THE PAYMENT OF WAGES UNLAWFULLY WITHHELD;

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

6 (V) THE PAYMENT OF A PENALTY OF ONE HUNDRED DOLLARS PER
7 DAY FOR EACH EMPLOYEE WHOSE RIGHTS UNDER THIS SECTION WERE
8 VIOLATED AND FOR EACH DAY THAT THE VIOLATION OCCURRED OR
9 CONTINUED;

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

12 (VII) INJUNCTIVE RELIEF.

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

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

20 ==

21 **SECTION 12.** In Colorado Revised Statutes, 8-72-114, **amend**
22 (9) as follows:

23 **8-72-114. Employee misclassification - investigations -**
24 **enforcement - advisory opinions - rules - employee misclassification**
25 **advisory opinion fund - statewide study - report - definitions -**
26 **legislative declaration.** (9) (a) Subject to the approval of the executive
27 director, the director may enter into an interagency agreement with the

1 department of law for assistance in enforcing this section. The director is
2 authorized to transfer to the department of law from the unemployment
3 revenue fund created in section 8-77-106 such money as is necessary to
4 pay for reasonable costs associated with enforcement actions by the
5 department of law.

6 (b) REGARDLESS OF WHETHER THE DIRECTOR HAS ENTERED INTO
7 AN INTERAGENCY AGREEMENT WITH THE DEPARTMENT OF LAW PURSUANT
8 TO SUBSECTION (9)(a) OF THIS SECTION, AT LEAST ONCE EVERY TWELVE
9 MONTHS, BEGINNING JANUARY 1, 2024, THE DIRECTOR SHALL SHARE WITH
10 THE WORKER AND EMPLOYEE PROTECTION UNIT IN THE DEPARTMENT OF
11 LAW CREATED IN SECTION 24-31-1202 ANY ORDERS ISSUED PURSUANT TO
12 THIS SECTION FINDING THAT ANY EMPLOYERS HAVE ENGAGED IN THE
13 MISCLASSIFICATION OF EMPLOYEES.

14 **SECTION 13.** In Colorado Revised Statutes, 24-31-101, **amend**
15 (1)(i) as follows:

16 **24-31-101. Powers and duties of attorney general.** (1) The
17 attorney general:

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

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

21 (II) The "Colorado Consumer Protection Act", ~~in~~ article 1 of title
22 6;

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

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

25 (V) SECTION 6-1-110;

26 (VI) SECTION 11-51-603.5;

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

1 (VIII) SECTION 25.5-4-306;
2 (IX) ARTICLE 4 OF TITLE 8, SUBJECT TO SECTION 24-31-1203 (2);

3 AND

4 ==

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

7 **SECTION 14.** In Colorado Revised Statutes, 24-31-102, **amend**
8 (1)(h) and (1)(i); and **add** (1)(j) as follows:

9 **24-31-102. Offices, boards, and divisions.** (1) The department
10 of law, the chief executive officer of which is the attorney general,
11 includes the following:

12 (h) The financial empowerment office, created in part 11 of this
13 article 31; **and**

14 (i) ~~Notwithstanding section 24-1-107, any other division, office,~~
15 ~~or unit established by the attorney general or by law.~~ THE WORKER AND
16 EMPLOYEE PROTECTION UNIT, CREATED IN PART 12 OF THIS ARTICLE 31;
17 AND

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

20 **SECTION 15.** In Colorado Revised Statutes, **add** part 12 to
21 article 31 of title 24 as follows:

22 PART 12

23 ENFORCEMENT OF WORKER PROTECTION LAWS

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

26 (1) "DIVISION OF LABOR STANDARDS AND STATISTICS" MEANS THE
27 DIVISION OF LABOR STANDARDS AND STATISTICS IN THE DEPARTMENT OF

1 LABOR AND EMPLOYMENT CREATED PURSUANT TO SECTION 8-1-103.

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

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

7 **24-31-1202. Worker and employee protection unit - creation**
8 **- duties.** (1) THERE IS CREATED WITHIN THE DEPARTMENT OF LAW AND
9 UNDER THE CONTROL OF THE OFFICE OF THE ATTORNEY GENERAL THE
10 WORKER AND EMPLOYEE PROTECTION UNIT.

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

13 (a) ISSUE OR CAUSE TO BE ISSUED CIVIL INVESTIGATIVE DEMANDS
14 AND SUBPOENAS OR OTHER PROCESS IN AID OF INVESTIGATIONS AND
15 PROSECUTIONS;

16 (b) ADMINISTER OATHS AND TAKE SWORN STATEMENTS UNDER
17 PENALTY OF PERJURY; AND

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

20 **24-31-1203. Worker misclassification - wage determinations**
21 **- investigation and enforcement by the unit - coordination with**
22 **department of labor and employment.** (1) (a) THE UNIT MAY
23 INVESTIGATE ALLEGED VIOLATIONS OF, AND BRING AN ACTION AGAINST
24 AN EMPLOYER TO ENFORCE, SECTION 8-72-114, REGARDLESS OF WHETHER
25 A COMPLAINT IS FILED AGAINST THE EMPLOYER PURSUANT TO SAID
26 SECTION, TO ENFORCE THAT SECTION IF THE DIVISION OF UNEMPLOYMENT
27 INSURANCE DIRECTLY REFERS A FINDING OF MISCLASSIFICATION TO THE

1 UNIT TO PURSUE FURTHER REMEDIES.

2 (b) THE UNIT MAY INVESTIGATE AND ENFORCE AN ALLEGED
3 MISCLASSIFICATION THAT IS NOT DESCRIBED IN SUBSECTION (1)(a) OF THIS
4 SECTION IF THE UNIT PROVIDES WRITTEN NOTICE TO THE DIVISION OF
5 UNEMPLOYMENT INSURANCE OF THE UNIT'S INTENT TO PURSUE A
6 MISCLASSIFICATION INVESTIGATION AND THE DIVISION OF UNEMPLOYMENT
7 INSURANCE:

8 (I) DECLINES TO INVESTIGATE THE MATTER;

9 (II) HAS INVESTIGATED THE MATTER AND MADE A FORMAL
10 DETERMINATION; OR

11 (III) FAILS TO RESPOND TO THE UNIT WITHIN THIRTY DAYS AFTER
12 THE DATE OF THE NOTICE.

13 (2) (a) THE UNIT MAY ENFORCE WAGE DETERMINATIONS MADE BY
14 THE DIVISION OF LABOR STANDARDS AND STATISTICS PURSUANT TO
15 ARTICLE 4 OF TITLE 8 IF THE DIVISION OF LABOR STANDARDS AND
16 STATISTICS REFERS THE WAGE DETERMINATION TO THE UNIT FOR
17 ENFORCEMENT.

18 (b) IF THE DIVISION OF LABOR STANDARDS AND STATISTICS HAS
19 NOT REFERRED A WAGE DETERMINATION TO THE UNIT, THE UNIT MAY
20 ENFORCE THE WAGE DETERMINATION IF THE UNIT PROVIDES WRITTEN
21 NOTICE TO THE DIVISION OF LABOR STANDARDS AND STATISTICS OF THE
22 UNIT'S INTENT TO ENFORCE THE WAGE DETERMINATION AND THE DIVISION
23 OF LABOR STANDARDS AND STATISTICS:

24 (I) DECLINES TO PURSUE ENFORCEMENT OF THE WAGE
25 DETERMINATION;

26 (II) HAS ATTEMPTED TO PURSUE ENFORCEMENT OF THE WAGE
27 DETERMINATION AND HAS BEEN UNSUCCESSFUL IN ENFORCING THE

1 DETERMINATION IN FULL AFTER THE LATER OF TWELVE MONTHS AFTER
2 THE DETERMINATION OR THE CONCLUSION OF ANY APPEALS; OR

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

5 (IV) HAS NOT INITIATED AN INVESTIGATION.

6 == ===== ==

7 **SECTION 16. Appropriation.** (1) For the 2022-23 state fiscal
8 year, \$504,419 is appropriated to the department of labor and
9 employment. This appropriation is from the general fund. To implement
10 this act, the department may use this appropriation as follows:

11 (a) \$473,369 for use by division of labor standards and statistics
12 for program costs related to labor standards, which amount is based on an
13 assumption that the subdivision will require an additional 4.8 FTE; and

14 (b) \$31,050 for the purchase of legal services.

15 (2) For the 2022-23 state fiscal year, \$31,050 is appropriated to
16 the department of law. This appropriation is from reappropriated funds
17 received from the department of labor and employment under subsection
18 (1)(b) of this section and is based on an assumption that the department
19 of law will require an additional 0.2 FTE. To implement this act, the
20 department of law may use this appropriation to provide legal services for
21 the department of labor and employment.

22 (3) For the 2022-23 state fiscal year, \$95,200 is appropriated to
23 the department of law for use by consumer protection. This appropriation
24 is from the general fund and is based on an assumption that the
25 department will require an additional 0.8 FTE. To implement this act, the
26 department may use this appropriation for consumer protection and
27 antitrust.

1 **SECTION 17. Act subject to petition - effective date.** Sections
2 6, 7, 8, and 9 of this act take effect January 1, 2023, and the remainder of
3 this act takes effect at 12:01 a.m. on the day following the expiration of
4 the ninety-day period after final adjournment of the general assembly;
5 except that, if a referendum petition is filed pursuant to section 1 (3) of
6 article V of the state constitution against this act or an item, section, or
7 part of this act within such period, then the act, item, section, or part will
8 not take effect unless approved by the people at the general election to be
9 held in November 2022 and, in such case, will take effect on the date of
10 the official declaration of the vote thereon by the governor; except that
11 sections 6, 7, 8, and 9 of this act take effect on January 1, 2023.