FACTS about SB 1037, Liens Against Employers for Unpaid Wages

Although common sense tells us that workers should get paid what they earn, oftentimes that isn't the reality. Workers often face hurdles when attempting to collect their unpaid wages.

> **Low-wage workers are particularly impacted by employers who disappear and/or dissolve or hide their assets in an attempt to render any legal judgments for unpaid wages meaningless.**

Liens are effective tools in assisting workers in recovering wages they are due. Wage liens allow workers to place a temporary hold on the property of an employer until the employer pays the workers the wages they have earned. Wage liens are modeled on mechanic's liens (see Section 49-33 of the CT general statutes) which give a worker a claim against real estate and bank accounts until a wage payment claim is resolved. This provides a financial incentive for employers to both abide by the law and pay lost wages when they do not.

Wage theft is rampant throughout the country and particularly in low-wage service industry jobs.

> The Stamford Day Laborer Clinic reports that only about 30% of the judgments they win in wage theft cases are able to be collected. Wage liens would give workers some leverage in attempting to collect their wages.

Most wage lien claims would fall under the jurisdiction of the small claims courts as they are under $5000.

- A worker would still have to determine that the employer has property that could be the subject of the lien.
- Workers must serve the employer with written notice that describes the wages that are due and the property subject to a lien.
- Employers would have the opportunity to dispute any lien for unpaid wages and ask the court to decide.

When employers are held accountable for paying their workers they also pay their part of unemployment insurance and workers compensation costs. Wage liens don't subject law-abiding employers to any cost or worry.

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FACTS about SB 914, An Employers' Failure to Pay Wages

Wage theft or nonpayment of wages, is rampant throughout the United States and in Connecticut. The problem has worsened with the downturn in the economy.

Under the federal Fair Labor Standards Act (FLSA) double damages are awarded automatically in non-payment of wage cases. Effective enforcement laws must not only compensate the worker but deter violations by employers. Ten states actually allow treble damages (AZ, ID, ME, MD, MA, MI, NB, ND, VT, WV).

The Connecticut statutes that protect workers from wage theft, CGS 31-72 and 31-68, allows for the award of double damages in cases of non-payment of wages. However, CT case law has held that a finding of bad faith, arbitrariness, or unreasonableness is required to support an award of double damages. Thus, it is harder for workers to collect double damages under Connecticut law.

> **Advocates are seeking to conform the Connecticut wage collection statute to the FLSA and mandate double damages in non-payment of wages cases.**
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> **Employers will have the burden of showing a good faith basis for the underpayment of wages. This will help to deter unscrupulous employers from cheating workers out of their pay and the state out of its taxes.**

Wage theft covers a variety of infractions including nonpayment of overtime, not paying for all hours worked, withholding a final pay check, not paying minimum wage, not turning over tips and misclassifying workers as independent contractors. Low wage workers are particularly vulnerable to wage theft. Restaurant, retail, construction, day labor, long term care, home health care and agricultural jobs are particularly impacted by wage theft violations.

This bill provides a simple fix that does not cost the state money and in fact, allows for recovery of taxes for the state. Business benefits by creating a level playing field instead of one where unscrupulous employers undercut legitimate employers because they pay less for their labor.

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