



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 10, 2017 **GOV. MSG. NO. 1236**

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 10, 2017, the following bill was signed into law:

HB208 HD2 SD2 CD1

RELATING TO LABOR  
**ACT 135 (17)**

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

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# A BILL FOR AN ACT

RELATING TO LABOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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PART I

SECTION 1. Section 386-123, Hawaii Revised Statutes, is amended to read as follows:

"§386-123 Failure to give security for compensation; penalty; injunction. If an employer fails to comply with section 386-121, the employer shall be liable for a penalty of not less than \$500 or of \$100 for each employee for every day during which such failure continues, whichever sum is greater, to be recovered in an action brought by the director in the name of the State, and the amount so collected shall be paid into the special compensation fund created by section 386-151. The director may, however, in the director's discretion, for good cause shown, remit all or any part of the penalty in excess of \$500; provided that the employer in default complies with section 386-121. With respect to such actions, the attorney general or any county attorney or public prosecutor shall prosecute the same if so requested by the director.



1 In addition, if any employer is in default under section  
2 386-121 for a period of [~~thirty~~] fourteen days, the employer may  
3 be enjoined, by the circuit court of the circuit in which the  
4 employer's principal place of business is located[~~7~~] in the  
5 State or where the violation occurred, from carrying on the  
6 employer's business anywhere in the State so long as the default  
7 continues, such action for injunction to be prosecuted by the  
8 attorney general or any county attorney if so requested by the  
9 director."

10 PART II

11 SECTION 2. Chapter 388, Hawaii Revised Statutes, is  
12 amended by adding three new sections to part I to be  
13 appropriately designated and to read as follows:

14 "§388-A Order of wage payment violation; appeal. (a)  
15 When the department of labor and industrial relations, as a  
16 result of the department's own investigation, finds that a  
17 violation of this chapter or administrative rules adopted under  
18 this chapter has been committed and not corrected, the  
19 department shall issue an order of wage payment violation to the  
20 employer in violation. The order shall include any amount  
21 assessed pursuant to section 388-10(a).



1        (b) The order of wage payment violation shall be final and  
2 conclusive unless within twenty days after a copy of the order  
3 of wage payment violation has been sent to the employer, the  
4 employer files a written notice of appeal with the director in  
5 writing.

6        (c) A hearing on the written notice of appeal shall be  
7 held pursuant to chapter 91, by a hearings officer appointed by  
8 the director, within thirty days of the filing of the notice of  
9 appeal. A decision stating the findings of fact and conclusions  
10 of law shall be rendered by the hearings officer within thirty  
11 days after the conclusion of the hearing.

12        (d) Any party to an appeal under this chapter may obtain  
13 judicial review of the decision issued by the hearings officer  
14 in the manner provided under chapter 91.

15        §388-B Remittance of penalties. Until the order of wage  
16 payment violation becomes final, the director may withdraw or  
17 modify the order of wage payment violation or remit all or any  
18 part of a penalty assessed if good cause is shown; provided that  
19 the employer in default complies with this chapter and the  
20 administrative rules adopted under this chapter.



1        §388-C Enforcement of the order of wage payment violation.  
2        The director may file in the circuit court in the jurisdiction  
3        in which the employer does business, a certified copy of the  
4        final order of wage payment violation. The court shall render a  
5        judgment in accordance with the final order of wage payment  
6        violation and notify the parties of the judgment. The judgment  
7        shall have the same effect, and all proceedings in relation to  
8        the judgment shall be the same, as though the judgment had been  
9        rendered in an action duly heard and determined by the court,  
10       except that there shall be no appeal from the judgment."

11       SECTION 3. Section 388-10, Hawaii Revised Statutes, is  
12       amended by amending subsection (a) to read as follows:

13       "(a) Civil. Any employer who fails to pay wages in  
14       accordance with this chapter without equitable justification or  
15       violates this chapter or the administrative rules adopted under  
16       this chapter shall be liable [~~to~~]:

17       (1) To the employee, in addition to the wages legally  
18       proven to be due, for a sum equal to the amount of  
19       unpaid wages and interest at a rate of six per cent  
20       per year from the date that the wages were due [-]; and



HB No. 208, HD 2, SD 2, CD 1

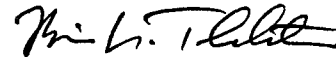
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives

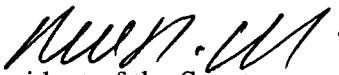



Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.

  
President of the Senate

  
Clerk of the Senate