

New California Law Expands Successor Liability for Labor Code Judgments

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On September 30, 2020, California Governor Gavin Newsom signed [Assembly Bill \(AB\) 3075](#), which amends the California Labor Code to allow employees to collect wage and hour judgments not only from their employers, but also from certain successor businesses that take over operations when the employers have failed to pay the judgment debts.

Specifically, AB 3075 adds Section 200.3 to the Labor Code. The new law provides that “a successor to any judgment debtor shall be liable for any wages, damages, and penalties owed to any of the judgment debtor’s former workforce pursuant to a final judgment.”

The new law defines the term “successor” to cover several scenarios in which one business takes over another. “Successor” includes any business that “[u]ses substantially the same facilities or substantially the same workforce to offer substantially the same services as the judgment debtor.” It also includes any business that “[e]mploys as a managing agent any person who directly controlled the wages, hours, or working conditions of the affected workforce of the judgment debtor.” Further, it includes “a business in the same industry [that] has an owner, partner, officer, or director who is an immediate family member of any owner, partner, officer, or director of the judgment debtor.”

AB 3075’s legislative history states that one purpose of the law was to prevent business owners who violated the Labor Code from escaping liability by discarding one business only to form a new one.

Consistent with this purpose, AB 3075 requires businesses to disclose whether certain key owners or managers have wage judgments against them. Currently, business entities doing business in California, including limited liability companies (LLCs), limited liability partnerships (LLPs), partnerships, and corporations, are required to file statements of information with the California Secretary of State’s Office upon formation and every one or two years thereafter. AB 3075 adds Sections 1502, 2117, and 17702.09 to the California Corporations Code to require such companies to attest in the statement of information that no officer, director, or LLC member or manager “has an outstanding final judgment issued by the California Division of Labor Standards Enforcement or a court of law ... for the violation of any wage order or provision of the Labor Code.”

The new law requires the secretary of state to implement these changes by January 1, 2022.

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