

INITIATIVE 959

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 959 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to insolvency notices to creditors, employees and other parties in interest; adding new sections to RCW 7.60.200; prescribing penalties with a "forgiveness" provision; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

NEW SECTION.

Section 1. A new section is added to chapter 7.60.200 RCW to read as follows:

This act may be known and cited as the "Business Bankruptcy Notification to Employees Act." This act is necessary for the future and immediate preservation and protection of the people's job stability, financial security, peace, health and safety.

NEW SECTION.

Section 2. GENERAL PURPOSE

A new section is added to chapter 7.60.200 RCW to read as follows: The purpose of this act is to protect employees and their families within the State of Washington by including them as "parties in interest" if and when their employer files any insolvency proceeding,

including, without limitation, receiverships, assignments for the benefit of creditors, bankruptcies, or other liquidations. It is our assertion that all full and part-time employees deserve to be informed of their employer's insolvency proceedings. Simply stated, an employer not informing or withholding critical information about their diminishing capacities to their prospective and/or ongoing employees during a bankruptcy or other insolvency proceedings is unfair and discriminatory. Misrepresenting or lying about your capacities as a "potential employee" should remain a crime as in the "Resume Fraud" Bill, however, in addition it should be equally illegal to hide the truth about your capacity to cover payroll and risks involving job security for your employees as an "ongoing employer." In essence, what's fair and equitable to help protect employers should be equally applied for workers. In addition, since the "bar has been raised" for private citizens, in respect to their potential bankruptcy obligations, their rights as workers should also be elevated to ensure that they obtain early notice with creditors and other parties in interest. This is the only fair way to guarantee that all people affected would receive immediate opportunity to consider the short and long term risks, access employment stability and plan prudent personal or family monetary expenditures. Without prompt notification workers could also fall, unnecessarily, into personal insolvency or bankruptcy, which now has less forgiving bankruptcy obligation provisions and privileges.

NEW SECTION.

Section 3. A new section is added to chapter 7.60.200 RCW to read as follows:

Whereas, economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state; involuntary, but avoidable, unemployment is, therefore, a subject of general interest and concern which requires appropriate action by voting citizens to prevent its spread and to lighten its burden which now so often falls with crushing force upon workers and their families. The crippling economic and psychological burdens of unemployment, often resulting in lifelong consequences, are then likewise of primary importance to the governing bodies of Washington State, for without a stable base of workers, the states tax revenues collected would suffer.

The people of the State of Washington, therefore, exercising their right to govern themselves through initiatives, endeavor by the "Business Bankruptcy Notification to Employees Act," to remedy any unexpected but avoidable unemployment. Without the courtesy and respect of a forewarning notice mandated by the courts, employees and their family's personal financial debts could easily and unknowingly spiral out of control and escalate into an otherwise avoidable financial hardship, personal insolvency, or bankruptcy.

NEW SECTION.

Section 4. A new section is added to chapter 7.60.200 RCW to read as follows:

The Washington Constitution establishes under Article 1 DECLARATION OF RIGHTS, SECTION 12, SPECIAL PRIVILEGES AND IMMUNITIES PROHIBITED: No law shall be passed granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which upon the same terms shall not equally belong to all citizens, or corporations.

However, federal laws already currently in existence exclude employees who are indeed Washington State citizens, from receiving fair notice, along with all other parties in interest in insolvency proceedings by their employers. Currently, when a business files for any insolvency proceeding, employees are not required to be listed as creditors if they are paid in full, on or before filing, and employers are not seeking to include them as creditors. To remedy this injustice, employers operating a domestic U.S. or foreign business within Washington State shall be mandated to notify all Washington employees if they file any insolvency proceeding, including without limitation, receiverships, assignments for the benefit of creditors, bankruptcies, or any other liquidation for the benefit of creditors. This legislative act will therefore balance the scales of justice in regards to the ongoing, uncertain, and volatile risks associated, while remaining an employee of a financially challenged employer during these legal proceedings.

NEW SECTION.

Section 5. A new section is added to chapter 7.60.200 RCW to read as follows:

In any insolvency proceeding including, without limitation, receiverships, assignments for the benefit of creditors, bankruptcies, or other liquidations, all employees of the business entity undergoing liquidation and/or reorganization shall be considered parties in interest and shall be entitled to notice of the proceeding and an opportunity to be heard in all matters which might come before a court administering such proceedings. In addition, the person signing any schedule, list, or other document listing those entitled to notice of the proceeding as set forth in the preceding paragraph, shall, by signing the document, certify that all parties in interest, including employees, are listed for purpose of receiving notice. In the event the person or business so certifying any schedule or list, willfully and/or unintentionally fails to list anyone, that person or business shall be subject, individually or collectively, to a financial penalty of \$5,000 per infraction for each person not listed and a reasonable attorney fee plus any actual damages which can be proven to be a direct or proximate result of the failure to list. This is equal to one half the maximum punitive fine included in the recently passed "Resume Fraud Legislation" but is also to be adjusted upward for inflation every year on May 1st, from the Seattle Consumer Price Index via the U.S. Bureau of Labor Statistics. In all cases, actual notice shall be a complete defense. A Jesus Christ inspired "forgiveness" provision is included which will allow any employee wronged by the act of not being included and notified as a creditor or party in interest to authorize and command the state and/or courts in a signed affidavit to cease from pursuing or collecting any portion or all of the \$5,000 fine, attorney fees and/or actual damages caused as a direct or proximate result of the failure to list. In the unfortunate event that an employee elects not to forgive their employer regardless of their own religious foundations, any employer likewise regardless of religious affiliations, may pray to God and ask for forgiveness of their sin - in the name of Jesus - and after doing so may authorize and command the state and/or courts in a signed affidavit to cease from pursuing or collecting any portion or all of the \$5,000 fine, attorney fees and/or actual damages caused as a direct or proximate result of the failure to list.

NEW SECTION.

Section 6. A new section is added to chapter 7.60.200 RCW to read as follows:

The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act.

NEW SECTION.

Section 7. A new section is added to chapter 7.60.200 RCW to read as follows:

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION.

Section 8. A new section is added to chapter 7.60.200 RCW to read as follows:

Because we as a state, nation and world are headed into perilous times with a potential recession or depression, prompted by a possible bird flu pandemic looming in the near future - the voters of Washington State choose to escalate the implementation of this legislation upon the signature of the governor, via the "emergency clause," and activate immediately.

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