

CITY OF BALTIMORE
ORDINANCE **20.479**
Council Bill 20-0543

Introduced by: Councilmembers Burnett, Bullock, President Scott, Councilmembers Henry,
Dorsey, Sneed, Cohen, Reisinger, Middleton, Pinkett

Introduced and read first time: June 15, 2020

Assigned to: Labor Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: September 21, 2020

AN ORDINANCE CONCERNING

COVID-19 Employee Retention

FOR the purpose of requiring certain successor business employers taking control over certain businesses from incumbent business employers to retain certain employees; requiring the incumbent business employer to provide the successor business employer with a list of certain employees; permitting a successor business employer from not retaining certain employees under certain circumstances; requiring the posting of notice when certain business undergo a change in control; prohibiting retaliation against employees for seeking assistance from, or cooperating with, the Wage Commission; empowering the Wage Commission to issue subpoenas and administer oaths; establishing certain procedures for the administration of complaints by the Wage Commission; requiring certain reports; defining certain terms; establishing certain penalties; ~~and~~ providing for a special effective date; and providing for a termination date.

BY adding

Article 11 - Labor and Employment

Section(s) 19-1 through 19-15, to be under the new subtitle,

“Subtitle 19. COVID-19 Employee Retention”

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 11. Labor and Employment

SUBTITLE 19. COVID-19 EMPLOYEE RETENTION

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 § 19-1. DEFINITIONS.

2 (A) *IN GENERAL.*

3 IN THIS SUBTITLE, THE FOLLOW TERMS HAVE THE MEANINGS INDICATED.

4 (B) *BUSINESS.*

5 "BUSINESS" MEANS A PERSON WHO IS ANY OF THE FOLLOWING, AS DEFINED IN THIS
6 SECTION:

7 ~~(1) A COMMERCIAL PROPERTY EMPLOYER;~~

8 ~~(2) AN EVENT CENTER EMPLOYER; OR~~

9 ~~(3) A HOTEL EMPLOYER.~~

10 (C) *CHANGE IN CONTROL.*

11 "CHANGE IN CONTROL" MEANS ANY SALE, ASSIGNMENT, TRANSFER, CONTRIBUTION, OR
12 OTHER DISPOSITION OF:

13 (1) ALL OR SUBSTANTIALLY ALL OF THE ASSETS USED IN THE OPERATION OF A
14 BUSINESS; OR

15 (2) A DISCRETE PORTION OF A BUSINESS THAT CONTINUES TO OPERATE AS THE SAME
16 TYPE OF BUSINESS OF:

17 (I) THE INCUMBENT BUSINESS EMPLOYER; OR

18 (II) ANY PERSON WHO CONTROLS THE INCUMBENT BUSINESS EMPLOYER.

19 ~~(D) *COMMERCIAL PROPERTY EMPLOYER.*~~

20 ~~"COMMERCIAL PROPERTY EMPLOYER" MEANS AN OWNER, OPERATOR, MANAGER, OR~~
21 ~~LESSEE, INCLUDING A CONTRACTOR, SUBCONTRACTOR, OR SUBLESSEE, OF A NON-~~
22 ~~RESIDENTIAL PROPERTY IN THE CITY THAT EMPLOYS 25 OR MORE JANITORIAL,~~
23 ~~MAINTENANCE, OR SECURITY SERVICE EMPLOYEES.~~

24 ~~(D) (E) *COMMISSION.*~~

25 "COMMISSION" MEANS THE WAGE COMMISSION ESTABLISHED BY § 2-1 {"COMMISSION
26 ESTABLISHED"} OF THIS ARTICLE, OR THE COMMISSION'S DESIGNEE.

27 ~~(E) (F) *EMPLOYEE.*~~

28

29 (1) *IN GENERAL.*

30 "EMPLOYEE" MEANS AN INDIVIDUAL EMPLOYED BY THE INCUMBENT BUSINESS
31 EMPLOYER:

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1 (I) WHO HAS A LENGTH OF SERVICE WITH THE INCUMBENT BUSINESS EMPLOYER OF
2 90 DAYS OR MORE;

3 (II) WHOSE PRIMARY PLACE OF EMPLOYMENT IS A BUSINESS SUBJECT TO A CHANGE
4 IN CONTROL;

5 (III) WHO IS EMPLOYED OR CONTRACTED TO PERFORM WORK FUNCTIONS DIRECTLY
6 BY EITHER:

7 (A) THE INCUMBENT BUSINESS EMPLOYER; OR

8 (B) A PERSON WHO HAS CONTRACTED WITH THE INCUMBENT BUSINESS
9 EMPLOYER TO PROVIDE SERVICES AT THE BUSINESS SUBJECT TO THE
10 CHANGE IN CONTROL; AND

11 (IV) WHO WORKED FOR THE INCUMBENT BUSINESS EMPLOYER ON OR AFTER
12 MARCH 5, 2020, AND PRIOR TO THE EXECUTION OF A TRANSFER DOCUMENT.

13 (2) *EXCLUSIONS.*

14 "EMPLOYEE" DOES NOT INCLUDE ANY MANAGERIAL, SUPERVISORY, OR CONFIDENTIAL
15 EMPLOYEE.

16 ~~(3) *LIMITATION.*~~

17 ~~WITH RESPECT TO COMMERCIAL PROPERTY EMPLOYERS, "EMPLOYEE" IS LIMITED TO~~
18 ~~ONLY THE JANITORIAL, MAINTENANCE, OR SECURITY SERVICE EMPLOYEES OF THE~~
19 ~~COMMERCIAL PROPERTY EMPLOYER.~~

20 ~~(G) *EVENT CENTER EMPLOYER.*~~

21 ~~(1) *IN GENERAL.*~~

22 ~~"EVENT CENTER EMPLOYER" MEANS AN OWNER, OPERATOR, OR MANAGER OF A~~
23 ~~PUBLICLY OR PRIVATELY OWNED STRUCTURE WITHIN THE CITY THAT:~~

24 ~~(I) IS USED FOR PUBLIC PERFORMANCES, SPORTING EVENTS, BUSINESS MEETINGS,~~
25 ~~OR SIMILAR EVENTS; AND~~

26 ~~(II) EITHER:~~

27 ~~(A) IS 50,000 SQUARE FEET OR MORE IN TOTAL AREA; OR~~

28 ~~(B) HAS A SEATING CAPACITY OF 1,000 SEATS OR MORE.~~

29 ~~(2) *INCLUSIONS.*~~

30 ~~AN "EVENT CENTER EMPLOYER" INCLUDES A CONCERT HALL, STADIUM, ARENA,~~
31 ~~RACETRACK, AND CONVENTION CENTER.~~

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1 ~~(3)~~ *EXCLUSION.*

2 ~~“EVENT CENTER EMPLOYER” DOES NOT INCLUDE THE MARYLAND STADIUM~~
3 ~~AUTHORITY.~~

4 (F) ~~(H)~~ *HOTEL EMPLOYER.*

5 (1) *IN GENERAL.*

6 “HOTEL EMPLOYER” MEANS THE OWNER, OPERATOR, OR MANAGER OF A PUBLICLY OR
7 PRIVATELY OWNED STRUCTURE THAT:

8 (I) IS USED FOR PUBLIC LODGING OR OTHER RELATED SERVICE FOR THE PUBLIC;
9 AND

10 (II) EITHER:

11 (A) CONTAINS 50 OR MORE GUEST ROOMS; OR

12 (B) HAS EARNED GROSS RECEIPTS IN THE 2019 TAX YEAR EXCEEDING \$5
13 MILLION.

14 (2) *INCLUSIONS.*

15 A “HOTEL EMPLOYER” INCLUDES THE OWNER, OPERATOR, MANAGER, OR LESSEE OF
16 ANY FOOD SERVICE FACILITY, AS DEFINED IN § 6-101(D) {“DEFINITIONS: FOOD
17 SERVICE FACILITY”} OF THE CITY HEALTH CODE, THAT IS PHYSICALLY LOCATED ON
18 THE HOTEL PREMISES.

19 (G) ~~(I)~~ *INCUMBENT BUSINESS EMPLOYER.*

20 “INCUMBENT BUSINESS EMPLOYER” MEANS THE PERSON WHO OWNS, CONTROLS, OR
21 OPERATES A BUSINESS IMMEDIATELY PRIOR TO THE CHANGE IN CONTROL.

22 (H) ~~(J)~~ *LENGTH OF SERVICE.*

23 “LENGTH OF SERVICE” MEANS THE AGGREGATE TOTAL PERIOD OF TIME DURING WHICH AN
24 EMPLOYEE HAS BEEN IN ACTIVE SERVICE TO AN EMPLOYER, INCLUDING PERIODS OF TIME
25 WHEN THE EMPLOYEE WAS ON LEAVE OR ON VACATION.

26 (i) ~~(K)~~ *PERSON.*

27 “PERSON” MEANS:

28 (1) AN INDIVIDUAL;

29 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, LLC, OR OTHER ENTITY OF
30 ANY KIND; OR

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1 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
2 REPRESENTATIVE OF ANY KIND.

3 (J) ~~(L)~~ *SUCCESSOR BUSINESS EMPLOYER.*

4 "SUCCESSOR BUSINESS EMPLOYER" MEANS THE PERSON WHO OWNS, CONTROLS, OR
5 OPERATES A BUSINESS IMMEDIATELY AFTER THE CHANGE IN CONTROL.

6 (K) ~~(M)~~ *TRANSFER DOCUMENT.*

7 "TRANSFER DOCUMENT" MEANS THE PURCHASE AGREEMENT OR OTHER DOCUMENTS
8 CREATING A BINDING AGREEMENT TO EFFECT THE CHANGE IN CONTROL.

9 **§ 19-2. {RESERVED}**

10 **§ 19-3. EMPLOYER RESPONSIBILITIES.**

11 **(A) *INCUMBENT BUSINESS EMPLOYER TO PROVIDE LIST.***

12 WITHIN 15 DAYS AFTER THE EXECUTION OF A TRANSFER DOCUMENT, THE INCUMBENT
13 BUSINESS EMPLOYER SHALL PROVIDE TO THE SUCCESSOR BUSINESS EMPLOYER THE NAME,
14 ADDRESS, DATE OF HIRE, AND OCCUPATION CLASSIFICATION OF EACH EMPLOYEE.

15 **(B) *RELEVANT PERIOD; PREFERENTIAL LIST.***

16 BEGINNING FROM THE EXECUTION OF THE TRANSITION PERIOD AND CONTINUING FOR 6
17 MONTHS AFTER THE BUSINESS IS OPEN TO THE PUBLIC UNDER THE SUCCESSOR BUSINESS
18 EMPLOYER, THE SUCCESSOR BUSINESS EMPLOYER SHALL:

19 (1) MAINTAIN A PREFERENTIAL HIRING LIST OF EMPLOYEES IDENTIFIED BY THE
20 INCUMBENT BUSINESS EMPLOYER UNDER SUBSECTION (A) OF THIS SECTION; AND

21 (2) ONLY HIRE EMPLOYEES FROM THAT LIST DURING THAT PERIOD.

22 **(C) *SUCCESSOR BUSINESS EMPLOYER TO OFFER TO RETAIN.***

23 (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE SUCCESSOR BUSINESS
24 EMPLOYER SHALL OFFER TO RETAIN AND, IF THE OFFER IS ACCEPTED, ACTUALLY
25 RETAIN EACH EMPLOYEE FOR NO FEWER THAN 90 DAYS FOLLOWING THE DATE ON
26 WHICH AN EMPLOYEE RETAINED BY THE SUCCESSOR BUSINESS EMPLOYER COMMENCES
27 WORK FOR THE SUCCESSOR BUSINESS EMPLOYER FOR COMPENSATION.

28
29 (2) DURING THE 90-DAY TRANSITION EMPLOYMENT PERIOD, AN EMPLOYEE SHALL BE
30 EMPLOYED UNDER REASONABLE TERMS AND CONDITIONS OF EMPLOYMENT OR AS
31 REQUIRED BY LAW.

32 (3) A SUCCESSOR BUSINESS EMPLOYER MAY RETAIN LESS THAN ALL OF THE EMPLOYEES
33 DURING THE PERIOD DESCRIBED IN SUBSECTION (B) IF THE SUCCESSOR BUSINESS
34 EMPLOYER:

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1 (I) DETERMINES THAT FEWER EMPLOYEES ARE REQUIRED THAN WERE REQUIRED
2 BY THE INCUMBENT BUSINESS EMPLOYER;

3 (II) RETAINS EMPLOYEES BY SENIORITY BASED ON LENGTH OF SERVICE WITHIN
4 EACH JOB CLASSIFICATION; AND

5 (III) HIRES ANY ADDITIONAL EMPLOYEES FROM THE PREFERENTIAL HIRING LIST
6 REQUIRED BY SUBSECTION (B), IN ORDER OF LENGTH OF SERVICE, UNTIL ALL
7 EMPLOYEES ON THAT LIST HAVE BEEN OFFERED EMPLOYMENT.

8 (D) *OFFERS OF EMPLOYMENT.*

9 (1) ANY OFFER OF EMPLOYMENT MADE TO AN EMPLOYEE UNDER THIS SUBTITLE SHALL:

10 (I) BE IN WRITING AND INCLUDE THE NAME, ADDRESS, DATE OF HIRE, AND JOB
11 CLASSIFICATION OF EACH EMPLOYEE; AND

12 (II) REMAIN OPEN FOR AT LEAST 10 BUSINESS DAYS FROM THE DATE OF THE OFFER.

13 (2) THE SUCCESSOR BUSINESS EMPLOYER SHALL RETAIN A COPY OF ANY OFFERS MADE TO
14 EMPLOYEES UNDER THIS SUBTITLE FOR AT LEAST 3 YEARS FROM THE DATE THE OFFER
15 WAS MADE.

16 (E) *RETAINED EMPLOYEES.*

17 (1) *DISCHARGE PROHIBITED.*

18 DURING THE 90-DAY TRANSITION EMPLOYMENT PERIOD, THE SUCCESSOR BUSINESS
19 EMPLOYER MAY NOT DISCHARGE AN EMPLOYEE RETAINED UNDER THIS SECTION
20 WITHOUT JUST CAUSE.

21 (2) *CONCLUSION OF TRANSITION PERIOD.*

22 (I) *WRITTEN PERFORMANCE EVALUATION REQUIRED.*

23 AT THE END OF THE 90-DAY TRANSITION EMPLOYMENT PERIOD, THE SUCCESSOR
24 BUSINESS EMPLOYER SHALL PERFORM A WRITTEN PERFORMANCE EVALUATION FOR
25 EACH EMPLOYEE RETAINED PURSUANT TO THIS SECTION.

26 (II) *SATISFACTORY EVALUATION.*

27 IF AN EMPLOYEE'S PERFORMANCE DURING THE 90-DAY TRANSITION EMPLOYMENT
28 PERIOD IS SATISFACTORY, THE SUCCESSOR BUSINESS EMPLOYER SHALL CONSIDER
29 OFFERING THE EMPLOYEE CONTINUED EMPLOYMENT UNDER THE TERMS AND
30 CONDITIONS ESTABLISHED BY THE SUCCESSOR BUSINESS EMPLOYER OR AS
31 REQUIRED BY LAW.

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1 (III) *RETENTION OF EVALUATIONS.*

2 THE SUCCESSOR BUSINESS EMPLOYER SHALL RETAIN A RECORD OF THE WRITTEN
3 PERFORMANCE EVALUATION REQUIRED BY THIS SUBSECTION FOR A PERIOD OF NO
4 FEWER THAN 3 YEARS.

5 § 19-4. *{RESERVED}*

6 § 19-5. **NOTICE OF CHANGE IN CONTROL.**

7 (A) *IN GENERAL.*

8 THE INCUMBENT BUSINESS EMPLOYER SHALL POST WRITTEN NOTICE OF THE CHANGE IN
9 CONTROL AT THE LOCATION OF THE AFFECTED BUSINESS.

10 (B) *TERM OF NOTICE.*

11 (1) THE NOTICE REQUIRED BY THIS SECTION SHALL BE POSTED WITHIN 5 BUSINESS DAYS
12 OF THE EXECUTION OF THE TRANSFER DOCUMENT.

13 (2) THE NOTICE SHALL REMAIN POSTED DURING ANY CLOSURE OF THE BUSINESS AND FOR
14 6 MONTHS AFTER THE BUSINESS IS OPEN TO THE PUBLIC UNDER THE SUCCESSOR
15 BUSINESS EMPLOYER.

16 (C) *CONTENTS.*

17 THE NOTICE REQUIRED BY THIS SECTION SHALL INCLUDE:

18 (1) THE NAME OF THE INCUMBENT BUSINESS EMPLOYER AND ITS CONTACT
19 INFORMATION;

20 (2) THE NAME OF THE SUCCESSOR BUSINESS ORGANIZATION AND ITS CONTACT
21 INFORMATION; AND

22 (3) THE EFFECTIVE DATE OF THE CHANGE IN CONTROL.

23 (D) *LOCATION OF NOTICE.*

24 THE NOTICE REQUIRED BY THIS SECTION SHALL BE POSTED IN A CONSPICUOUS PLACE AT
25 THE BUSINESS THAT IS VISIBLE TO ALL EMPLOYEES AND APPLICANTS FOR EMPLOYMENT.

26 § 19-6. *{RESERVED}*

27 § 19-7. **RETALIATION PROHIBITED.**

28 (A) *IN GENERAL.*

29 AN INCUMBENT BUSINESS EMPLOYER OR A SUCCESSOR BUSINESS EMPLOYER MAY NOT
30 DISCHARGE OR REDUCE THE COMPENSATION OF ANY EMPLOYEE FOR:

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1 (1) MAKING A COMPLAINT TO THE COMMISSION ALLEGING A VIOLATION OF THIS
2 SUBTITLE; OR

3 (2) PARTICIPATING IN ANY OF THE COMMISSION'S PROCEEDINGS CONCERNING AN
4 ALLEGED VIOLATION OF THIS SUBTITLE.

5 (B) *REMEDIAL ACTION FOR VIOLATION.*

6 IF THE COMMISSION FINDS THAT AN EMPLOYER HAS VIOLATED SUBSECTION (A) OF THIS
7 SECTION IT MAY, PURSUANT TO THE PROCEDURES PROVIDED IN § 19-9 {"ENFORCEMENT
8 PROCEDURES"} OF SUBTITLE, ORDER APPROPRIATE RESTITUTION OR THE REINSTATEMENT
9 OF THE EMPLOYEE WITH BACKPAY TO THE DATE OF THE VIOLATION.

10 § 19-8. *{RESERVED}*

11 § 19-9. **ENFORCEMENT PROCEDURES.**

12 (A) *FILING COMPLAINTS.*

13 ANY PERSON SUBJECTED TO A PRACTICE IN VIOLATION OF THIS SUBTITLE, OR ANY GROUP
14 OR PERSON SEEKING TO ENFORCE THIS SUBTITLE, MAY FILE A WRITTEN COMPLAINT WITH
15 THE COMMISSION.

16 (B) *COMPLAINT REQUIREMENTS.*

17 A COMPLAINT FILED UNDER THIS SECTION MUST:

18 (1) BE FILED WITHIN 1 YEAR OF THE ALLEGED VIOLATION;

19 (2) BE FILED UNDER OATH; AND

20 (3) INCLUDE:

21 (I) THE PARTICULARS OF THE ALLEGED VIOLATION;

22 (II) THE NAME AND ADDRESS OF THE PERSON ALLEGED TO HAVE COMMITTED
23 THE VIOLATION; AND

24 (III) ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.

25 (C) *COMPLAINTS BY COMMISSION.*

26 THE COMMISSION, ACTING ON ITS OWN INITIATIVE AND WITHOUT ANY COMPLAINT FROM
27 AN EMPLOYEE, MAY ITSELF FILE A COMPLAINT AGAINST AN INCUMBENT BUSINESS
28 EMPLOYER OR SUCCESSOR BUSINESS EMPLOYER WHENEVER THE COMMISSION HAS
29 REASONABLE CAUSE TO BELIEVE THAT THE INCUMBENT BUSINESS EMPLOYER OR
30 SUCCESSOR BUSINESS EMPLOYER IS OR HAS BEEN IN VIOLATION OF THIS SUBTITLE.

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1 (D) *INVESTIGATION FOR PROBABLE CAUSE.*

2 AFTER THE FILING OF A COMPLAINT, EITHER BY A PERSON CLAIMING TO BE AGGRIEVED AS
3 SET FORTH ABOVE OR BY THE COMMISSION, THE COMMISSION MUST:

4 (1) INVESTIGATE THE FACTS ALLEGED IN THE COMPLAINT; AND

5 (2) MAKE A FINDING OF PROBABLE CAUSE OR LACK OF PROBABLE CAUSE FOR THE
6 COMPLAINT.

7 (E) *SUBPOENAS; OATHS.*

8 (1) IN ENFORCING THIS SUBTITLE, THE COMMISSION MAY:

9 (I) ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE AND TESTIMONY OF
10 WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND
11 DOCUMENTS RELATING TO PAYROLL RECORDS, OR OTHERWISE NECESSARY FOR
12 HEARINGS, INVESTIGATIONS, OR PROCEEDINGS; AND

13 (II) ADMINISTER OATHS, SUBJECT TO THE PENALTIES FOR PERJURY, TO ALL
14 WITNESSES.

15 (2) ANY SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED BY:

16 (I) THE SHERIFF OF BALTIMORE CITY OR ANY OF THE SHERIFF'S DEPUTIES; OR

17 (II) ANY OTHER PERSON AUTHORIZED BY THE MARYLAND RULES OF PROCEDURE
18 TO EFFECTUATE IN PERSONAM SERVICE.

19 (F) *SUBPOENA ENFORCEMENT.*

20 (1) IN CASE OF DISOBEDIENCE TO A SUBPOENA, THE COMMISSION MAY APPLY TO A COURT
21 OF APPROPRIATE JURISDICTION FOR AN ORDER REQUIRING THE ATTENDANCE AND
22 TESTIMONY OF WITNESSES AND THE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND
23 DOCUMENTS.

24 (2) THE COURT, IN CASE OF CONTUMACY OR REFUSAL TO OBEY ANY SUBPOENA ISSUED
25 UNDER THIS SECTION, AFTER NOTICE TO THE PERSON SUBPOENAED, AND UPON FINDING
26 THAT THE ATTENDANCE OR TESTIMONY OF THE WITNESSES OR THE PRODUCTION OF
27 THE BOOKS, PAPERS, RECORDS, AND DOCUMENTS, AS THE CASE MAY BE, IS RELEVANT
28 OR NECESSARY FOR A HEARING, INVESTIGATION, OR PROCEEDING OF THE COMMISSION,
29 MAY ISSUE AN ORDER REQUIRING THE ATTENDANCE AND TESTIMONY OF THE SOUGHT
30 WITNESSES AND THE PRODUCTION OF THE SOUGHT BOOKS, PAPERS, RECORDS, AND
31 DOCUMENTS, OR ANY OF THEM.

32 (3) ANY FAILURE TO OBEY SUCH AN ORDER OF THE COURT MAY BE PUNISHED BY THE
33 COURT AS CONTEMPT.

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1 (G) *DISMISSAL FOR LACK OF PROBABLE CAUSE.*

2 IF THE COMMISSION FINDS THAT THE COMPLAINT LACKS PROBABLE CAUSE, THEN IT MUST
3 DISMISS THE COMPLAINT AND MAIL COPIES OF ITS FINDING TO THE RESPONDENT AND
4 COMPLAINANT.

5 (H) *PROBABLE CAUSE CONFERENCE; SETTLEMENT AGREEMENT.*

6 (1) IF THE COMMISSION FINDS PROBABLE CAUSE FOR THE COMPLAINT, THE COMMISSION
7 MUST ATTEMPT, BY MEANS OF CONFERENCE, TO:

8 (I) PERSUADE THE RESPONDENT TO CEASE AND DESIST ITS ILLEGAL ACTION;

9 (II) REINSTATE ANY EMPLOYEES TO THEIR FORMER POSITIONS UNDER THE
10 CONDITIONS REQUIRED BY § 19-3 {"EMPLOYER RESPONSIBILITIES"} OF THIS
11 SUBTITLE; AND

12 (III) ORDER PAYMENT TO ANY EMPLOYEES OF ALL WAGES AND OTHER
13 COMPENSATION OWED FOR THE PERIOD OF TIME THAT THEY WERE
14 UNLAWFULLY TERMINATED, AS PROVIDED IN § 19-10 {"PENALTIES AND
15 FINES"} OF THIS SUBTITLE.

16 (2) ANY AGREEMENT REACHED BETWEEN THE RESPONDENT AND THE COMMISSION MUST
17 BE REDUCED TO WRITING AND A COPY OF THE AGREEMENT MUST BE FURNISHED TO
18 THE COMPLAINANT AND THE RESPONDENT.

19 (I) *FINAL ORDER.*

20 (1) THE COMMISSION MAY ISSUE A FINAL ORDER ON ITS OWN MOTION IF:

21 (I) THE COMMISSION AND THE RESPONDENT FAIL TO REACH AN AGREEMENT
22 WITHIN 30 DAYS OF THE DATE SET FOR THE PROBABLE CAUSE CONFERENCE, OR

23 (II) THE RESPONDENT FAILS TO MEET ITS OBLIGATIONS UNDER AN AGREEMENT
24 WITH THE COMMISSION WITHIN THE TIME SPECIFIED IN THE AGREEMENT.

25 (2) A FINAL ORDER ISSUED UNDER THIS SUBSECTION MAY:

26 (I) REQUIRE THE REINSTATEMENT OF AN EMPLOYEE OR EMPLOYEES WRONGFULLY
27 TERMINATED IN VIOLATION OF § 19-3 {"EMPLOYER RESPONSIBILITIES"} OF
28 THIS SUBTITLE;

29 (II) REQUIRE THE RESPONDENT TO PAY EACH EMPLOYEE WRONGFULLY
30 TERMINATED IN VIOLATION OF § 19-3 {"EMPLOYER RESPONSIBILITIES"} OF
31 THIS SUBTITLE HIS OR HER LOST WAGES AND OTHER COMPENSATION TO THE
32 DATE OF THE VIOLATION, AS PROVIDED IN § 19-10 {"PENALTIES AND FINES"}
33 OF THIS SUBTITLE; AND

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1 (III) DIRECT THE CESSATION OF ALL PRACTICES BY THE RESPONDENT THAT ARE
2 CONTRARY TO THE PROVISIONS OF THIS SUBTITLE OR THE RULES AND
3 REGULATIONS OF THE COMMISSION.

4 (3) A COPY OF AN ORDER ISSUED UNDER THIS SUBTITLE MUST BE FURNISHED TO THE
5 RESPONDENT BY REGISTERED MAIL WITHIN 3 DAYS OF ITS ISSUANCE.

6 (J) *JUDICIAL AND APPELLATE REVIEW.*

7 (1) ANY PERSON AGGRIEVED BY AN ORDER OF THE COMMISSION MAY SEEK JUDICIAL
8 REVIEW OF THAT ORDER BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN
9 ACCORDANCE WITH THE MARYLAND RULES.

10 (2) A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT'S FINAL JUDGMENT TO
11 THE COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES.

12 (K) *REFERRAL TO SOLICITOR.*

13 IF, WITHIN 30 DAYS OF THE ISSUANCE OF A FINAL ORDER UNDER SUBSECTION (I) OF THIS
14 SECTION, THE RESPONDENT HAS FAILED TO COMPLY WITH THE ORDER, THE COMMISSION
15 MAY CERTIFY THE PROCEEDINGS TO THE CITY SOLICITOR AND REQUEST THAT THE
16 SOLICITOR PETITION THE CIRCUIT COURT OF BALTIMORE CITY TO ENFORCE THE ORDER.

17 **§ 19-10. PENALTIES AND FINES.**

18 (A) *IN GENERAL.*

19 THE COMMISSION MAY ORDER ANY SUCCESSOR BUSINESS EMPLOYER WHO COMMITS A
20 VIOLATION OF THIS SUBTITLE TO:

21 (1) PAY TO THE AGGRIEVED EMPLOYEE OR EMPLOYEES IMPACTED THE WAGES AND
22 OTHER COMPENSATION LOST AS A RESULT OF THE SUCCESSOR BUSINESS
23 EMPLOYER'S VIOLATION OF § 19-3 {"EMPLOYER RESPONSIBILITIES"}, WITH
24 INTEREST COMPUTED AT 10% PER ANNUM ON WAGES AND OTHER MONETARY
25 COMPENSATION DUE; AND

26 (2) REINSTATE ANY AGGRIEVED EMPLOYEE OR EMPLOYEES UNDER THE CONDITIONS
27 REQUIRED BY § 19-3 {"EMPLOYER RESPONSIBILITIES"} OF THIS SUBTITLE.

28 (B) *FINES.*

29 (1) ANY SUCCESSOR BUSINESS EMPLOYER THAT VIOLATES THIS SUBTITLE SHALL FORFEIT
30 AND PAY TO THE CITY OF BALTIMORE A CIVIL PENALTY AS FOLLOWS:

31 (I) FOR A 1ST OFFENSE, \$250 FOR EACH VIOLATION;

32 (II) FOR A 2ND OFFENSE, \$500 FOR EACH VIOLATION; AND

33 (III) FOR EACH SUBSEQUENT OFFENSE, \$1,000 FOR EACH VIOLATION.

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(2) EACH DAY THAT A VIOLATION CONTINUES CONSTITUTES A SEPARATE OFFENSE.

§ 19-11. COLLECTIVE BARGAINING AGREEMENTS.

~~(A) IN GENERAL.~~

~~(1) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO SUPERCEDE ANY COLLECTIVE BARGAINING AGREEMENT THAT:~~

~~(i) WAS EFFECTIVE ON _____, 2020 *{When codified, the Department of Legislative Reference shall insert the effective date of this Subtitle 19}*; AND~~

~~(ii) CONTAINED AN EMPLOYEE RETENTION PROVISION.~~

~~(2) THIS SUBTITLE APPLIES IF A COLLECTIVE BARGAINING AGREEMENT EFFECTIVE ON _____, 2020 *{When codified, the Department of Legislative Reference shall insert the effective date of this Subtitle 19}* DOES NOT HAVE AN EMPLOYEE RETENTION PROVISION.~~

~~(B) FUTURE COLLECTIVE BARGAINING AGREEMENTS.~~

~~A RE-NEGOTIATED OR NEW COLLECTIVE BARGAINING AGREEMENT MAY ONLY WAIVE THE PROVISIONS OF THIS SUBTITLE IN CLEAR AND UNAMBIGUOUS TERMS.~~

ANY OR ALL OF THE PROVISIONS OF THIS SUBTITLE MAY BE WAIVED IN A BONA FIDE COLLECTIVE BARGAINING AGREEMENT, BUT ONLY IF THE WAIVER IS EXPRESSLY SET FORTH IN CLEAR AND UNMISTAKABLE TERMS.

§ 19-12. WAIVER OF SUBTITLE PROHIBITED.

(A) IN GENERAL.

EXCEPT AS PROVIDED IN § 19-11 {"COLLECTIVE BARGAINING AGREEMENTS"} OF THIS SUBTITLE, AN EMPLOYEE MAY NOT WAIVE ANY PROVISION OF THIS SUBTITLE.

(B) VIOLATION OF THIS SUBTITLE.

ANY REQUEST BY AN INCUMBENT BUSINESS EMPLOYER OR A SUCCESSOR BUSINESS EMPLOYER TO AN EMPLOYEE TO WAIVE HIS OR HER RIGHTS UNDER THIS SUBTITLE IS A VIOLATION OF THIS SUBTITLE.

§ 19-13. RULES AND REGULATIONS.

(A) COMMISSION MAY ADOPT.

THE COMMISSION MAY ADOPT RULES AND REGULATIONS TO IMPLEMENT THIS SUBTITLE.

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1 (B) *FILING WITH LEGISLATIVE REFERENCE.*

2 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE MUST BE FILED
3 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

4 **§ 19-14. REPORT TO MAYOR AND CITY COUNCIL.**

5 ON OR BEFORE JUNE 30, 2022, THE WAGE COMMISSION SHALL REPORT TO THE MAYOR AND
6 CITY COUNCIL ON:

- 7 (1) THE EFFECTIVENESS OF THE PROVISIONS OF THIS SUBTITLE IN PROTECTING EMPLOYEES
8 WHEN A BUSINESS CHANGES OWNERSHIP;
- 9 (2) RECOMMENDATIONS FOR ADDITIONAL PROTECTIONS THAT FURTHER THE INTENT OF
10 THIS SUBTITLE; AND
- 11 (3) WHETHER THE PROVISIONS OF THIS SUBTITLE ARE STILL NECESSARY BASED ON THE
12 CITY'S RECOVERY FROM THE IMPACTS OF THE COVID-19 PANDEMIC.

13 **§ 19-15. SEVERABILITY.**

14 ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE. IF A COURT DETERMINES THAT A WORD,
15 PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER PROVISION IS
16 INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY PERSON OR
17 CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE APPLICATION OF THOSE
18 PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT AFFECTED BY THAT DECISION.

19 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
20 are not law and may not be considered to have been enacted as a part of this or any prior
21 Ordinance.

22 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
23 enacted. It will remain effective through December 31, 2022; and, immediately after that date,
24 with no further action by the Mayor and City Council, this Ordinance will be abrogated and of no
25 further effect.

Council Bill 20-0543

Certified as duly passed this 5 day of October, 2020

Brandon M. Scott

President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 5 day of October, 2020

Katarina B. Austin

Chief Clerk

Approved this _____ day of _____, 20____

Pursuant to Article IV, section 5 of the Baltimore City Charter, Mayoral Veto Over-Ride, this bill became law on December 7, 2020.

Mayor, Baltimore City