268.063 PERSONAL LIABILITY.

(a) Any officer, director, or employee of a corporation or any manager, governor, member, or employee of a limited liability company who

(1) either individually or jointly with others, have or should have had control of, supervision over, or responsibility for paying the amounts due under this chapter or section 116L.20, and

(2) knowingly fails to pay the amounts due, is personally liable for the amount due in the event the employer does not pay.

For purposes of this section, "knowingly" means that the facts demonstrate that the responsible individual used or allowed the use of corporate or company assets to pay other creditors knowing that the amounts due under this chapter were unpaid. An evil motive or intent to defraud is not necessary.

(b) Any partner of a limited liability partnership, or professional limited liability partnership, is jointly and severally liable for any amount due under this chapter or section 116L.20 in the event the employer does not pay.

(c) Any personal representative of the estate of a decedent or fiduciary who voluntarily distributes the assets without reserving a sufficient amount to pay the amount due is personally liable for the deficiency.

(d) The personal liability of any individual survives dissolution, reorganization, receivership, or assignment for the benefit of creditors. For the purposes of this section, all wages paid by the employer are considered earned from the individual determined to be personally liable.

(e) The commissioner must make a determination as to personal liability. The determination is final unless the individual found to be personally liable, within 45 calendar days after sending, by mail or electronic transmission, a notice of determination, files an appeal. Proceedings on the appeal are conducted in accordance with section 268.105.

History: *1Sp1982 c 1 s 36; 1983 c 372 s 40-44; 1985 c 281 s 1; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 385 s 31-34; 1989 c 209 art 2 s 1; 1991 c 291 art 18 s 1; 1992 c 484 s 14; 1993 c 67 s 12; 1993 c 137 s 8; 1994 c 483 s 1; 1994 c 488 s 7; 1995 c 54 s 16,17; 1996 c 417 s 25,31; 1997 c 66 s 79; 1998 c 265 s 19; 1Sp2003 c 3 art 2 s 20; 2004 c 183 s 42; 2007 c 128 art 1 s 11; 2009 c 78 art 4 s 50; 2023 c 33 s 11*