Freelancers in New York City Get Wage Protections

A written contract, payment within 30 days, and statutory damages for non-payment of wages are among the provisions of New York City's new freelancer protection law signed by Mayor Bill de Blasio on November 16, 2016. The law will become effective on May 15, 2017 (180 calendar days after signing), and will apply to contracts entered into after the effective date.

With the new protections offered under Intro 1017-C, Mayor de Blasio said, freelance workers will have more confidence that they will be paid in a timely manner for their work, and if they are not paid, they will have a path to pursue full reimbursement for their labor.

On October 27, 2016, the New York City Council voted unanimously in favor of legislation that would require hiring parties to enter into written contracts with freelance workers for services valued at $800 or more, either alone or in aggregate, with any services performed in a span of approximately four months.

The contract must specify the names and addresses of the parties, itemize all services performed by the freelancer, the services'

value, and the rate of the freelancer's work, and specify the method of compensation. The contract also must state the date on which payment for the freelancer's services will be issued or, in the alternative, the mechanism for determining such a date.

The newly signed legislation specifies the nature of lawful payment practices and provides anti-retaliation protections. Compensation must be paid on or before the due date stated in the parties' contract or no later than 30 days after completion of the freelancer's services under the contract. Should a freelance worker attempt to exercise any rights under the legislation, the law provides that the hiring party may not take any action that penalizes or is reasonably likely to deter a freelancer from exercising his or her rights in the future, including as they relate to obtaining future work opportunities.

Model contracts in English and six other languages will be provided by the Office of Labor Standards. In addition, the Office of Labor Standards, which will enforce the law, will establish a "navigation program" to provide information and assistance relating to the law.

Damages may be assessed against hiring parties who violate provisions of the

legislation, including for failure to enter into written contracts or to abide by the lawful payment provisions, or for retaliating against freelancers. Statutory damages include: (i) $250 for failing to abide by the written contract requirements; and (ii) an amount equal to the value of the underlying contract for violating the anti-retaliation provisions or failing to abide by the written contract requirements and violating one or more other provisions of the law. The law also provides for double damages, injunctive relief, and attorney's fees and costs for violating the lawful payment provisions.

Civil penalties of up to $25,000 also may be assessed in a civil action initiated in court where there is reasonable cause to believe the hiring party is engaged in a pattern or practice of violations of the law.

Freelancers may file complaints with New York City's Office of Labor Standards within two years after the alleged violation has occurred, unless either party has initiated a civil action in court alleging breach of contract or violation of the law or has filed a claim or complaint before an administrative agency pursuant to federal, state, or local law alleging breach of contract (in which case, the Office of Labor Standard will decline jurisdiction).

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