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# New York State to Require Written Agreements for Independent Contractors

"Freelance Isn't Free Act" amends New York State Labor Law, effective May 2024

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Businesses in New York will soon need to provide written agreements to many "freelancers" under a new law recently signed by Governor Kathy Hochul. The "[Freelance Isn't Free Act](#)," which will become effective on May 20, 2024, adds a new section 191-d to the New York

State Labor Law. Like a similar law enacted in New York City in 2017 (previously reported [here](#), [here](#), and [here](#)), the Act requires businesses in New York State to enter into a written agreement with any freelancer (independent contractor) who provides services with a value of \$800 or more, or services that, when combined with prior agreements between the parties in the preceding 120 days, have an aggregate value of \$800 or more.

Specifically, the written agreement must include:

- the name and mailing address of the hiring party and the freelancer;
- an itemization of all services to be provided;
- the rate and method of compensation;
- the date on which the freelancer must be paid or the mechanism by which the payment date will be determined; and
- the date by which the freelancer must submit a list of services rendered (e.g., invoices) in order to meet any internal processing deadlines for the purposes of compensation being timely rendered by the agreed-upon payment date.

## Scope of Coverage

The Act defines a "freelancer" as any person or "organization composed of no more than one natural person" that is "hired or retained as an independent contractor by a hiring party to provide services in exchange for an amount equal to or greater than" \$800, "either by itself or when aggregated with all contracts for services between the same hiring party and freelance worker during the

immediately preceding" 120 days. A "hiring party" is defined as "any person who retains a freelance worker to provide any service," except for government entities (federal, state, local or foreign). The Act does not apply to services provided by:

- any sales representative as defined in section 191-a of the New York Labor Law;
- attorneys;
- licensed medical professionals; and
- construction contractors (as defined in the Act).

## Payment

If the payment date is not specified, the freelancer must be paid no later than thirty (30) days after the completion of the freelancer's services under the contract. Once a freelancer begins working, the hiring party cannot require the freelancer to accept less compensation than the amount specified in the agreement.

## Enforcement

The Department of Labor will issue rules governing the law and will make "model" contracts available on its website.

Freelancers may file a complaint with the Commissioner of Labor or in court. Any complaint alleging non-payment must be filed within six years. In addition to the amounts owed for services provided to the hiring party, a freelancer can receive double damages, injunctive relief, attorneys fees and costs and other remedies.

The Act also prohibits any retaliatory action against a freelancer who

seeks to enforce the freelancer's rights under the law. Prohibited retaliatory conduct includes denying or threatening to deny future freelance work.

If there is reasonable cause to believe that a hiring party has engaged in a pattern or practice of violating the Act, the New York Attorney General may sue the hiring party and seek injunctive relief and civil penalties of up to \$25,000.

## **Recordkeeping Requirement**

The hiring party must provide a copy of the written agreement to the freelancer and must keep a copy of the agreement for six years. If a dispute arises and the hiring party cannot present a written agreement, there is a "presumption that the terms the freelancer has presented are the agreed upon terms."

## **Practical Advice**

New York State businesses should review their relationships with independent contractors to ensure they have entered into written agreements by the May 20, 2024 effective date of the Act. The agreements should identify the services to be provided and any specific conditions that must be met (including, for example, the freelancer's provision of detailed invoices) in order for payment to be made to the freelancer. Even if a current freelancer provides services worth less than \$800, the business should look at other services provided by the same freelancer in the prior 120 days to determine whether, in the aggregate, the freelancer has provided services worth \$800 or more.

Finally, businesses should train employees with authority to enter into freelance agreements on the requirements of the Act in advance of

the May 20, 2024 effective date.

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