



Legislation Text

File #: Res 0480-2010, **Version:** *

Res. No. 480

Resolution calling on the State Legislature to pass Assembly Bill A.11520 and Senate Bill S.8084, which would amend the State's Labor Law to allow self-employed individuals to file claims with the Department of Labor to recoup unpaid earnings from clients that have not paid.

By Council Members Reyna, Brewer, Chin, Comrie, Dickens, Gentile, Gonzalez, James, Koppell, Lander, Palma, Rose, Vann, Williams, Rodriguez and Mendez

Whereas, According to the Freelancers Union, self-employed persons are rapidly becoming a large sector of the workforce who now account for 16 percent of New York City's workforce and for two thirds of the City's job base growth since 1975; and

Whereas, According to the Freelancers Union, self-employed residents of the City earn about \$4 billion annually, which is reinvested into the local economy; and

Whereas, Self-employed New Yorkers are overwhelmingly middle and working class, with a majority earning less than \$50,000 annually; and

Whereas, One of the most difficult issues affecting self-employed New Yorkers is the nonpayment of wages owed by companies and individuals that hire such individuals; and

Whereas, Approximately 77 percent of the self-employed have experienced nonpayment of wages at some point in their careers, with 40 percent of self-employed New Yorkers reporting issues with unpaid wages last year; and

Whereas, According to the Freelancers union, self-employed individuals on average, were unable to collect \$5,745 as a result of nonpayment of wages in 2009; and

Whereas, The self-employed do not have many recourses to help them recoup their lost wages when compared to traditional salaried employees; and

Whereas, A traditional employee can file a wage claim with the New York State Department of Labor against a non-paying employer and recoup unpaid wages and be awarded up to \$20,000 in damages if the case is adjudicated in his or her favor; and

Whereas, The self-employed cannot currently file a Department of Labor wage claim against a nonpaying client and;

Whereas, A self-employed individual must rely on filing a lawsuit in Small Claims Court, which can be very costly and time consuming; and

Whereas, Due to the cost, administrative burden and fear of alienating current and future clients, only 4 percent of the self-employed hired an attorney to pursue unpaid wages while the remainder resorted to repeatedly calling or emailing clients to obtain their payment; and

Whereas, A fairer system for recovering unpaid wages needs to be developed so the self-employed are no longer faced with undue hardship when they try to obtain the wages they are due; and

Whereas, Currently pending before the New York State Legislature are Assembly Bill A.11520 and Senate Bill S.8084, which would amend the State's Labor Law to: 1) require that self-employed persons be compensated for their work within a reasonable amount of time; 2) mandate that work and compensation terms for amounts greater than six hundred dollars be provided for in a written contract; 3) empower the Commissioner of the Department of Labor to take action to pursue violations of written agreements and recoup unpaid compensation owed to self-employed persons; 4) allow liquidated damages to be assessed against the nonpaying client where appropriate; and 5) provide for criminal penalties for nonpaying clients who continue to refuse to pay in violation of the decision of the Department of Labor; and

Whereas, Assembly Bill A.11520 and Senate Bill S.8084 will go a long way towards creating a more equitable employment atmosphere for all self-employed New Yorkers; now, therefore, be it

Resolved, That the Council of the City of New York calls on the State Legislature to pass Assembly Bill A.11520 and Senate Bill S.8084, which would amend the State's Labor Law to allow self-employed individuals

to file claims with the Department of Labor to recoup unpaid earnings from clients that have not paid.

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