The New York City Council

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Title:	A Local Law to amend the administrative code of the city of New York, in relation to the rehire of workers laid off as a result of the COVID-19 pandemic				
Sponsors:	Brad S. Lander, Adrienne E. Adams, Antonio Reynoso, Diana I. Ayala, Kevin C. Riley, Selvena N. Brooks-Powers, Deborah L. Rose, Inez D. Barron, Carlos Menchaca, Tiffany Cabán				
Indexes:					
Attachments:	1. Summary of Int. No. 2241, 2. Int. No. 2241, 3. March 18, 2021 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 3-18-21, 5. Minutes of the Stated Meeting - March 18, 2021, 6. Proposed Int. No. 2241-A - 6/8/21				

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3/18/2021	*	City Council	Introduced by Council	
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12/31/2021	A	City Council	Filed (End of Session)	

Int. No. 2241-A

By Council Members Lander, Adams, Reynoso, Ayala, Riley, Brooks-Powers, Rose, Barron, Menchaca and Cabán

A Local Law to amend the administrative code of the city of New York, in relation to the rehire of workers laid off as a result of the COVID-19 pandemic

Be it enacted by the Council as follows:

Section 1. Subparagraphs (g) and (h) of paragraph 3 of subdivision a of section 20-1208 of the administrative code of the city of New York are amended, and a new subparagraph (i) is added to such paragraph, to read as follows:

(g) Subdivisions a and b of section 20-1252, $300; [and]

(h) Subdivision a or b of section 20-1262, $500 and an order directing compliance with such subdivision, provided, however, that an employer who fails to provide an employee with the written response required by subdivision a of section 20-1262 may cure the violation without a penalty being imposed by

presenting proof to the satisfaction of the office that it provided the employee with the required written response within seven days of the office notifying the employer of the opportunity to cure[.]; and

(i) Section 20-1272, an order directing compliance with such section and directing the rehire of any employee aggrieved by a violation of section 20-1272.

§ 2. Subdivision a of section 20-1211 of the administrative code of the city of New York, as added by local law number 107 for the year 2017, is amended to read as follows:

a. Claims. Any person, including any organization, alleging a violation of the following provisions of this chapter may bring a civil action, in accordance with applicable law, in any court of competent jurisdiction:

1. Section 20-1204;

2. Section 20-1221;

3. Subdivisions a and b of section 20-1222;

4. Section 20-1231;

5. Subdivisions a, b, d, f and g of section 20-1241;

6. Section 20-1251; [and]

7. Subdivisions a and b of section 20-1252[.]; and

8. Section 20-1272.

§ 3. Chapter 12 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 7 to read as follows:

Subchapter 7

Rehiring Workers Laid Off Due to COVID-19 Pandemic

§ 20-1271 Definitions. For the purposes of this subchapter, the following terms have the following meanings:

Change in control. The term "change in control" means any sale, assignment, transfer, contribution or other disposition of all or substantially all of the assets or of any discrete business operation or operating unit

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used in the operation of a covered employer. A change in control shall be defined to occur on the date of execution of the document effectuating such change.

Change in controlling interest or identity. The term "change in controlling interest or identity" means (i) any sale, assignment, transfer, contribution, or other disposition of a controlling interest, including by consolidation, merger, or reorganization, of a covered employer, or any discrete business operation or operating unit of a covered employer or any person who controls a covered employer or (ii) any other event or sequence of events, including a purchase, sale, lease, subcontracting, termination of a management contract or lease, that causes the identity of the covered employer or the employer of any discrete business operations or operating units of the covered employer to change. A change in controlling interest or identity shall be defined to occur on the date of execution of the document effectuating such change.

Covered employer. The term "covered employer" means an employer that earned gross receipts in 2019 exceeding $5,000,000.

Covered position. The term "covered position" means any position at a covered employer that is not classified as managerial, supervisory or confidential, or otherwise exercise control over the management of the covered employer.

Laid-off worker. The term "laid-off worker" means any worker who was employed by a covered employer in a covered position for six months or more and whose most recent separation from active employment by the covered employer occurred on or after March 12, 2020, and resulted from a lack of business, a reduction in workforce or other economic, non-disciplinary reason related to the COVID-19 pandemic. There shall be a rebuttable presumption that any termination occurring on or after March 12, 2020, was due to a non-disciplinary reason.

Person. The term "person" means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, a trustee in bankruptcy or a receiver, or other entity that may employ persons or enter into service contracts.

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Successor business. The term "successor employer" means a covered employer who owns, controls, or operates a covered employer after a change in control or change in controlling interest or identity of the covered employer or of a discrete portion of the covered employer .

Worker. The term "worker" means any employee at a covered employer who does not act as a manager, supervisor or confidential employee, or who otherwise exercise control over the management of the covered employer.

§ 20-1272 Rehire required. a. Before a covered or successor employer may hire or subcontract for a covered position that is or becomes available after the effective date of this subchapter, the covered or successor employer shall first offer such covered position to every laid-off worker who is qualified for the covered position. Such offer shall be made in writing to the laid-off worker's last known address.

b. A laid-off worker is qualified and must be offered a covered position when:

1. The same or similar covered position as the laid-off worker held before the most recent separation from active service, at the same site of employment, becomes available for hiring; or

2. A new covered position is created, for which the laid-off worker is qualified after receiving the same training that would be provided to a new worker hired into that covered position.

c. A covered or successor employer shall offer a covered position first to the laid-off worker with the greatest length of service with the covered employer at the employment site.

d. A laid-off worker who is offered a covered position pursuant to this subchapter shall be given no less than 10 days after the receipt of the written notice at the laid-off worker's last known address to accept or decline the offer. A covered employer or successor employer shall retain written verification of each offer of employment made pursuant to this section for no less than three years from the date the offer is made. Such verification shall include the name, address, date of hire, and job classification of the eligible worker to whom the offer was made.

§ 20-1273 Collective bargaining agreements. The provisions of this subchapter shall not supersede any

contrary term or condition in an unexpired or expired collective bargaining agreement that requires a covered position be offered to an existing or laid off employee who has retained recall rights of a covered employer.

§ 20-1274 No waiver of rights. Except for a collective bargaining agreement provision consistent with section 20-1273 or an opt-out pursuant to section 20-1275, any waiver by a worker of any provision of this subchapter shall be void as against public policy.

§ 20-1275 Recall List. For each covered position, the covered employer shall post, in a location not accessible to the general public, but regularly used to post schedules or other employment related notices, a list of workers, including laid-off and active workers, showing for each their name, address, phone number, covered position, and original date of hire within the covered position. A copy shall be sent to each laid-off worker who remains eligible for rehire pursuant to this subchapter. The covered employer shall contact each laid-off worker to confirm whether they would like to either remain or opt-out of their placement on the recall list. Any opt-out must be knowing, voluntary, and in writing.

§ 20-1275. Expiration. This subchapter expires on December 31, 2026.

§ 4. This local law takes effect 60 days after it becomes law and remains in effect until December 31, 2026, when it is deemed repealed, provided that all actions and proceedings arising from events that occurred prior to such date may be prosecuted and defended to final effect in the same manner as they might if this local law were not so repealed.

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