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Law: New York City freelancers protected under new law by Tricolla

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In 2016, mayor DiBlasio signed into law the “Freelance Isn’t Free Act,” establishing significant protections for independent contractors or “freelancers.” The Act goes into effect on May 15, 2017 and applies only to contracts entered into after that date.

A “freelancer” under the Act is broadly defined as a person or organization composed of one person, whether or not incorporated or using a trade name, that is retained as an independent contractor to provide services in exchange for compensation, excluding certain sales representatives, lawyers, and licensed medical professionals. A “hiring party” under the Act is “any person who retains a freelance worker to provide any service,” excluding governmental entities.

Hiring Party Obligations & Freelancer Remedies

Mandatory Written Agreement: For arrangements with a value of \$800 or more, the Act requires a written contract containing the parties’ names and addresses; an itemization and value of the services contracted for; the rate and method of compensation; and the payment date or a mechanism to determine such date. A party in violation of only this requirement faces damages of \$250, only if the freelancer requested a written contract prior to commencement of services. A party in violation of this requirement and another section of the Act faces damages in the amount of the value of the contract, plus the damages specified in the other section(s) violated.

Timely Payment: The hiring party must pay the freelancer on or before the agreed-upon payment date. If the contract does not contain a payment date or a mechanism for determining such date, the hiring party must pay within 30 days of completion of services. Further, once the freelancer commences services, the hiring party cannot require the freelancer to accept less compensation as a condition of timely payment. The Act provides for double damages and injunctive relief for violation of this provision.

Anti-Retaliation: A hiring party is prohibited from threatening, intimidating, disciplining, harassing, denying work to,



discriminating against a freelancer, or taking action that penalizes or is likely to deter a freelancer from exercising the rights provided by the Act. The Act provides for damages in the amount of the value of the contract for each instance of retaliation.

An aggrieved freelancer may file an administrative complaint or a private lawsuit against the hiring party and, if successful, is entitled to attorney's fees. Moreover, the city may seek up to \$25,000 in civil penalties against a party engaged in a pattern of violations.

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