

*If you have any questions
about this Advisory,
please contact:*

MARY GAMBARDELLA
Chair
203.363.7662
mgambardella@wigginc.com

KAREN CLUTE
203.498.4349
kclute@wigginc.com

SHERRY DOMINICK
203.498.4331
sdominick@wigginc.com

PETER LEFEBER
203.498.4329
plefeber@wigginc.com

LAWRENCE PEIKES
203.363.7609
lpeikes@wigginc.com

EREK SHARP
860.297.3711
esharp@wigginc.com

JOHN ZANDY
203.498.4330
jzandy@wigginc.com

NAJIA KHALID
203.498.4314
nkhalid@wigginc.com

JOSHUA WALLS
203.363.7606
jwalls@wigginc.com

CAROLINE PARK
203.498.4317
cpark@wigginc.com

ANAND SINHA
203.498.4374
asinha@wigginc.com

CHRISTINE WACHTER
203.363.7644
cwachter@wigginc.com

New York City's Freelance Law goes into Effect

Employers doing business with freelance workers working in New York City, take note: a New York City law called the Freelance Isn't Free Act (the "Act"), which goes into effect on May 15, 2017, provides new protections for freelance workers.

Under the Act, a "freelance worker" is defined broadly as any person, whether or not incorporated or using a trade name, who is retained as an independent contractor to provide services in exchange for compensation. The Act sets forth various requirements which apply to these arrangements, specifically:

1. A WRITTEN CONTRACT

Where it is anticipated that the freelance worker will perform services which will trigger fees exceeding \$800, either by virtue of a single contract or multiple agreements which have been entered into during any 120-day period, a written contract is required. At a minimum, the written contract must include the name and address of both parties, a specific description of the work to be performed, the value of the services, the rate and method of compensation, and the date payment is due. The Act imposes on both parties the obligation to retain a copy of the contract.

2. FULL AND TIMELY PAYMENT

The Act provides for penalties where full and timely payment pursuant to the contract is not made. If the contract does not provide for a specific payment date, the due date shall be deemed to be 30 days after the work is completed. Furthermore, hiring parties cannot require freelancers to accept less than the agreed-upon payment as a condition of compensation.

3. PROTECTION FROM RETALIATION

In addition, the Act prohibits retaliation against a freelancer for asserting rights protected under the Act.

4. PENALTIES

The Act also includes penalty provisions for violations, including a \$250 fine for failing to provide a written contract, double the amount due for failing to make full and timely

CONTINUED ON NEXT PAGE

New York City's Freelance Law goes into Effect

payment, statutory damages, and attorneys' fees. Freelance workers can file complaints with the New York City Office of Labor Standards or bring a civil action. New York City's corporation counsel is also authorized to initiate lawsuits where there is reasonable cause to believe that a hiring party is engaged in a pattern or practice of violating the Act, which could result in civil penalties of up to \$25,000.

The Act does not apply retroactively, meaning that any agreements entered into prior to May 15, 2017 need not be revised. If, however, a hiring party does not pay a freelancer for work completed, they may be subject to the new penalties under the Act, so employers are well-advised to review their existing independent contractor arrangements. As has been recommended in prior years independent of this Act, employers should also evaluate such relationships to confirm the independent contractor classification is appropriate. Going forward, employers should ensure that all new agreements with independent contractors comply with the Act's provisions.

This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.