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BILL S.2766 (Ramos) / A.3350 (Joyner)
SUBJECT Amends the Labor Law in Relation to Actions for Non- Payment of Wages
DATE February 01, 2021
OPPOSE

The Business Council of New York State, the state’s leading statewide business and industry association, opposes this legislation that would amend the labor law in relation to actions for non-payment of wages.

This bill proposes to amend the labor law to create a new §198-e, “Construction industry wage theft” to make a contractor liable for “any debt” owed to a “wage claimant or third party on the wage claimant’s behalf” by a subcontractor for the wage claimant’s compensation for labor. Simply stated, this is a dramatic shift in liability to the general contractor or construction manager from subcontractors for wages owed. The new law would, in essence, make general contractors and construction managers employing subcontractors on jobs sites investigators, record keepers, and ultimately – defendants. This dramatically shifts the blame from unscrupulous subcontractors to another segment of the industry rather than focusing on those best suited to investigate and enforce wage theft: the Department of Labor, New York State Attorney General’s Office, and local District Attorneys.

The new §198-e of the Labor Law would create a general contractor and construction manager liability for claims against subcontractors for lack for payment under the six year window provided for under the larger statute. This potential for liability would drive up the cost of doing business in New York State for this segment of the industry. Administrative and legal costs associated with both compliance and lawsuits due to private rights of action will be a disincentive to business success, let alone growth. This is particularly true for smaller firms and undercapitalized contractors and new entrants to the markets including minority and women owned businesses. The cost of payment bonds to protect against any wage claims will be particularly hard for these smaller and less capitalized contractors.

For the above reasons, The Business Council opposes this legislation.