



S.2762 (Ramos) / A.766 (Rosenthal)

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BILL S.2762 (Ramos) / A.766 (Rosenthal)
SUBJECT Relates to Securing Payment of Wages for Work Already Performed; Creates an Employee Lien
DATE April 20, 2021
OPPOSE

This act proposes to allow for the creation of an “employee lien” for the purposes of securing payment for alleged violations of state labor law. The Business Council of New York State, Inc., on behalf of its more than 2,300 members, supports vigorous enforcement of the State’s wage and hour laws. Wage theft is a crime. An employee lien, however, is not a reasonable nor necessary response. For the reasons state below, The Business Council opposes this legislation.

Both State and Federal labor law provide mechanisms for employees to recover unpaid wages by rogue employers who ignore wage and hour laws. Allowing employees to put liens on personal or company property merely on a **claim** of wage and hour violations, as proposed in this legislation, is counterproductive and will discourage businesses from operating in the State.

In addition to the obvious chilling effect on current and future New York business development, a lien based merely on allegations of wage theft would have other serious consequences for New York’s business community: limitations on the availability of credit; discouraging private business investors who fear such liens; and encouraging personal and business bankruptcies to remove liens.

New York’s Wage Theft Prevention Act already provides both civil and criminal penalties on employers and individuals (including managers and supervisors) responsible for wage theft. The act goes as far as to impose personal liability on the members of a limited liability company’s ten largest owners for the failure of the company to pay wages owed to its employees, with similar liability imposed on shareholders of business and banking corporations. Likewise, the state’s Labor Law requires the state Department of Labor to pursue wage theft claims and recovery unpaid wages on behalf of impacted employees.

The bill has other flaws as well. It cites four separate Labor Law definitions of employer, which results in an expansive definition of “employer.” Many parties – including an employer’s agents, supervisors and other managers, who have no

responsibility for or control over a business' pay practices, would be subject to personal liens.

As stated above, workers who may have been victims of wage theft have legal recourse for the recovery of those wages. Allowing for a lien on the personal or business property of a "employer" for merely a **claim** of wage theft is an unreasonable remedy that will have a dramatic impact on businesses in New York State - especially for small businesses. For these reasons, The Business Council strongly opposes adoption of this bill.