

## Freelance Work Isn't Free

03/24/17

On May 15, 2017, the New York City “Freelance Isn't Free Act” (the Act) will take effect. The Act protects freelance workers who are defined as “any natural person or organization composed of no more than one natural person, whether not incorporated or employing a trade name, that is hired or retained as an independent contractor by a hiring party to provide services in exchange for compensation.” The NY definition does not include any person who is a sales representative as earlier defined in section 191-a of the labor law.

As a protection for freelance workers, the law requires that whenever a hiring party retains the services of a freelance worker, and the contracted work has “a value of \$800 or more, either by itself or when aggravated with all the contracts for services between the hiring party and the freelance work or during the immediately preceding 120 days, the contract shall be reduced to writing.” Such writing must contain the following information:

1. The name and mailing address of both the hiring party and the freelance worker;
2. An itemization of all services to be provided by the freelance worker, the value of the services to be provided pursuant to the contract and the rate and method of compensation; and
3. The date on which the hiring party must pay the contracted compensation or the mechanism by which such date will be determined.

It is important to note that the director of the office of labor standards "may by rule require additional terms to ensure that the freelance worker and the hiring party understand their obligations under the contract."

If the contract does not specify when the hiring party will pay the compensation, it must be paid no later than 30 days after completion of the freelance work or services.

If the hiring party does not provide a written contract, the freelance worker can only make a claim if they requested a written contract and the request was denied.

The Act further provides that once a freelance worker has commenced performance of services, the hiring party cannot require, as a condition of timely payment, that the freelance worker accept less compensation than the amount contracted. The law prohibits retaliation against freelance workers who are seeking to exercise their rights under this Act. There is a complaint procedure outlined in the Act, which can be viewed [here](#).

It is important to note that violating this Act may trigger double damages, civil penalties and attorneys' fees. The civil penalties include a penalty “of not more than \$25,000 for a finding that the hiring party has engaged in a pattern and practice of violations of this [law].”

The entire text of the Act can be found at: ["Establishing protections for freelance workers."](#)

### Attorney

- Tracy Armstrong