# Freelance Isn't Free: A Contract Ingredient for New York's Restaurants

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New York's Freelance Isn't Free Act, which requires that a business provide any freelance worker with a written contract if the freelance work is worth at least $800, inclusive of multiple projects over a 120-days period, will go into effect August 28, 2024.

The law means that employers in New York restaurant and hospitality industry that hire freelancers such as chefs, servers, bartenders, and marketing and graphic design professionals must carefully document freelance agreements and payments.

The New York State Senate had amended the Act by removing it from the New York Labor Law, which is enforced by the New York State Department of Labor (DOL), and codified it in the New York General Business Law (NY State Senate Bill 2023-S8039), which is enforced by the New York attorney general. Although this legislative shuffling changed the Act's effective date from May 20, 2024, the terms of the Act largely remain the same as when the law was passed.

The Act defines a "freelance worker" as "any natural person or organization composed of no more than one natural person, whether or 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 Act sets a 30-day deadline for payment in full unless another time frame is agreed to by the parties.

The freelancer must also receive a physical or electronic copy of the written contract. The contract must include the name and mailing addresses of both parties, an itemization of all services to be provided by the freelancer, the value of the services to be provided, and the rate and method of compensation. The Act requires the DOL to issue a model contract. It is the hiring party's burden to maintain a record of the contract for at least six years and failure to do so will give rise to the presumption that the terms of the contract are those presented by the freelance worker.

Alleged violations may be reported to the state attorney general or pursued in a civil action for damages, even absent exhaustion of the attorney general's complaint and investigation process. Depending on the type of alleged violation, the relief sought may vary. An inadvertent delay in issuing payment, for example, could result in double damages, and technical contract violations may result in statutory damages of $250. If the trier of fact in a civil action determines an employer has engaged in a "pattern or practice" of violations, civil penalties of up to $25,000 may be issued.

If you have any questions regarding compliance or need assistance in drafting a freelance contract, please contact a Jackson Lewis attorney.

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