



September 4, 2019

The Honorable Andrew M. Cuomo
 Governor of New York State
 Executive Chamber
 NYS Capitol Building
 Albany, New York 12224

RE: Veto Request for S.2844-B (Ramos)/A.486-B (Rosenthal) – Securing Wages Enforced Against Theft Act (“SWEAT”)

Dear Governor Cuomo,

On behalf of our organizations which represent tens of thousands of businesses throughout New York State, we respectfully urge that you veto S.2844-B/A.486-B (SWEAT). This legislation, which allows for the creation of an “employee lien” is duplicative and unnecessarily onerous as there are both state and federal laws to protect employees from wage and hour violations.

Our organizations support the State’s enforcement of existing wage and hour laws; however, this legislation goes too far and will undoubtedly have serious consequences for businesses across the state. The legislation allows an employee to secure a lien on an employer’s personal or company property for a mere claim of wage and hour violations. This essentially creates an instant presumption of guilt against the employer and denies businesses their due process. The legislation also ignores the fact that New York’s Wage Theft Prevention Act already provides for civil and criminal penalties against

bad acting employers. Furthermore, SWEAT seeks to expand the definition of employer to include passive owners and managers who may have no control over the pay practices of other parties.

Allowing employees to secure liens based on a simple claim of wage and hour violations will threaten the financial viability of businesses, especially small businesses and their ability to secure, establish, or stabilize creditworthiness. Businesses will not be able to acquire financial loans, which will detract from investment opportunities and limit growth. Additionally, the legislation will encourage bankruptcy as a personal or business strategy to remove liens.

Lastly, the true beneficiaries of SWEAT will be legions of unscrupulous – and often out-of-state -- plaintiffs' attorneys looking to capitalize on poorly crafted policy at the expense of New York's small, independent businesses who are the least financially equipped to defend against frivolous and predatory litigation tactics.

At a time when New York State continues to be one of the most difficult places to operate a business, and most voters believe it's becoming even harder for businesses to succeed¹, the state should not add to its duplicative and onerous regulatory environment – the result will be devastating to businesses, especially small businesses, who are already at their breaking point.

On behalf of our organizations and the employers we represent, we urge you to veto this legislation.

Thank you in advance for your time and consideration.

Sincerely,

Associated Builders and Contractors, Empire State Chapter
Buffalo Niagara Partnership
Business Council of Westchester
Capital Region Chamber
Chemung County Chamber of Commerce
Corning Area Chamber of Commerce
Cortland County Chamber of Commerce
Empire State Restaurant & Tavern Association
Food Industry Alliance
Greater Binghamton Chamber of Commerce
Greece Regional Chamber of Commerce
Long Island Association
New York Association of Convenience Stores

New York Farm Bureau
New York State Builders Association
New York State Hospitality & Tourism Association
New York State Messenger and Courier Association
New York State Restaurant Association
NFIB
Niagara USA Chamber
North Country Chamber
Northeastern Retail Lumber Association
Rockland Business Association
Ulster County Regional Chamber of Commerce
Unshackle Upstate
Wyoming County Chamber of Commerce

cc: Counsel to the Governor

¹ Siena College Research Institute Poll: <https://scri.siena.edu/2019/04/16/voters-strongly-say-permanent-property-tax-cap-plastic-bag-ban-are-good-for-ny/>