



May 23, 2022

Senate Majority Leader Andrea Stewart-Cousins
Legislative Office Building, Room 907
Albany, NY 12247

Senate Minority Leader Rob Ortt
Capitol Building, Room 315
Albany, NY 12247

Dear Leaders,

On behalf of our organizations which represent tens of thousands of businesses throughout New York State, we respectfully urge you to oppose A.766/S.2762 (SWEAT). This legislation, which allows for the creation of an "employee lien" is duplicative and unnecessarily arduous as there are both state and federal laws protecting employees from wage and hour violations.

To be clear our organizations support the State's enforcement of existing wage and hour laws and condemn any intentional wage violations; 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 creates an instant presumption of guilt against the employer and denies businesses their due process. The legislation completely 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 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. Since the start of the pandemic, businesses have had to secure sizeable loans to stay afloat and finance normal operating expenses as the state economy has not fully recovered and businesses are seeing rising costs due to labor shortages, supply chain disruptions, and inflation. If this law is passed, businesses will not be able to acquire financial loans, which will detract from investment opportunities and limit growth.

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 which are the least financially equipped to defend against frivolous and predatory litigation tactics.

At a time when New York's businesses are finally seeing a glimpse of a path towards recovery, the state should not add to its duplicative and onerous regulatory environment – the result will be devastating to businesses, especially small businesses, that continue to endure turbulent economic challenges.

On behalf of our organizations, businesses, industries, and communities we represent, we urge you to oppose this legislation.

Thank you for your time and consideration.

Sincerely,

Associated Builders and Contractors, Empire State Chapter
Associated General Contractors of New York State
Big I New York
Buffalo Niagara Partnership
The Business Council of New York State
The Business Council of Westchester
Capital Region Chamber
Commerce Chenango
Empire State Forest Products Association
Food Industry Alliance
Greater Binghamton Chamber of Commerce
Greater Rochester Chamber of Commerce
Long Island Association

Manufacturers Association of Central New York
New York Association of Convenience Stores
New York Farm Bureau
New York State Builders Association
New York State Hospitality & Tourism Association
New York State Restaurant Association
National Federation of Independent Business
Northeastern Retail Lumber Association
Retail Council of New York State
Rochester Technology and Manufacturing Association
Trucking Association of New York
Upstate United

cc: NYS Senate