

Memorandum of Support

Give Workers the Necessary Tools to Fight Against Wage Theft and Collect Stolen Wages

A.486 (Rosenthal)/S.2844 (Ramos)

Empire Justice Center strongly supports A.486 (Rosenthal)/S.2844 (Ramos), Securing Wages Earned Against Theft (“SWEAT”), which will strengthen workers’ ability to collect stolen wages and improve enforcement mechanisms for wage and hour laws. When workers are unable to collect the wages they are owed, the basic minimum wage and overtime laws are rendered useless. Unscrupulous employers not only steal workers’ wages, but also cheat the government of payroll taxes and undermine law abiding competing businesses. This illegal practice hurts working families, legitimate businesses, and our State’s economy.

Empire Justice Center has represented hundreds of low income workers outside of New York City who have suffered from wage theft issues, and has Wage Justice Projects in Monroe and Westchester counties. We represent workers who have been exploited by their employers and help them recover unpaid wages. Unfortunately, our clients and their advocates are all too familiar with the wage theft and wage collection crisis in New York.

Wage theft is rampant in New York State, and exploitative employers too often hide or transfer their assets to avoid paying wages they have stolen from their employees. Even when workers win court-awarded judgments, they are unlikely to be able to collect the money owed to them. A.486/S.2844 will update New York law so that we can join other states which provide workers with the legal tools they need to make sure their employers will pay them. The proposed legislation will:

- Expand New York’s existing mechanic's lien law to include all workers, joining ten other states allowing workers to put a temporary lien on the property of an employer who fails to pay wages.
- Amend New York’s existing attachment provisions to make it easier for workers to attach an employer’s assets at the start of litigation before the property can be sold or transferred, using the standard currently set forth in Connecticut law; and
- Improve procedures for holding the largest shareholders of privately held corporations and limited liability companies personally liable for wage theft. Current law allows for

the largest shareholders of corporations and members of LLCs to be held accountable, but only if workers follow complicated procedures.

Critically, the SWEAT legislation will prevent employers from simply refusing to participate in the legal process, and thus effectively insulating themselves from liability by defaulting, selling their business or shutting it down. A.486/S.2844 will help bring employers to the table so that they will no longer be allowed to evade responsibility for violating the law and failing to respect the basic right of a person to be paid for work performed.

Empire Justice Center supports this important legislation because it will help enforce our wage-and-hour laws, make the judicial process meaningful for those who have been cheated, and ensure that low-wage workers in New York State can receive a fair day's pay for a fair day's work and recover any stolen wages.

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