



New York City's Freelance Isn't Free Act - FAQ

*January 3, 2017
Revised June 12, 2017*

Effective May 15, 2017, a new ordinance requires employers that use freelance workers – a term that encompasses independent contractors – to have written contracts for work valued at \$800 or more.

What does the new law require?

Freelancers covered under the law will need to be provided a written contract by their employer and must be paid within 30 days of work completion, or by the due date specified in the contract. The law does not establish a minimum amount that a freelancer must be paid; rates must be negotiated and agreed upon between the parties.

What must be included in the contract?

The contract must specify the names and mailing addresses of the parties, itemize all services performed by the freelancer, the services' value, the rate of pay for the freelancer's work, and specify the method of compensation. The contract also must state the date on which payment for the freelancer's services will be issued or, in the alternative, the mechanism for determining such a date. A copy of the contract must be kept by both parties.

Will the new law apply if there is no written contract?

The law can still apply if there is no written contract and even if the contract did not include all terms required under the law.

When does the law go into effect?

The law goes into effect on May 15, 2017.



Does the law apply to agreements that are already in place?

No, it will only apply to contracts which were entered into after the effective date.

To whom does the law apply?

Employers that use freelance workers for work valued at \$800 or more provided by the worker in the preceding 120 days. Additionally, the law covers the New York City freelancers who are:

- Earning 1099 income
- Sole proprietors who:
 - Are not incorporated
 - Are incorporated as either an independent LLC, S-Corp or C-Corp
 - Do not have employees

Who is not covered by the law?

- Freelancers earning a W-2 income
- Businesses with employees
- Partnership arrangements
- Lawyers/sales people
- City workers

Can workers covered under a collective bargaining agreement (CBA) bring a claim under the new law?

Workers hired as employees to perform services under a CBA may not bring a claim under this new law.

However, workers hired as independent contractors to perform services outside the scope of the CBA may be able to bring a claim.



Does the new law apply to employees who are paid through a loan-out company?

The duty to comply with the law would be assumed by the loan-out company. Therefore, employees who are hired and paid through a loan-out will not be treated of the productions; rather as employees of the loan-out.

How much time does a freelancer have to file a claim in court under the law?

Freelancers must file claims against hiring parties within specific time periods:

Type of Claim	Time Period to File Claim
Failure to provide a written contract	Within 2 years of an alleged violation
Nonpayment, underpayment, or act of retaliation	Within 6 years of an alleged violation

What is the difference between a freelancer and an employee?

Whether a worker is a freelancer or an employee is dependent on the nature of the relationship between the employee and the employer. If classified as an employee, the worker may be entitled to a broad set of workplace rights, which could include the right to be paid minimum wage and overtime, paid sick leave, unemployment insurance, and employer-funded workers' compensation benefits.

Will sample contracts be provided?

A model contract can be found [here](#).

What are the penalties for not complying with the law?

Employers may face a \$250 penalty if they refuse to provide a contract. Under the law, clients who are found guilty will now have to pay double damages, and could be held liable for attorney's fees and additional civil penalties. It's up to the court to determine damages owed to the freelancer. Once an amount has been decided, the law now requires the court to double that value.



Does the law apply to employers located outside of New York City?

Per the New York City Department of Consumer Affairs, the intent of the law is to protect freelance workers in NYC. However, many freelancers work with remote clients. If the client's office is located outside of NYC, and most of their business takes place outside of NYC, they may not be subject to the requirements of the new law.

Where can I see the details of the bill?

You can see a PDF of the bill [here](#).

If you have any questions about the information contained in this document, please contact us at LaborRelations-Questions@castandcrew.com.

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