



October 7, 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 succeed<sup>1</sup>, 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, businesses, industries, and communities we represent, we urge you to veto this legislation.

Thank you 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  
Hotel Association of New York City  
Long Island Association  
National Supermarket Association

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<sup>1</sup> 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/>

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