S T A T E O F N E W Y O R K

4850

2015-2016 Regular Sessions

I N S E N A T E

April 22, 2015

Introduced by Sen. MARTINS -- (at request of the Department of Labor) -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, in relation to establishing the employer in situations involving multiple entities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 512 of the labor law is amended by adding a new subdivision 4 to read as follows:

4. WHENEVER THE COMMISSIONER DETERMINES THAT SERVICES PERFORMED BY AN INDIVIDUAL CONSTITUTE EMPLOYMENT BUT THE SUPERVISION, DIRECTION AND CONTROL ARE EXERCISED BY ONE OR MORE ENTITIES AND ONE ENTITY PLACES THE INDIVIDUAL WITH, OR PROVIDES THE INDIVIDUAL TO, ANOTHER ENTITY TO PERFORM THE SERVICES, THE ENTITY THAT PAID THE INDIVIDUAL FOR THE SERVICES SHALL BE THE EMPLOYER UNDER THIS ARTICLE UNLESS BY CONTRACT THE INDIVIDUAL IS SPECIFIED TO BE THE EMPLOYEE OF ANOTHER ENTITY, IN WHICH CASE THE OTHER ENTITY SHALL BE THE EMPLOYER. WHENEVER SUCH EMPLOYER IS REPLACED BY ANOTHER ENTITY SUCH REPLACEMENT SHALL BE CONSIDERED A TRANSFER PURSUANT TO SECTION FIVE HUNDRED EIGHTY-ONE OF THIS CHAPTER. THIS SUBDIVISION SHALL NOT APPLY TO A PAYROLL AGENCY THAT THE COMMISSIONER DETERMINES PROVIDES PAYROLL SERVICES ON BEHALF OF ANOTHER EMPLOYER.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD09604-01-5