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

7268

I N S E N A T E

April 12, 2016

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 unemployment insurance

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

Section 1. The labor law is amended by adding a new section 573-a to read as follows:

S 573-A. PERSONAL LIABILITY FOR CONTRIBUTIONS, PENALTIES AND INTEREST REGARDING CORPORATIONS, LIMITED LIABILITY COMPANIES, AND PARTNERSHIPS. 1. FOR PURPOSES OF THIS SECTION, THE TERM "PERSON" SHALL MEAN: (A) ANY OFFICER OF A CORPORATION; (B) ANY MANAGER OR MEMBER OF A LIMITED LIABILITY COMPANY FORMED UNDER THE LIMITED LIABILITY COMPANY LAW OR SIMILAR STATUTES IN OTHER STATES OR COUNTRIES, WHO HAS AN OWNERSHIP INTEREST IN OR MANAGEMENT AUTHORITY OVER THE LIMITED LIABILITY COMPANY; AND (C) ALL PARTNERS UNDER THE PARTNERSHIP LAW INCLUDING: (I) GENERAL PARTNERS AND (II) ANY LIMITED PARTNERS TO THE EXTENT THAT SUCH LIMITED PARTNERS ARE LIABLE TO THIRD PARTIES UNDER THE PARTNERSHIP LAW.

2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP HAS FAILED TO MAKE EMPLOYER CONTRIBUTIONS AS REQUIRED BY THIS ARTICLE, OR HAS FAILED TO FILE QUARTERLY COMBINED WITHHOLDING, WAGE REPORTING AND UNEMPLOYMENT INSURANCE RETURNS AS REQUIRED BY PARAGRAPH FOUR OF SUBSECTION (A) OF SECTION SIX HUNDRED SEVENTY-FOUR OF THE TAX LAW, ALL PERSONS SHALL BE JOINTLY AND SEVERALLY LIABLE FOR THE TOTAL AMOUNT OF SUCH CONTRIBUTIONS NOT COLLECTED, PENALTIES AND ANY INTEREST ACCRUING THEREON. SUCH PERSONS SHALL BE CONSIDERED EMPLOYERS FOR PURPOSES OF COLLECTING AMOUNTS DUE PURSUANT TO THIS SUBDIVISION PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND OTHER PROVISIONS OF LAW. THE LIABILITY OF ANY PERSON SHALL NOT BE RELIEVED BY THE DISSOLUTION OF THE CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP.

3. THE COMMISSIONER, AFTER ISSUING A DETERMINATION THAT A PERSON IS LIABLE FOR AMOUNTS DUE UNDER SUBDIVISION TWO THIS SECTION, SHALL PROVIDE NOTICE OF THE BASIS FOR PERSONAL LIABILITY AND THE TOTAL AMOUNT DUE AND

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

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UNPAID BY SUCH CORPORATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP IN SUCH DETERMINATION.

4. A PERSON DETERMINED TO BE PERSONALLY LIABLE UNDER THIS SECTION SHALL HAVE ALL RIGHTS OF APPEAL SET FORTH IN TITLE EIGHT OF THIS ARTICLE SOLELY WITH RESPECT TO SUCH DETERMINATION OF HIS OR HER PERSONAL LIABILITY.

S 2. This act shall take effect immediately, but shall apply to amounts that become due for the quarter after such effective date.