

9089

I N   A S S E M B L Y

January 25, 2016

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Introduced by M. of A. MAGNARELLI -- read once and referred to the  
Committee on Labor

AN ACT to amend the labor law, in relation to establishing a registra-  
tion system for contractors and subcontractors engaged in public work  
projects in order to better enforce existing labor laws and regu-  
lations in the public works industry

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

1     Section 1. The labor law is amended by adding a new section 220-i to  
2     read as follows:  
3     S 220-I. REGISTRATION SYSTEM FOR CONTRACTORS AND SUBCONTRACTORS. 1.  
4     DEFINITIONS AS USED IN THIS SECTION:  
5     A. "CONTRACTOR" MEANS A PERSON, PARTNERSHIP, ASSOCIATION, JOINT STOCK  
6     COMPANY, TRUST, CORPORATION, OR OTHER LEGAL BUSINESS ENTITY OR SUCCESSOR  
7     THEREOF WHO ENTERS INTO A CONTRACT WHICH IS SUBJECT TO THE PROVISIONS OF  
8     THIS ARTICLE, AND INCLUDES ANY SUBCONTRACTOR OR LOWER TIER SUBCONTRACTOR  
9     OF A CONTRACTOR AS DEFINED HEREIN.  
10    B. "BUREAU" MEANS THE DEPARMTENT OF LABOR'S BUREAU OF PUBLIC WORKS.  
11    2. NO CONTRACTOR SHALL BID ON ANY CONTRACT FOR PUBLIC WORK AS DEFINED  
12    IN THIS ARTICLE, UNLESS THE CONTRACTOR IS REGISTERED PURSUANT TO THIS  
13    SECTION. NO CONTRACTOR SHALL LIST A SUBCONTRACTOR IN A BID PROPOSAL FOR  
14    THE CONTRACT UNLESS THE SUBCONTRACTOR IS REGISTERED PURSUANT TO THIS  
15    SECTION AT THE TIME THE BID IS MADE.  
16    3. A. A CONTRACTOR SHALL REGISTER IN WRITING WITH THE DEPARTMENT ON A  
17    FORM PROVIDED BY THE COMMISSIONER. THE FORM SHALL REQUIRE THE FOLLOWING  
18    INFORMATION:  
19    I. THE NAME, PRINCIPAL BUSINESS ADDRESS AND TELEPHONE NUMBER OF THE  
20    CONTRACTOR.  
21    II. WHETHER THE CONTRACTOR IS A CORPORATION, PARTNERSHIP, SOLE  
22    PROPRIETORSHIP, OR OTHER FORM OF BUSINESS ENTITY.  
23    III. THE NAME AND ADDRESS OF EACH PERSON WITH A FINANCIAL INTEREST IN  
24    THE CONTRACTOR AND THE PERCENTAGE INTEREST, EXCEPT THAT IF THE CONTRAC-  
25    TOR IS A PUBLICLY-TRADED CORPORATION, THE CONTRACTOR SHALL SUPPLY THE  
26    NAMES AND ADDRESSES OF THE CORPORATION'S OFFICERS.

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

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1 IV. THE CONTRACTOR'S TAX IDENTIFICATION NUMBER AND UNEMPLOYMENT INSUR-  
2 ANCE REGISTRATION NUMBER.

3 V. ANY OTHER RELEVANT AND APPROPRIATE INFORMATION AS DETERMINED BY THE  
4 COMMISSIONER.

5 B. AT THE TIME OF REGISTRATION, AND SUBSEQUENTLY UPON REQUEST, THE  
6 CONTRACTOR SHALL SUBMIT TO THE COMMISSIONER DOCUMENTATION DEMONSTRATING  
7 THAT THE CONTRACTOR HAS WORKER'S COMPENSATION INSURANCE COVERAGE FOR ALL  
8 WORKERS AS REQUIRED BY LAW.

9 4. A. THE CONTRACTOR SHALL PAY AN INITIAL ANNUAL NON-REFUNDABLE REGIS-  
10 TRATION FEE OF THREE HUNDRED DOLLARS TO THE COMMISSIONER. THE NON-RE-  
11 FUNDABLE REGISTRATION FEE FOR THE SECOND ANNUAL REGISTRATION SHALL BE  
12 THREE HUNDRED DOLLARS. UPON SUCCESSFUL COMPLETION OF TWO CONSECUTIVE  
13 YEARS OF REGISTRATION, A CONTRACTOR MAY ELECT TO REGISTER FOR A TWO-YEAR  
14 PERIOD AND PAY A NON-REFUNDABLE REGISTRATION FEE OF FIVE HUNDRED  
15 DOLLARS.

16 B. A CONTRACTOR WHO IS PERFORMING PUBLIC WORK ON THE EFFECTIVE DATE OF  
17 THIS ACT SHALL SUBMIT THE REGISTRATION APPLICATION FORM AND FEE TO THE  
18 COMMISSIONER WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS ACT.

19 5. UPON RECEIPT OF THE FEE, FORM AND DOCUMENTATION REQUIRED BY THIS  
20 SECTION, THE COMMISSIONER SHALL ISSUE A CERTIFICATE OF REGISTRATION TO  
21 THE CONTRACTOR. A REGISTRATION CERTIFICATE SHALL BE VALID FOR ONE CALEN-  
22 DAR YEAR FROM THE DATE OF REGISTRATION. REGISTRATIONS SHALL BE RENEWED  
23 NOT LESS THAN THIRTY DAYS BEFORE THE EXPIRATION DATE OF THE IMMEDIATELY  
24 PRECEDING REGISTRATION.

25 6. EACH CONTRACTOR SHALL, AFTER THE BID IS MADE AND PRIOR TO THE  
26 AWARDING OF THE CONTRACT, SUBMIT TO THE PUBLIC ENTITY THE CERTIFICATES  
27 OF REGISTRATION FOR ALL SUBCONTRACTORS LISTED IN THE BID PROPOSAL.  
28 APPLICATIONS FOR REGISTRATION SHALL NOT BE ACCEPTED AS A SUBSTITUTE FOR  
29 A CERTIFICATE OF REGISTRATION FOR THE PURPOSES OF THIS SECTION.

30 7. A. A CONTRACTOR WHO:

31 I. WILLFULLY HINDERS OR DELAYS THE COMMISSIONER IN THE PERFORMANCE OF  
32 HIS DUTIES IN THE ENFORCEMENT OF THIS ACT;

33 II. FAILS TO MAKE, KEEP, AND PRESERVE ANY RECORDS AS REQUIRED UNDER  
34 THIS ARTICLE;

35 III. FALSIFIES ANY SUCH RECORD, OR REFUSES TO MAKE ANY SUCH RECORD  
36 ACCESSIBLE TO THE COMMISSIONER UPON DEMAND;

37 IV. REFUSES TO FURNISH A SWORN STATEMENT OF SUCH RECORDS OR ANY OTHER  
38 INFORMATION REQUIRED FOR THE ENFORCEMENT OF THIS ACT TO THE COMMISSIONER  
39 UPON DEMAND;

40 V. PAYS OR AGREES TO PAY WAGES AT A RATE LESS THAN THE RATE PRESCRIBED  
41 BY THIS ARTICLE; OR

42 VI. OTHERWISE VIOLATES ANY PROVISION OF THIS ACT, SHALL BE GUILTY OF A  
43 DISORDERLY PERSONS OFFENSE.

44 B. AS AN ALTERNATIVE TO OR IN ADDITION TO SANCTIONS PROVIDED BY THIS  
45 ARTICLE, THE COMMISSIONER MAY, AFTER PROVIDING THE CONTRACTOR WITH  
46 NOTICE OF ANY ALLEGED VIOLATION OF THIS ACT, AND WITH AN OPPORTUNITY TO  
47 REQUEST A HEARING BEFORE THE COMMISSIONER:

48 I. DENY RENEWAL, REVOKE OR SUSPEND THE REGISTRATION OF A CONTRACTOR  
49 FOR A PERIOD OF NOT MORE THAN FIVE YEARS; OR

50 II. REQUIRE A CONTRACTOR, AS A CONDITION OF INITIAL OR CONTINUED  
51 REGISTRATION, TO PROVIDE A SURETY BOND PAYABLE TO THE STATE. THE SURETY  
52 BOND SHALL BE FOR THE BENEFIT OF WORKERS DAMAGED BY ANY FAILURE OF A  
53 CONTRACTOR TO PAY WAGES OR BENEFITS PURSUANT TO OR OTHERWISE COMPLY WITH  
54 THE PROVISIONS OF THIS ARTICLE. THE SURETY BOND SHALL BE IN THE AMOUNT  
55 AND FORM THAT THE COMMISSIONER DEEMS NECESSARY FOR THE PROTECTION OF THE

1 CONTRACTOR'S WORKERS, BUT SHALL NOT EXCEED TEN THOUSAND DOLLARS PER  
2 WORKER.

3 C. THE BUREAU MAY ORDER THE IMMEDIATE SUSPENSION OF A CONTRACTOR'S  
4 REGISTRATION, PRIOR TO A FORMAL HEARING ON THE REVOCATION OF THE  
5 CONTRACTOR'S REGISTRATION PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION,  
6 IF THE BUREAU DETERMINES THAT ORDERING AN IMMEDIATE SUSPENSION IS IN THE  
7 PUBLIC INTEREST AND PROVIDED THAT THE CONTRACTOR IS AFFORDED AN OPPORTU-  
8 NITY TO CONTEST THE IMMEDIATE SUSPENSION IN THE FOLLOWING MANNER:

9 I. THE BUREAU SHALL NOTIFY THE CONTRACTOR IN WRITING OF THE IMMEDIATE  
10 REVOCATION AND THE CONTRACTOR'S RIGHTS UNDER THIS PARAGRAPH.

11 II. THE CONTRACTOR MAY NOTIFY THE BUREAU OF ITS REQUEST FOR AN OPPOR-  
12 TUNITY TO BE HEARD AND CONTEST THE IMMEDIATE SUSPENSION IN WRITING WITH-  
13 IN SEVENTY-TWO HOURS OF ITS RECEIPT OF IMMEDIATE SUSPENSION NOTIFICA-  
14 TION.

15 III. WITHIN SEVEN BUSINESS DAYS OF RECEIPT OF THE NOTIFICATION FROM  
16 THE CONTRACTOR PURSUANT TO SUBPARAGRAPH II OF THIS PARAGRAPH, THE BUREAU  
17 SHALL GRANT THE CONTRACTOR A HEARING TO CONTEST THE IMMEDIATE SUSPEN-  
18 SION. THE BUREAU SHALL PERMIT THE CONTRACTOR TO PRESENT EVIDENCE AT THE  
19 HEARING.

20 IV. THE BUREAU SHALL ISSUE A WRITTEN DECISION WITHIN FIVE BUSINESS  
21 DAYS OF THE HEARING EITHER UPHOLDING OR REVERSING THE CONTRACTOR'S IMME-  
22 DIATE SUSPENSION. THE DECISION SHALL INCLUDE THE GROUNDS FOR UPHOLDING  
23 OR REVERSING THE CONTRACTOR'S IMMEDIATE SUSPENSION.

24 V. IF THE CONTRACTOR DISAGREES WITH THE WRITTEN DECISION, THE CONTRAC-  
25 TOR MAY APPEAL THE DECISION TO THE COMMISSIONER.

26 D. IF THE BUREAU INTENDS TO IMPOSE AN IMMEDIATE SUSPENSION AS SET  
27 FORTH IN PARAGRAPH C OF THIS SUBDIVISION, THE BUREAU SHALL PROVIDE THE  
28 CONTRACTOR WITH A NOTICE OF INTENT TO SUSPEND AND THE CONTRACTOR MAY  
29 REQUEST AN ADMINISTRATIVE HEARING BEFORE THE COMMISSION WITHIN SEVENTY-  
30 TWO HOURS OF THE RECEIPT OF THE NOTICE OF INTENT TO SUSPEND IN ORDER TO  
31 PRESENT EVIDENCE EXPEDITIOUSLY IN SUPPORT OF THE POSITION THAT THE  
32 SUSPENSION SHOULD NOT BE IMPOSED. THE SUSPENSION SHALL NOT TAKE EFFECT  
33 PRIOR TO THE EXPIRATION OF THE SEVENTY-TWO HOUR OPPORTUNITY TO REQUEST A  
34 HEARING. IF SUCH A REQUEST IS NOT MADE, THE SUSPENSION SHALL TAKE EFFECT  
35 AT THE END OF THE SEVENTY-TWO HOUR PERIOD. IF SUCH A REQUEST IS MADE,  
36 THE SUSPENSION SHALL TAKE EFFECT ONLY AFTER THE COMMISSIONER CONDUCTS  
37 THE HEARING.

38 E. IF THE BUREAU ORDERS THE IMMEDIATE SUSPENSION OF A CONTRACTOR'S  
39 REGISTRATION PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION, THE VIOLATION  
40 SHALL HAVE NO EFFECT ON THE REGISTRATION OF ANY CONTRACTOR OR SUBCON-  
41 TRACTOR, REGARDLESS OF TIER, IN THE CONTRACTUAL CHAIN WITH THE SUSPENDED  
42 CONTRACTOR.

43 S 2. This act shall take effect on the ninetieth day after it shall  
44 have become a law. Effective immediately, the commissioner of labor  
45 shall promulgate rules and regulations necessary or appropriate to carry  
46 out the provisions of this act.