

# STATE OF NEW YORK

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7182

2019-2020 Regular Sessions

## IN ASSEMBLY

April 11, 2019

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Introduced by M. of A. CRESPO -- (at request of the Department of Labor)  
-- read once and referred to the Committee on Labor

AN ACT to amend the limited liability company law, in relation to domestic and foreign limited liability companies; and to amend the labor law, in relation to the powers, duties and authority of the commissioner of labor when an employer is a domestic or foreign corporation or limited liability company

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (c) of section 609 of the limited liability  
2 company law, as added by chapter 537 of the laws of 2014, is amended to  
3 read as follows:

4 (c) Notwithstanding the provisions of subdivisions (a) and (b) of this  
5 section, the ten members with the largest percentage ownership interest,  
6 as determined as of the beginning of the period during which the unpaid  
7 services referred to in this section are performed, of every domestic  
8 limited liability company and every foreign limited liability company,  
9 shall jointly and severally be personally liable for all debts, wages or  
10 salaries due and owing to any of its laborers, servants or employees,  
11 for services performed by them for such limited liability company.  
12 Before such laborer, servant or employee shall charge such member for  
13 such services, he or she shall give notice in writing to such member  
14 that he or she intends to hold such member liable under this section.  
15 Such notice shall be given within one hundred eighty days after termination of such services. An action to enforce such liability shall be  
16 commenced within ninety days after the return of an execution unsatisfied against ~~the~~ such limited liability company upon a judgment recovered against it for such services. A member who has paid more than his  
17 or her pro rata share under this section shall be entitled to contribution pro rata from the other members liable under this section with  
18 respect to the excess so paid, over and above his or her pro rata share,  
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

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1 and may sue them jointly or severally or any number of them to recover  
2 the amount due from them. Such recovery may be had in a separate action.  
3 As used in this subdivision, "pro rata" means in proportion to percent-  
4 age ownership interest. Before a member may claim contribution from  
5 other members under this section, he or she shall give them notice in  
6 writing that he or she intends to hold them so liable to him or her.

7 § 2. Subdivision 1 of section 196 of the labor law is amended by  
8 adding a new paragraph f to read as follows:

9 f. When an employer is a corporation or limited liability company,  
10 including foreign as well as domestic, the commissioner's duties, powers  
11 and authority shall include the following with respect to the ten larg-  
12 est shareholders of such corporation, within the meaning of section six  
13 hundred thirty of the business corporation law, or the ten members with  
14 the largest percentage ownership interest in such limited liability  
15 company, within the meaning of section six hundred nine of the limited  
16 liability company law, in connection with an assignment, investigation,  
17 proceeding, order, or judgment under this article, under section two  
18 hundred fifteen, or under article eight, eight-A, nine, nineteen, nine-  
19 teen-A or twenty-five-A of this chapter:

20 (i) to order the employer to identify such shareholders and members  
21 and, if the employer shall fail to identify such shareholders within ten  
22 days after an order under this subparagraph, to bring an action in the  
23 name and on behalf of the people of the state of New York against such  
24 employer in the supreme court to compel such employer to identify such  
25 shareholders and members and pay a civil penalty of no more than ten  
26 thousand dollars;

27 (ii) to serve written notices on such shareholders and members pursu-  
28 ant to section six hundred thirty of the business corporation law and  
29 section six hundred nine of the limited liability company law, on behalf  
30 of laborers, servants or employees, within the time period prescribed by  
31 those sections, which time period shall be tolled during the commission-  
32 er's investigation; and

33 (iii) to name such shareholders and members in any order or judgement  
34 within the scope of this paragraph and to hold such shareholders and  
35 members jointly and severally liable for all wages, pay, and compen-  
36 sation, together with interest assessed under this chapter, from the  
37 date of any written notice pursuant to subparagraph (ii) of this para-  
38 graph, which orders and judgements may be enforced as provided for under  
39 this chapter, in lieu of actions commenced under section six hundred  
40 thirty of the business corporation law and section six hundred nine of  
41 the limited liability company law.

42 § 3. This act shall take effect immediately and shall apply to any  
43 liabilities owed to laborers, servants or employees whose services had  
44 not been terminated more than one hundred eighty days prior to the  
45 effective date of this act.