

STATE OF NEW YORK

6468

2019-2020 Regular Sessions

IN SENATE

June 12, 2019

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

AN ACT to amend the labor law, in relation to personal liability for
certain contributions, penalties and interest

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 573-a to
2 read as follows:

3 § 573-a. Personal liability for contributions, penalties, and interest
4 regarding corporations, limited liability companies, and partnerships.

5 1. For purposes of this section, the term "person" shall mean: (a) any
6 officer of a corporation; (b) any manager or member of a limited liabil-
7 ity company formed under the limited liability company law or similar
8 statutes in other states or countries, who has an ownership interest in
9 or management authority over the limited liability company; and (c) all
10 partners under the partnership law including: (i) general partners and
11 (ii) any limited partners to the extent that such limited partners are
12 liable to third parties under the partnership law.

13 2. Notwithstanding any other provision of law, if a corporation,
14 limited liability company or partnership has failed to make employer
15 contributions as required by this article, or has failed to file quar-
16 terly combined withholding, wage reporting and unemployment insurance
17 returns as required by paragraph four of subsection (a) of section six
18 hundred seventy-four of the tax law, all persons shall be jointly and
19 severally liable for the total amount of such contributions not
20 collected, penalties and any interest accruing thereon owed by their
21 corporation, limited liability company or partnership. Such persons
22 shall be considered employers for purposes of collecting amounts due
23 pursuant to this subdivision pursuant to the provisions of this article
24 and other provisions of law. The liability of any person shall not be

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

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1 relieved by the dissolution of the corporation, limited liability compa-
2 ny or partnership.

3 3. The commissioner, after issuing a determination that a person is
4 liable for amounts due under subdivision two of this section, shall
5 provide notice of the basis for personal liability and the total amount
6 due and unpaid by such corporation, limited liability company or part-
7 nership in such determination.

8 4. A person determined to be personally liable under this section
9 shall have all rights of appeal set forth in title eight of this article
10 solely with respect to such determination of his or her personal liabil-
11 ity.

12 § 2. This act shall take effect immediately and shall apply to amounts
13 that become due for the quarterly period after the date this act shall
14 have become a law.