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## Some New York City Hotels Must Pay Employees Severance

By Brynn Goodman and Glenn S. Grindlinger

The pandemic has hit New York City's hotels particularly hard, leading to perhaps the industry's worst year ever in 2020. Despite these incredibly difficult times, however, Mayor de Blasio signed into law on October 5, 2021 a bill that will increase costs for some hotels.

This new law requires certain hotels to pay severance to covered hotel service employees in the amount of \$500 per week for up to 30 weeks. It impacts hotels that closed on or after March 1, 2020, had 100 or more rooms as of that date, and have not reopened as of November 1, 2021, as well as those that had a mass layoff on or after March 1, 2020, and have not recalled at least 25% of employees by October 11, 2021.

Any severance that an employer already paid an employee prior to October 11, 2021 cannot be used to offset the severance amounts required under this law. Severance must be paid within five (5) business days after the end of each week. Thus, it appears that severance can be paid in weekly installments and does not need to be paid in a lump sum.

In addition, the law also applies to certain "transient hotels" as defined under section 12-10 of the New York city zoning resolution. Transient hotels covered under this law include places that provide living or sleeping accommodations that may be rented on a daily basis with one or more common entrances,

twenty-four hour desk service and one or more of the following services: "housekeeping, telephone, or bellhop service, or the furnishing or laundering of linens." The law appears to apply to both unionized and non-unionized hotels, unless the hotel falls under some other exception.

The law provides some important carve outs. First, severance does not need to be paid to managerial, supervisory or confidential employees (such as human resources employees). Second, an employee must have been employed by the hotel for at least one year prior to March 1, 2020 in order to be eligible to receive severance. Third, the severance requirement does not apply to employees who are recalled or who are covered by a collective bargaining agreement that provides a greater level of severance pay. Fourth, there is a special provision that can reduce an employer's obligation to pay severance under this law if the hotel has closed permanently and is in the process of converting to an alternate use. Fifth, the obligation to provide severance ceases once 25% of the employees who were employed as of March 1, 2020 are called back to work. Finally, and most importantly, the law will automatically sunset (become void) on June 1, 2022.

The law provides individuals with a private right of action. Aggrieved individuals can file a suit in court and, if successful, collect double damages

equal to twice the amount of severance owed under the law, their attorneys' fees and costs.

Please reach out to counsel immediately to discuss whether and how to comply with the provisions of this newly enacted law.

*For more information or questions about this Alert, please contact Carolyn D. Richmond at*

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