Int. No. 2397

By Council Members Moya, Kallos, Salamanca, Rosenthal, Dinowitz, Levine, Menchaca, Lander, Brannan, Adams, Powers, Feliz, Reynoso, Rivera, Gennaro, Chin, Ampry-Samuel, Van Bramer, Rodriguez, Riley, Brooks-Powers, Barron, Koslowitz, Eugene and Dromm

..Title

A Local Law in relation to severance pay for hotel service employees

..Body

Be it enacted by the Council as follows:

Section 1. Definitions. For the purposes of this local law, the following terms have the following meanings:

Closure. The term “closure” means the closure of a hotel to the public commencing on or after March 1, 2020 and where such hotel has not reopened and recalled 25 percent of its workforce by October 1, 2021.

Covered hotel service employee. The term “covered hotel service employee” means, with respect to a hotel, a person who, as of March 1, 2020, had been employed for one year or more to perform work in connection with the operation of such hotel and who was not during such time a managerial, supervisory, or confidential employee or otherwise exercising control over the management of such hotel, and has a legal right to be recalled to their previous position.

Hotel. The term “hotel” means a transient hotel as defined in section 12-10 of the New York city zoning resolution.

Hotel employer. The term “hotel employer” means any person who owns, controls or operates a hotel.

Hotel service. The term “hotel service” means work performed in connection with the operation of a hotel.

Mass layoff. The term "mass layoff" means (i) a reduction in force which is not the result of a closure and which results in a layoff during any 30-day period for 75 percent or more of the employees at the establishment; (ii) the failure to reopen a hotel for transient use to the public; or (iii) maintaining an average offered occupancy rate of less than 50 percent.

Offered occupancy rate. The term “offered occupancy rate” means, with respect to a hotel for a particular night, the number of rooms in such hotel available and offered for occupancy for such night divided by the total number of rooms in such hotel.

§ 2. Severance. a. Whenever there is a hotel closure, a hotel employer shall provide to each covered hotel service employee, severance pay for such week in the following amount, provided that no such employee need be provided such pay for more than 30 weeks:

(i) for the weeks commencing September 6, 2021, but before December 19, 2021, $500; and

(ii) for the weeks commencing December 20, 2021, but before April 3, 2022, $1,000.

b. Whenever there is a mass layoff, a hotel employer shall provide to each covered hotel service employee, severance pay for such week in the following amount, provided that no such employee need be provided such pay for more than 30 weeks:

(i) for the weeks commencing October 4, 2021, but before January 16, 2022, $500; and

(ii) for the weeks commencing January 17, 2022, but before May 2, 2022, $1,000.

c. Such severance pay shall be provided to such employee within five days after the end of such week.

d. The payment of severance pay pursuant to subdivision a shall not affect an employee’s legal right to be recalled to their previous position.

e. The payment of severance pay pursuant to subdivision a shall be in addition to any severance or similar pay already paid or otherwise owed for periods prior to October 1, 2021.

§ 3. Applicability. a. This section shall not apply to:

(i) a covered hotel service employee who is recalled full-time;

(ii) a covered hotel service employee who is covered by a collective bargaining agreement that provides for a greater level of severance pay for a given week; or

(iii) a hotel that has closed permanently and has or is in the process of converting to an alternate use, provided that covered hotel service employees are offered severance in an amount of not less than 20 days pay per year of service at the same rate that such employee is paid for paid days off and provided that such severance was specifically tied to the conversion of the hotel.

b. If a hotel reopens, its obligations to pay the severance for a covered hotel service employee shall cease on the sooner of the date such employee is recalled, or four weeks from the date on which such hotel reopens.

§ 4. Remedies. a. A hotel service employee for a hotel who has not received severance pay owed pursuant to this local law may bring an action in supreme court against a hotel employer for violation of this local law.

b. If the court finds that such employee has not received severance pay in violation of this local law, the court shall award to such employee twice the amount of severance pay owed pursuant to this local law and such employee's reasonable attorney's fees and costs.

c. For violations of this local law, the commissioner of consumer and worker protection may issue an order directing compliance.

§ 5. This local law takes effect immediately.

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