

New York Employment Agencies Law

Seeking help from an employment agency to find a job?

Employment agencies in New York City must be licensed by the Department of Consumer Affairs (DCA) and they must follow the law. Look for the agency's Department of Consumer Affairs license.

Employment Agency Law

Extracts from Article 11 of the General Business Law

§ 181. Contracts, Receipts

It shall be the duty of every employment agency to give to each applicant for employment:

1. A True Copy of Every Contract executed between such agency and such applicant, which shall have printed on it or attached to it a statement setting forth in a clear and concise manner the provisions of sections one hundred eighty-five, and one hundred eighty-six of this article.

2. Information as to the Name And Address of the person to whom the applicant is to apply for such employment, the kind of service to be performed, the anticipated rate of wages or compensation, the agency's fee for the applicant based on such anticipated wages or compensation, whether such employment is permanent or temporary, the name and address of the person authorizing the hiring of such applicant, and the cost of transportation if the services are required outside of the city, town or village where such agency is located. If the job is a conditionally fee-paid job, the conditions under which the applicant will be required to pay a fee shall be clearly set forth in a separate agreement in ten-point type signed by the job applicant.

3. A Receipt for Any Fee, Deposit, Consideration, or Payment which such agency receives from such applicant, which shall have printed or written on it the name of the applicant, the name and address of the employment agency, the date and amount of such fee, deposit, consideration or payment or portion thereof for which the receipt is given, the purpose for which it was paid, and the signature of the person receiving such payment. If the applicant for employment has been recruited from outside the state for domestic or household employment the receipt shall have printed on it, or attached to it, a copy of section one hundred eighty-four of this article.

4. The Original or Duplicate-Original Copy of each such contract and receipt shall be retained by every employment agency for three years following the date on which the contract is executed or the payment is made, and shall be made available for inspection by the commissioner or his duly authorized agent or inspector, upon his request. Notwithstanding the other provisions of such contracts, the monetary consideration to be paid by the applicant shall not exceed the fee ceiling provided in subdivision eight of section one hundred eighty-five.

§ 185. Fees

1. Circumstances Permitting Fee. An employment agency shall not charge or accept a fee or other consideration unless in accordance with the terms of a written contract with a job applicant, except (a) for class "A" and "A-1" employment, and except after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer; and (b) for class "C" employment: (i) after an agency has been responsible for referring an artist to an employer or such employer to an artist and where as a result thereof such artist has been employed by such employer; or (ii) after an agency represents an artist in the negotiation or renegotiation of an original or preexisting contract and where as a result thereof the artist enters into a negotiated or renegotiated employment contract. For class "C" employment pursuant to this paragraph, an employment agency shall provide an artist with a statement setting forth in a clear and concise manner that provisions of this section and section one hundred eighty-six of this article. The maximum fees provided for herein for all types of placements or employment may be charged to the job applicant and a similar fee may be charged to the employer provided, however, that with regard to placements in class "B" employment, a fee of up to one and one-half times the fee charged to the job applicant may be charged to the employer. By agreement with an employment agency, the employer may voluntarily assume payment of the job applicant's fee. The fees charged to employers by any licensed person conducting an employment agency for rendering services in connection with, or for providing employment in classes "A", "A-1" and "B", as hereinafter defined in subdivision four of this section where the applicant is not charged a fee shall be determined by agreement between the employer and the employment agency. No fees shall be charged or accepted for the registration of applicants for employees or employment.

2. Size of Fee; Payment Schedule. The gross fee charged to the job applicant and the gross fee charged to the employer each shall not exceed the amounts enumerated in the schedules set forth in this section, for any single employment or engagement, except as hereinabove provided; and such fees shall be subject to the provisions of section one hundred eighty-six of this article. Except as otherwise provided herein, and except for class "C" employment, an employment agency shall not require an applicant while employed in the continental United States, and paid weekly to pay

any fee at a rate greater than in ten equal weekly installments each of which shall be payable at the end of each of the first ten weeks of employment, or if paid less frequently, in five equal installments, each of which shall be payable at the end of the first five pay periods following his employment, or within a period of ten weeks, whichever period is longer. An employer's fee shall be due and payable at the time the applicant begins employment, unless otherwise determined by agreement between the employer and the agency.

3. Deposits, Advance Fees. Notwithstanding any other provisions of this section, an employment agency may not require a deposit or advance fee from any applicant except an applicant for class "A" or class "A1" employment, and only to the extent of the maximum fees hereinafter provided. Such deposit or advance fee shall be offset against any fee charged or accepted when such employment is obtained. Any excess above the lawful fee shall be returned without demand therefor, immediately after the employment agency has been notified that such employment has been obtained; and all of such deposit or advance fee shall be returned immediately upon demand therefor, if at the time of the demand such employment has not been obtained.

4. Types Of Employment. For the purpose of placing a ceiling over the fees charged by persons conducting employment agencies, types of employment shall be classified as follows:

Class "A"--domestic, household employees, unskilled or untrained manual workers and laborers, including agricultural workers;

Class "A1"--non-professional trained or skilled industrial workers or mechanics;

Class "B"--commercial, clerical, executive, administrative and professional employment, all employment outside the continental United States, and all other employment not included in classes "A", "A1", "C" and "D";

Class "C"--theatrical engagements;

Class "D"--nursing engagements as defined in article one hundred thirty-nine of the education law.

5. Fee Ceiling: For a placement in class "A" employment the gross fee, including the deposit if any, shall not exceed, in percentage of the first full month's salary or wages, the following:

• Where no meals or lodging are provided	10%
• Where one meal per working day is provided	12%
• Where two meals per working day are provided	14%
• Where three meals and lodging per working day are provided	18%

Where all parties to the employment agreement understand or agree at the time the employment is entered into that it shall be for a period shorter than one month, the gross fee shall not exceed ten per cent, twelve per cent, fourteen per cent or eighteen per cent respectively of the salary or wages actually paid.

6. Fee Ceiling: For a placement in Class "A1" employment the gross fee shall not exceed one week's wages where all parties to the employment agreement understand or agree at the time the employment is entered into that it shall be for a period for ten weeks or more. Where all parties to the employment contract agree and understand at the time the employment contract is entered into that it shall be for a period shorter than ten weeks, the gross fee shall not exceed ten per cent of the wages or salary actually received.

7. Fee Ceiling: For a placement in Class "B" employment the gross fee shall not exceed, in percentage of the first full month's salary or wages, the following:

Where such first full month's salary or wages is	
• Less than \$ 750	25%
• At least \$ 750 but less than \$ 950	35%
• At least \$ 950 but less than \$ 1150	40%
• At least \$ 1150 but less than \$ 1350	45%
• At least \$ 1350 but less than \$ 1500	50%
• At least \$ 1500 but less than \$ 1650	55%
• At least \$ 1650 or more	60%

Provided however, that where the placement is for employment in which the applicant will be paid on a straight commission basis or on the basis of a drawing account plus commissions, the gross fee shall be based on percentages in the above schedule applied to an amount equivalent to one-twelfth of the estimated first year's earnings, as estimated by the employer.

Where all parties to the employment contract agree and understand at the time the employment contract is entered into that it shall be for a period shorter than four months the gross fee shall not exceed fifty percent of the fee prescribed in the schedule in this subdivision or ten percent of the wages or salary actually received, whichever is less.

8. Fee Ceiling: For a placement in class "C" employment the gross fee shall not exceed, for a single engagement, ten per cent of the compensation payable to the applicant, except that for employment or engagements for orchestras and for employment or engagements in the opera and concert fields such fees shall not exceed twenty per cent of the compensation.

9. Fee Ceiling: For a placement in class "D" employment the gross fee shall not exceed, for a single engagement, the following: (1) For **Private Nursing Duty**, five per cent of the salary or wages received each week through the first ten weeks of that engagement only, and such fee shall be due and payable at the end of each such week;

(2) For **Any Other Nursing Duty**, the amount of the first week's salary or wages unless the first year's computed salary or wages to be derived for at least one year's employment is twenty-five hundred dollars or more, in which event the gross fee shall not exceed, in percentage of such salary or wages, the following:

Where such first year's salary or wages is:

• At least \$ 2500 but less than \$ 3000	2 1/2%
• At least \$ 3000 but less than \$ 3500	3%
• At least \$ 3500 but less than \$ 4000	3 1/2%
• At least \$ 4000 but less than \$ 4500	4%
• At least \$ 4500 but less than \$ 5000	4 1/2%
• \$ 5000 or more	5%

§ 186. Return of Fees

1. Excessive Fee: Any employment agency which collects, receives or retains a fee or other payment contrary to or in excess of the provisions of this article, shall return the fee or the excess portion thereof within seven days after receiving a demand therefor.

2. Failure To Report: If a job applicant accepts employment and thereafter fails to report for work, the gross fee charged to such applicant shall not exceed twenty-five per cent of the maximum fee allowed by section one hundred eighty-five of this article, provided however, if the applicant remains with his same employer, the fee shall not exceed fifty per cent. If a job applicant accepts employment and fails to report for work, no fee shall be charged to the employer.

3. Termination Without Employee's Fault: If a job applicant accepts employment and reports for work, and thereafter such employment is terminated without fault of the employee, the gross fee charged to such employee and to the employer each shall not exceed ten percent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article. However, if such employee is a domestic or household employee recruited from a state outside of this state the fee of the employer shall not exceed thirty-three and one-third percent of the wages or salary actually earned.

4. Termination Under All Other Circumstances: If a job applicant accepts employment and reports for work, and thereafter such employment is terminated under any other circumstances, the gross fee charged to such employee and the employer each shall not exceed fifty per cent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article.

§ 178. Action on Bond

All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited by such licensed person as provided in section one hundred seventy-seven and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. The commissioner may institute a suit against the bond on behalf of any person damaged. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety in the manner provided for service of a summons. A copy of such summons shall be mailed to the last known post office address of the residence of the licensed person and the place where he conducted such employment agency, as shown by the records of the commissioner.

What you need to know when using an employment agency

Know Your Rights!

Before you sign on the dotted line, read DCA's quick tips and refer to the law for important information.

Fees and Refunds

You cannot be charged a fee unless the employment agency places you in a job. You can only be charged an advance fee or deposit if you are seeking the following types of work: domestic worker, household worker, manual worker, agricultural worker, skilled industrial worker, mechanic. The advance fee or deposit must go toward the fee the employment agency charges for placing you in a job.

You could be entitled to a refund. (See Section 186, Return of Fees.) If you do not get a refund, call 311 to file a complaint with DCA.

Contracts and Receipts

You must be given a copy of the signed contract or agreement. You must be given a receipt each time you make a payment or deposit. Keep all copies in a safe place.

Minimum Wage

You must be referred only to jobs that are current and available and pay at least the minimum wage as set by New York State and federal law. Agencies must obtain job openings directly from the businesses seeking to hire employees.



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Ley para Agencias de Empleo de Nueva York

¿Le está solicitando ayuda a una agencia de empleo para encontrar un trabajo?

Ley para las Agencias de Empleo

Extractos del Artículo 11 de la Ley Comercial General

§ 181. Contratos, Recibos

Es el deber de toda agencia de empleo darle a cada solicitante de empleo:

1. Una Copia Fiel de Cada Contrato ejecutado entre dicha agencia y el solicitante, el que deberá tener una declaración impresa o adjuntada a éste estipulando en forma clara y concisa las disposiciones de las secciones ciento ochenta y cinco, y ciento ochenta y seis de este artículo.

2. Información del Nombre y Dirección de la persona a quien el solicitante deberá pedirle tal empleo, el tipo de servicios que se prestarán, el monto anticipado del salario o compensación, el honorario que la agencia le cobrará al solicitante, basándose en el salario o compensación anticipados, si dicho empleo es permanente o temporal, el nombre y dirección de la persona que autoriza la contratación de dicho solicitante, y el costo de transporte si los servicios se requieren fuera de la ciudad, municipalidad o villa en donde esté ubicada dicha agencia. Si el trabajo es uno que requiere el pago de un honorario como condición, las condiciones bajo las cuales el solicitante debe pagar dicho honorario deben estar claramente estipuladas en un acuerdo aparte en tipografía de tamaño diez firmado por el solicitante del trabajo.

3. Un recibo por cualquier honorario, depósito, consideración o pago que dicha agencia reciba del solicitante, el que debe tener impreso o escrito el nombre del solicitante, el nombre y dirección de la agencia de empleo, la fecha y el monto de dicho honorario, depósito, consideración o pago, o parte del mismo, por el cual se extiende el recibo, el propósito por el cual se pagó, y la firma de la persona que recibe dicha pago. Si el solicitante de empleo ha sido reclutado de un lugar fuera del estado para empleo doméstico o en un hogar, el recibo deberá tener impreso en éste, o adjunto, una copia de la sección ciento ochenta y cuatro de este artículo.

4. La copia original o duplicado original de cada contrato y recibo deberá ser retido por toda agencia de empleo durante tres años, a contar de la fecha en que se ejecutó el contrato o se haya hecho el pago, y deberá tenerse disponible para ser inspeccionada por el comisionado o su agente o inspector autorizado, a solicitud de éste. No obstante las otras disposiciones de dichos contratos, la consideración monetaria que será pagada por el solicitante no deberá exceder el tope de honorarios que se estipula en la subsección ocho de la sección ciento ochenta y cinco.

§ 185. Honorarios

1. Honorario Según lo Permitan las Circunstancias.

Una agencia de empleo no deberá cobrar o aceptar un honorario, o alguna otra consideración, a menos que esté de acuerdo con los términos de un contrato escrito con el solicitante de trabajo, excepto para (a) los empleos clase "A" y "A-1", y excepto cuando dicha agencia haya sido responsable de haber referido al solicitante de trabajo a un empleador o un empleador a dicho solicitante de trabajo y cuando, como resultado de lo mismo, el solicitante de trabajo haya sido empleado por dicho empleador; y (b) para los empleos clase "C": (i) después de que una agencia ha sido responsable de referir a un artista a un empleador o un empleador a dicho artista y que, como consecuencia del mismo, tal artista ha sido empleado por dicho empleador; o (ii) después de que una agencia representa a un artista en la negociación o renegociación de un contrato original o preexistente y donde como resultado de ello el artista entra en un contrato de trabajo negociado o renegociado. Para los empleos clase "C" de conformidad con este párrafo, una agencia de empleo deberá proporcionarle a un artista con una declaración que establezca de manera clara y concisa que las disposiciones de esta sección y de la sección ciento ochenta y seis de este artículo. Los honorarios máximos que se estipulan aquí para todos los tipos de colocaciones o empleos pueden cobrárselas al solicitante de trabajo y un honorario similar puede cobrárselle al empleador siempre que, no obstante, en cuanto a las colocaciones en los tipos de empleo de la clase "B", un honorario de hasta uno y un medio veces el honorario cobrado al solicitante puede cobrárselle al empleador. Por acuerdo con la agencia de empleo, el empleador puede voluntariamente asumir el pago del honorario del solicitante de trabajo. Los honorarios que cualquier persona licenciada que maneje una agencia de empleos le cobre a un empleador para prestar servicios relacionados con, o para ofrecer empleos en las clases "A", "A-1" y "B", tales como de aquí en adelante se definen en la subsección cuatro de esta sección en donde al solicitante no se le cobra un honorario, deberá ser determinado por un acuerdo entre el empleador y la agencia de empleo. No se deberá cobrar o aceptar ningún honorario por la inscripción de solicitantes para empleo o empleados.

2. Monto del Honorario; Programa de Pago.

El monto bruto que se le cobre al solicitante y el monto bruto que se le cobre al empleador no deberán exceder los montos enumerados en los programas estipulados en esta sección, por ningún empleo o contrato único, excepto como se estipula arriba; y dichos honorarios estarán sujetos a las disposiciones de la sección ciento ochenta y seis de este artículo. A menos que se disponga lo contrario en éste, y con excepción de empleos clase "C," una agencia de empleo no deberá requerir que un solicitante mientras esté empleado en Estados Unidos continental y se le pague semanalmente,

Las agencias de empleo de la ciudad de Nueva York deben tener licencia del Departamento de Asuntos de Consumidores (DCA) y deben cumplir con la ley. *Busque la licencia del Departamento de Asuntos de Consumidores de la Agencia.*

Lo que necesita saber cuando usa una agencia de empleos

¡Sepa cuáles son sus derechos!

Antes de firmar en la línea punteada, lea los consejos rápidos del DCA y consulte la ley para obtener información importante.

Honorarios y Devoluciones

A usted no se le puede cobrar un honorario a menos que la agencia de empleo le lo coloque en un empleo. A usted sólo se le puede pedir un depósito u honorario anticipado si usted está solicitando los siguientes tipos de trabajos: empleado doméstico, empleado de casa, jornalero, trabajador agrícola, trabajador industrial capacitado, mecánico. El depósito u honorario anticipado debe abonarse al honorario que cobra la agencia de empleo por colocarlo en un trabajo.

Usted podría tener derecho a un reembolso. (Vea la Sección 186, Devolución de Honorarios.) Si usted no obtiene un reembolso, llame al 311 para presentar una queja ante el DCA.

Contratos y Recibos

A usted se le debe dar una copia del contrato o acuerdo firmado. A usted se le debe dar un recibo cada vez que haga un pago o un depósito. Guarde todas las copias en un lugar seguro.

Sueldo mínimo:

A usted lo deben enviar solamente a trabajos que están disponibles y abiertos y que pagan al menos el sueldo mínimo, tal como lo establece el estado de Nueva York y la ley federal. Las agencias deben obtener los trabajos que están disponibles directamente de las empresas que están buscando contratar empleados.



Para más información o para presentar una queja, llame al 311 o visite la página de DCA en línea en www.nyc.gov/consumers.

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