

New York Governor Vetoes Legislation Barring Non-Competes

December 27, 2023

On Friday, December 22, 2023, New York Governor Kathy Hochul vetoed a bill that would have barred virtually all post-employment non-compete agreements in New York state. The bill passed both houses of the legislature this summer and has been the subject of intense negotiation since then. You can read our summary of the bill [here](#).

One key issue with the legislation was its failure to allow for non-competes in connection with the sale of a business. Virtually all other states that have restricted the use of non-competes nonetheless allow them if they are executed as part of a sale of a business. New York's legislation, however, did not contain such a carve out.

The bill's lack of a compensation threshold was another key obstacle. Many other states that have imposed limits on non-competes in recent years have barred non-competes entirely with employees who make less than a designated annual compensation threshold and imposed notice requirements or other limitations on non-competes with employees who make more than the compensation threshold. New York's bill did not include any compensation threshold and would have barred non-competes with even the most highly compensated employees.

Governor Hochul previously expressed support for legislation that would have barred non-competes for all but highly compensated employees. Reports have indicated that negotiators for the legislature and the governor's office considered a number of different options, including an offer by the legislature to exclude from the non-compete ban employees whose annual base salaries exceed \$300,000, but the negotiators failed to agree on a compensation threshold or on how any threshold should be calculated. This impasse apparently led to the governor's veto of the bill.

Since the legislation passed with strong majorities in both the New York State Senate and Assembly, similar legislation may be addressed in the coming legislative session.

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