

LITIGATION INFORMATION MEMO

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A Ban No More? Gov. Hochul Vetoes Noncompete Bill

On Dec. 23, 2023, Gov. Kathy Hochul vetoed Senate Bill S3100, blocking the Legislature's attempt to ban noncompete agreements across the state. The proposed legislation sought to add a new section to the New York Labor Law banning essentially all noncompete agreements throughout New York. The proposed legislation seemingly had no exceptions, including the almost uniformly accepted exception for situations involving the sale of a business. The sweeping language of the proposed legislation also raised concerns that other types of agreements, including broad nonsolicitation agreements and nondisclosure agreements, could be banned as well. These concerns, among others, drew harsh criticism from the business lobby and employers throughout the state.

Senate Bill S3100 passed the New York State Senate on June 7, 2023, and passed the New York State Assembly on June 20, 2023. However, the proposed legislation was not delivered to the governor's office until Dec. 12, 2023. During this delay, lobbyists pushed hard for the governor to either veto the proposed legislation or amend it. Following delivery, the governor's office sought to accomplish the latter, attempting to negotiate a salary threshold that would allow employers to enter into noncompete agreements with employees making over a set yearly income. However, Gov. Hochul and the Legislature could not agree on an acceptable salary threshold, resulting in the governor vetoing the proposed legislation on the last day of the legislative session.

Noncompete agreements remain permissible in New York State, so long as they are reasonable in scope and no broader than necessary to protect a legitimate interest recognized by law (e.g., protection of confidential and/or trade secret information and customer relationships and goodwill). The Legislature will need to go back to the drawing board should it wish to ban noncompete agreements in the new legislative session and will likely need to narrow the scope of the ban should it expect Gov. Hochul to sign it. Bond will be closely monitoring this situation and will provide updates on any proposed noncompete bans in the new year, including with respect to the Federal Trade Commission's proposed rule seeking to ban certain noncompetes nationwide.

For any questions about this issue, please feel free to contact [Bradley A. Hoppe](#), [Kevin G. Cope](#), any attorney in Bond's [litigation](#) or [labor and employment](#) practices or the attorney at the firm with whom you are regularly in contact.

