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**Client Alert** | November 17, 2026

# Preparing for New York's Trapped at Work Act: Upcoming December 19 Effective Date and New NYSDOL Guidance

As discussed in our March 3, 2026 Client Alert, New York's Trapped at Work Act, as amended by Assembly Bill A9452 (the "Act"), restricts "stay-or-pay" provisions that require employees or prospective employees to repay employers when the employment relationship ends before a specified period. New York's Trapped at Work Act will become effective on December 19, 2026. With that date approaching, the New York State Department of Labor (NYSDOL) has published guidance that helps clarify some of the questions employers may have had since Governor Hochul signed the bill into law.

## The Trapped at Work Act

As a reminder, New York's Trapped at Work Act prohibits employers from requiring "employment promissory notes" as a condition of employment. Under the Act, an employment promissory note is any provision that requires an employee to make a payment back to their former employer if the employee's employment terminates before the completion of a stated period. Requiring an employee to sign such a provision as a condition of employment is considered unconscionable, against public policy and unenforceable, and any such provision is deemed null and void. Notably, if the repayment provision is part of a larger agreement, such as an offer letter or employment agreement, only that provision is invalidated, and the invalidity of that provision does not affect the agreement's other provisions.

Assembly Bill A9452 delayed the effective date, narrowed the law's coverage from "workers" to "employees" and revised the statutory exceptions, which now cover certain bonus and relocation repayment agreements, tuition reimbursement for a "transferable credential," voluntary property sales or leases, sabbatical leave obligations and programs agreed to with a collective bargaining representative.

## What the NYSDOL Guidance Clarifies

### Broad Coverage

The Act applies to all private and public sector employers in New York, regardless of industry. It covers all employees, including part-time and seasonal employees, regardless of earning capacity.

### No Writing Required

The guidance states that there is no express requirement that an employment promissory note be in writing. Employers should not assume that informal or oral repayment arrangements fall outside the law, assuming they would otherwise be enforceable.

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### "Condition of Employment"

The prohibition on requiring an employment promissory note applies where accepting or keeping a job depends on signing the employment promissory note. An agreement that is truly voluntary and separate from employment—meaning the employee could start or continue working without agreeing to it—is not deemed a condition of employment and is not barred.

### Arrangements Not Within the Act's Scope

The guidance confirms that the Act does not apply to arrangements that are not between an employer and an employee or prospective employee, such as a loan forgiveness program that is between a lender and a borrower even if the loan forgiveness program depends on maintaining employment. It also does not apply to agreements that are expressly allowed or required by statute or common law, such as lawful wage advances under New York Labor Law § 193 and its implementing regulations, or lawful advance payments under New York Insurance Law § 4228.

### The Statutory Exceptions

The guidance describes in further detail each of the five types of agreements that are not prohibited and expressly permitted under the Act:

1. *Tuition and education reimbursement agreements*: An employer may recover tuition, fees, and required educational materials for a "transferable credential" that meets the following requirements: (i) the agreement is a written contract offered separately from any employment contract; (ii) obtaining the credential is not a condition of employment; (iii) the repayment amount is specified before the employee agrees and does not exceed the employer's cost; (iv) repayment is prorated over the required employment period, with no accelerated payment on separation; and (v) no repayment is required where the employee is terminated, unless the termination is for misconduct. A "transferable credential" is one that is widely recognized by employers in the relevant industry as a qualification for employment or that demonstrably enhances the employee's employability with other employers; it excludes employer-specific training and mandated safety or compliance training. Exam and licensing fees qualify as "tuition, fees, and required educational materials" if they are part of obtaining the transferable credential.

2. *Property-related agreements*: An employer may recover under agreements for property sold or leased to the employee, provided the purchase or lease was voluntary.

3. *Agreements to repay bonuses, relocation assistance and similar incentives*: An employer may recover for financial bonuses (such as sign-on bonuses), relocation assistance and other non-educational incentives, payments or benefits that are not tied to specific job performance where the employer requires repayment if the employee leaves before a specified date, unless the employer terminates the employee for any reason other than misconduct or the duties or requirements of the job were misrepresented to the employee.

4. *Sabbatical leave agreements*: An employer may recover payments as part of an agreement with educational personnel requiring compliance with sabbatical terms.

5. *Collective bargaining agreements*: An employer may recover for agreements entered into as part of a bargained for program, agreed to by the employer and its employees' collective bargaining representative.

Importantly, as the Act speaks of "repayment," an employer may recover only amounts it has actually paid.

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### "Terminated" and "Misconduct"

For purposes of the exceptions, the guidance explains that "employee is [or was] terminated" means that the *employer* initiated the end of the employment relationship, so an employee's voluntarily leaving employment is not a termination. The guidance defines "misconduct" as behavior that is detrimental to the employer's interests or in violation of a reasonable work condition, and states that this includes what an employer's written policy may define as "for cause."

### Examples

The guidance provides several examples to demonstrate the Act's application related to agreements for non-education incentives. For example, the guidance provides that an agreement can require repayment to the employer if the employee accepts a signing bonus and then resigns before an agreed-upon date because—in this circumstance—the employer did not terminate the relationship. By contrast, the guidance provides that repayment may not be required if the employer eliminates the employee's position before the agreed-upon date, or if the employee resigns because the employer misled the employee about the job's requirements.

As another illustrative example, the guidance provides that if an employer offers the employee the option to receive an up-front payment that is contingent on meeting specified performance targets, with the option to defer the contingent payment until after meeting such performance targets, then the agreement can require repayment to the employer because accepting the up-front payment was not a condition of employment.

### Effective Date and Existing Agreements

In our March alert, we noted that the Act, as amended, did not address whether the law would apply retroactively or whether NYSDOL would enforce it for agreements signed before the effective date. The guidance now makes clear that the Act, which takes effect on December 19, 2026, will apply to new agreements, and to new or amended terms to existing agreements, entered into on or after that date.

Employers should thus keep in mind that renewing, extending or amending an existing agreement on or after December 19, 2026 may bring the new or amended terms within the scope of the Act.

### Enforcement

As noted in our March alert, the Act does not create an express private right of action. The NYSDOL enforces the law, and violations may result in fines between $1,000 and $5,000 per violation. According to the guidance, the NYSDOL will consider the employer's size, the employer's good-faith belief that it was in compliance, the gravity of the violation and any prior violations in determining the amount of the fines to be assessed. NYSDOL will determine whether an agreement, or a particular portion thereof, is null and void when it evaluates a complaint; a court would make that determination in a lawsuit. If an employer sues an employee to enforce an agreement that the Act renders void, the employee can recover attorneys' fees upon a successful defense of the action.

## Next Steps for New York Employers

Following up on the steps we outlined in March, and with the effective date weeks away, New York employers should consider reviewing template employment agreements, offer letters, bonus agreements, training and tuition reimbursement programs, handbook policies and other related agreements and policies for repayment obligations tied to a specified period of continuing employment.

Employers should determine whether any revisions must be made in light of the new law and whether to consider other potential changes, such as how a termination of employment "for cause" is defined. For existing agreements,

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employers may want to calendar upcoming renewals, extensions and amendments of agreements that will be entered into on or after December 19, 2026 with new or amended terms.

## Key Contacts

Our Labor & Employment Law team is available to assist employers in preparing for and maintaining compliance with the New York Trapped at Work Act, as well as responding to related complaints and investigations, in addition to any other employment law issues.

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