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NEW YORK LEGISLATURE APPROVES "NO SEVERANCE ULTIMATUMS ACT" THAT COULD SOON IMPOSE NEW WORKPLACE RESTRICTIONS

Insights
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New York Legislature Approves "No Severance Ultimatums Act" That Could Soon Impose New Workplace Restrictions

A bill that would give terminated employees in New York more time to review severance agreements and limit employers' ability to pressure employees into quickly signing such agreements just passed both houses of the New York Legislature. After failing to advance last year, the No Severance Ultimatums Act how heads to Governor Hochul's desk after passing both houses on June 1. If she signs it, the law would take effect immediately, potentially requiring employers to revise their severance practices on very short notice. As employers await Governor Hochul's decision, here are the bill's key provisions and practical steps employers may wish to consider now.

What Would the Bill Require?

If enacted, the bill would apply to separation agreements that require employees to release legal claims against their employer. Employers offering current or former employees severance agreements would be required to inform them of:

- **Their right to speak with an attorney** before signing;
- **A minimum 21-calendar-day period** to consider the agreement;

Related People

Amanda M. Blair
Associate

212.899.9989

Melissa Camire
Partner

212.899.9965

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- **A seven-calendar day period to revoke the agreement** after signing; and
- **The fact that the agreement will not become effective or enforceable** until the seven-day revocation period ends.

The bill would still let an employee sign before the 21-day review period ends, but the employee's choice to sign early must be voluntary. Employers could not induce an employee to sign early through fraud, misrepresentation, threats, or by offering more favorable terms in exchange for a faster signature.

How Is This Different From Current Practice?

Many employers already need to comply with review and revocation periods for employees age 40 and older under the federal Older Workers Benefit Protection Act (OWBPA) in order to have a valid release of age discrimination claims. New York also has special rules for some agreements involving discrimination, harassment, or retaliation claims and confidentiality terms.

This bill would significantly expand those protections. It would apply more broadly to New York severance agreements, regardless of the employee's age and regardless of whether the agreement involves discrimination-related claims.

For employees age 40 and older, employers may need to satisfy both OWBPA and the new New York rules if the bill becomes law. Employers should ensure that their agreements and related notices are structured to satisfy both the OWBPA and any new New York requirements.

Why Employers Should Prepare Now

The stakes for noncompliance are high. Under the proposed legislation, any severance agreement that fails to satisfy the statute's requirements would be deemed void and unenforceable, invalidating not only the agreement itself but also the employee's release of claims – which is the primary benefit employers seek in exchange for severance pay. This means an employer could pay severance only to discover that the employee's release of claims is ineffective.

The biggest issue is timing. If Governor Hochul signs the bill, it would take effect immediately. Employers may not get a grace period.

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Employers may also face immediate implementation questions if the bill is signed.

- For example, what happens to agreements that were already sent but not yet signed?
- What about agreements signed shortly before the law takes effect but still within what would have been a revocation period?

Because the bill does not address these transition issues, employers should carefully evaluate any New York severance agreements issued while the bill remains pending and be prepared to reissue revised agreements, extend deadlines, or pause final processing until they confirm compliance.

The bill also includes language for agreements negotiated under a collective bargaining agreement. Employers should not assume that all union-related severance agreements are exempt from the law. To qualify for the exemption, the agreement would need to specifically acknowledge the statute and be negotiated under a CBA.

4 Steps Employers Can Take Now

With the possibility of an immediate effective date, employers should monitor developments closely and be prepared to act quickly if Governor Hochul signs the bill. New York employers should consider these steps:

1. Prepare updated New York-ready severance templates. Employers should have updated New York templates ready to deploy if the bill is signed. Those templates should include the right-to-attorney notice, 21-calendar-day review period, seven-calendar-day revocation period, and clear effective-date language.

2. Align severance payment timelines with the revocation period. The agreement, payroll instructions, and employee communications should account for the full seven-day revocation period. Employers should avoid promising payment immediately after the employee signs the agreement if the payment will not be processed until the revocation period has expired, and ensure payroll, benefits, and offboarding teams are working from the same timeline.

3. Train managers and HR teams. Employers should pay close attention to how severance agreements are presented

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to employees. Update any scripts, emails, and talking points, and train management staff and HR to ensure severance offers are presented appropriately. Avoid language that could be viewed as pressuring the employee to sign the agreement or sign before the full review period expires.

4. Create a plan for agreements already in motion. As noted above, the bill does not address transition issues. Employers should identify upcoming New York separations now and decide in advance how they will handle agreements that have been sent, are under review, or are close to execution if the bill is signed.

Conclusion

We will continue to track developments on the No Severance Ultimatums Act and other New York employment law developments, so make sure that you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information direct to your inbox. If you have compliance questions, consult with your Fisher Phillips attorney, the author of this Insight, or any attorney in our New York City office to assess and minimize potential risks.

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