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D.C.'s Ban on Non-Compete Law Again Postponed

*By John P. Barry, Celine Chan, and Rebecca Sivitz**

Back on December 17, 2020, the Council of the District of Columbia passed the Ban on Non-Compete Agreements Amendment Act of 2020 (“the Act”). As written, the Act was scheduled to become the country’s most aggressive attack yet on non-compete agreements, as it not only barred virtually all forms of post-employment non-competes, but it also prohibited “conflict of interest” or “anti-moonlighting” clauses or policies that proscribed employees from simultaneously working for competitors.

In the fall of 2021, the Act’s effective date was extended to April 1, 2022. Yesterday, the Council announced that the Act’s effective date has again been extended – this time until October 1, 2022.

Over the next several months, the Council will reconsider the Act’s terms, which have been widely called into question. By way of reminder, if passed in its current form, the Act would have far-reaching implications for companies doing business in D.C., including the following:

- With the exception of babysitters and certain medical professionals, all non-compete agreements entered into after the Act’s effective date for employees working in or “reasonably anticipated to perform services in” the District of Columbia would be void and unenforceable.
- Anti-moonlighting or conflict of interest clauses in employment agreements or company policies would be void. These types of provisions are fairly typical in contracts, company handbooks and codes of conduct as they merely prohibit simultaneous employment with or work for competitors.
- A civil right of action and administrative complaint procedure for bringing complaints for violations of the Act.
- Administrative financial penalties that escalate for violations of the Act.

We will continue to monitor legal developments in D.C. for further updates.

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