

Employment

October 31, 2025

California Employers Must Imminently Revisit Their Approach to Signing Bonuses, Relocation Agreements, and Comparable Arrangements

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As a result of a new law effective January 1, 2026, California employers will be required to revisit their approach to agreements in which workers are required to repay relocation or signing bonuses, relocation expenses, visa/immigration costs, training or educational costs, or other retention incentives if the worker leaves before a set time.

Unless a limited exception applies, California employers may no longer require workers to sign an employment contract or a contract required as a condition of employment or a work relationship that (i) requires the worker to pay an employer for (or authorizes the collection of) money, personal property, or their equivalent if the worker's employment or relationship terminates, or (ii) imposes any penalty, fee, or cost on a worker if the worker's employment or relationship terminates. The new law applies to contracts entered into on or after January 1, 2026, *not before*. The law adds provisions to both the California Business and Professions Code and Labor Code.

The new law leaves open questions like what specifically constitutes an "employment contract" or a contract required "as a condition of employment" subject to the restrictions. For instance, the law does not specifically address whether and to what extent equity-incentive, loan/advance, or other clawback agreements are covered, although a broad read suggests they would be impacted. California employers should examine and consider their bonus structures, equity programs, and long-term incentive plans in light of the new law.

As for the limited exceptions, covered contracts requiring a worker to repay "a discretionary or unearned monetary payment, including a financial bonus, at the outset of employment that is not tied to specific job performance" – which is widely interpreted to encompass a sign-on bonus – are allowed only if all the following conditions are met:

- The terms of any repayment obligation are set forth in an agreement separate from the primary employment contract.
- The worker is notified they have the right to consult an attorney and is provided at least five business days to do so.
- The repayment obligation is not subject to interest and is prorated based on the remaining term of the retention period, which cannot exceed two years from receipt of payment (in other words, for each month of employment, the repayment obligation is correspondently reduced).
- The worker can defer receipt of payment to the end of the retention period without repayment obligations.
- Separation prior to the retention period was at the worker's sole election or at the employer's election for misconduct.

Notably, this exception raises an open question as to whether contracts requiring the repayment of a retention bonus entered after "the outset of employment" are still allowed if they are not required as a condition of employment or a quintessential employment contract.

Covered contracts that require a worker to repay tuition for a “transferable credential” (a degree that is offered by an accredited third-party institution that is transferable and useful beyond the current job) are also allowed but only if the contract meets all the following requirements:

- The contract is offered separately from any employment contract.
- The contract does not require the worker to obtain the transferable credential as a condition of employment.
- The contract specifies the repayment amount before the worker agrees, and the repayment amount does not exceed the cost to the employer.
- The contract provides for a prorated repayment amount during any required employment period that is proportional to the total repayment amount and the length of the required employment period and does not require an accelerated payment schedule if the worker separates from employment (in other words, for each month of employment, the repayment obligation is correspondently reduced).
- The worker is not required to repay the funds if the worker is terminated, except if for misconduct.

Additionally, contracts related to (i) certain government loan programs, (ii) approved apprenticeship programs, or (iii) the lease, financing, or purchase of residential property, are also permissible.

Aside from the enumerated exceptions, an employment contract or contract required as a condition of employment is void as contrary to public policy if it requires a California worker to pay an employer for money, personal property, or their equivalent if the worker’s employment or relationship terminates.

Employers that violate the law face liability for actual damages or \$5,000 per worker, whichever is greater, in addition to injunctive relief and attorneys’ fees and costs. Workers have a private right of action, and class actions on behalf of other “similarly situated” workers are permitted.

Similarly, in New York, there is a bill pending that is expected to be presented to the governor by year-end. If signed into law, the New York “Trapped at Work Act” would prohibit a contract provision, as a condition of employment, that requires the employee to reimburse his or her employer for training if the employee leaves the job before a stated time. Unlike the broad California law, the proposed New York law does not generally prohibit all repayment agreements if an employee leaves before a specified time but rather focuses on training reimbursement.

Lowenstein Sandler’s Executive Compensation, Employment & Benefits Group is readily available to assist employers with questions or contracts concerning employee repayment obligations.

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