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Contact: Eric Friedman  
[efriedman@nycbar.org](mailto:efriedman@nycbar.org)

Eli Cohen  
[ecohen@nycbar.org](mailto:ecohen@nycbar.org)

**City Bar Urges Governor Hochul to Veto  
Total Ban on Non-Compete Agreements  
or Require Chapter Amendments for a Partial Ban**

New York, July 27, 2023 – The New York City Bar Association has urged Governor Hochul [in a letter](#) to veto or require substantial amendments to A1278B/S3100A, which would enact a total ban on non-competition agreements in New York State. According to the letter, “The Bill as passed goes far beyond the goals that [the Governor] set for this legislation...and de-values hundreds of businesses in New York, large and small.”

The Governor has “advocated restrictions on non-compete agreements for workers earning less than the median wage in New York State. This view has widespread support in industry, the public and the bar; but the complete ban found in the Bill has no such support,” the letter says. It describes the ways in which some non-compete agreements benefit business without harming low- and median-wage workers and examines the ways in which other states have designed non-compete bans around this distinction.

For example, “the entry into non-competition covenants by executives and other key employees is often critical to the success of a business,” the letter says. A non-compete agreement can serve to “protect goodwill and to enable the buyer to actually acquire the goodwill of the business, something that many regard as occurring over time,” according to the letter.

Governor Hochul’s original plan, according to the report, is fully consistent with the approach of “eleven states [that] have imposed wage thresholds or related compensation criteria to limit the use of non-competes with low-wage workers.”

The letter urges Governor Hochul to veto the bill as passed pending further study and consideration of statutes enacted in other jurisdictions. As an alternative the letter suggests that the Governor require the following chapter amendments:

- Restrict the noncompete ban to low-wage workers

- Clearly carve out sale of business transactions
- Clearly carve out high wage earners, key employees, executives and those governed by the employee choice doctrine
- Clarify the carve-out for customer nonsolicitation agreements, and better define the carve-out to make it consistent with law and the protection of goodwill
- Clarify the definition of “covered individual” as used in the bill

The City Bar writes: “We support the Bill’s central purpose of protecting low wage workers — but there is no reason why the Bill should also include provisions that radically undercut a key aspect of the economy and the value of businesses built through years of effort.”

The full letter can be found here: <https://bitly.co/K0Ag>

**About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world. [www.nycbar.org](http://www.nycbar.org)*