

LOCAL LAW NO. “K” FOR 2024

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK CREATING CHAPTER 202 OF THE ALBANY COUNTY CODE, PROHIBITING THE USE OF EMPLOYMENT PROMISSORY NOTES AND OTHER SIMILAR PROVISIONS

Introduced: 7/8/24
By McLean Lane:

A Local Law creating Chapter 202 of the Albany County Code, entitled **Labor**, and Article 1 of such Chapter, entitled **Employment Promissory Notes**, to prohibit the use of employment promissory notes and other similar provisions in Albany County.

BE IT ENACTED by the Albany County Legislature as follows:

Section 1. Chapter Creation.

Chapter 202, **Labor** is hereby created.

Chapter 202, Article I, **Employment Promissory Notes**, is hereby created.

Section 2. § 202-1, Title.

This Local Law shall be known as the “Albany County Trapped at Work Law.”

Section 3. § 202-2, Legislative Intent.

Workers’ ability to change jobs freely is critical to their economic liberty as well as to creating a thriving and innovative economy in the County of Albany.

A key tenet of worker protections and empowerment is that the cost of any training required by an employer to perform a job should be borne by the employer who ultimately stands to financially benefit from a well-trained workforce.

Employment provisions that indebt workers to their former employers upon separation for the cost of training reduce those workers’ professional mobility, create obstacles toward financial security, and stifle the County economy.

Therefore, this legislature finds it necessary to prohibit the use of employment promissory notes and other similar provisions to protect workers in Albany County from employment-based debts by ensuring that employers bear the expenses for training they require for their workers.

Section 4. § 202-3, Definitions.

1. “Employer” means any individual, partnership, association, corporation, limited liability company, trust, government or government subdivision, or organized group that hires or contracts with a worker to work for the employer.
 - (a) “Employer” includes any subsidiary of an employer and any individual, partnership, association, corporation, limited liability company, trust, government or government subdivision, or organized group associated with an employer that provides training to workers.
2. “Worker” means any individual who is permitted to work for or on behalf of an employer.
 - (a) “Worker” includes any employee, independent contractor, extern, intern, volunteer, apprentice, sole proprietor who provides a service or services to an employer or to a client or customer of an employer on behalf of such employer, or individual who provides service through a business or nonprofit entity or association.
 - (b) “Worker” shall not include an individual whose sole relationship with an employer is as a vendor of goods, even if the individual performs incidental service for the employer.
3. “Employment promissory note” means any instrument, agreement, or contract provision that requires a worker to pay the employer, or their agent or assignee, a sum of money if the worker leaves such employment before the passage of a stated period of time.
 - (a) “Employment promissory note” includes any such instrument, agreement, or contract provision which states such payment of moneys constitutes reimbursement or training provided to the worker by the employer or a third party.
 - (b) “Employment promissory note” does not include training necessary to legally practice the profession at issue or training undertaken by the worker and not mandated by the employer.

Section 5. § 202-4, Scope.

1. This article supersedes common law only to the extent that it applies to an employment promissory note but otherwise does not affect principles of law and equity consistent with this article.

2. The rights and remedies provided pursuant to this article shall be in addition to, and shall not supersede, any other rights and remedies provided by statute or common law.

Section 6. § 202-4, Prohibiting the Use of Employment Promissory Notes.

1. No employer may require, as a condition of employment, any worker or prospective worker to execute an employment promissory note. The execution of an employment promissory note as a condition of employment is against public policy and any such note shall be void. If any such note is part of a larger agreement, the invalidity of such note shall not affect the other provisions of such agreement.
2. Nothing in this section shall prohibit or render void or unenforceable any agreement between a worker and an employer that:
 - (a) requires the worker to repay the employer any sums advanced to such worker by the employer, unless such sums were used to pay for training related to the worker's employment with the employer;
 - (b) requires the worker to pay the employer for any property it has sold or leased to such worker;
 - (c) requires educational personnel to comply with any terms or conditions of sabbatical leaves granted by their employers; or
 - (d) is entered into as part of a program agreed to by the employer and its workers' collective bargaining representative.

Section 7. § 202-5, Enforcement and Penalties.

1. Any employer found to have violated this article shall be fined not less than \$1,000 and not more than \$5,000 for each violation. Each worker or prospective worker whom an employer required to execute an employment promissory note or against whom an employer seeks to enforce such a note shall constitute a separate violation of this article.
2. Any worker or prospective worker for whom an employer requires execution of an employment promissory note as a condition of employment or against whom an employer seeks to enforce such a note may bring an action against such employer to recover actual damages or \$5,000, whichever is greater, and injunctive relief. In the event of a successful action, the court shall award any plaintiff reasonable costs and attorney fees.

Section 8. Severability.

If any clause, sentence, paragraph, section, subdivision, or other part of this local law or its application shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder of the local law which shall remain in full force and effect except as limited by such order or judgment.

Section 9. SEQRA Compliance.

This County Legislature determines that this local law constitutes a “Type II action” pursuant to the provisions of the State Environmental Quality Review Act (SEQRA), and that no further action under SEQRA is required.

Section 10. Effective Date.

This local law shall take effect immediately following its filing with the Office of the Secretary of State.