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December 27, 2023

December Tip of the Month: New York Limits the Scope of Enforceable Employee Invention Assignment Agreements



On September 15, 2023, New York Governor Kathy Hochul signed into law Senate Bill 5640, which adds Section 203-f to the New York Labor Law. Section 203-f creates statutory limitations on an employer's use of invention assignment provisions.

Specifically, the new law invalidates employment agreement provisions that require employees to assign their rights to inventions that they developed "entirely on [their] own time without using the employer's equipment, supplies, facilities, or trade secret information." However, the new law does not apply to inventions developed by employees that (1) relate to the "employer's business, or actual or demonstrably anticipated research or development of the employer" or (2) "result from any work performed by the employee for the employer." Employers should promptly review their employment agreements and policies to ensure that their invention assignment provisions comply with the law's new limitations and remain enforceable.

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