

Community Trends



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June 2024



LEGISLATIVE UPDATE

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In this update, I wanted to ensure that CAI-NJ's property management community is aware of two issues that will impact it directly. First, on April 23, 2024, the Federal Trade Commission issued a rule that bans all new "non-compete" agreements between an employer and an employee as of the rule's effective date which is September 4, 2024. The rule defines a non-compete agreement as a term or condition of employment that prohibits a worker from: (1) seeking employment within the United States with a different employer upon the conclusion of the current employment; or (2) from operating a competing business upon the conclusion of the current employment.

The rule further provides that as of September 4, 2024, any existing non-competes are invalid, except for those between the employer and a "senior executive." To be classified as a senior executive, the employee must earn at least \$151,164 and be in a "policy-making position." A "policy-making position" is defined as a president, CEO, or other officer of the employer that has authority to make company policy.

Essentially, the rule declares that it is illegal, unfair competition to enter into or attempt to enter a non-compete, to enforce or attempt to enforce a non-compete, or to represent that the employee is subject to a non-compete.

In addition, as of September 4, 2024, you must notify any employee who was previously subject to the non-compete clause that the employer is no longer subject to same

in writing sent via hand delivery, mail, email, or text message. The language for the required notice is set forth in the rule.

The only exception to the rule is for non-competes entered into in connection with the sale of a business.

Accordingly, while the rule is sure to be subject to a number of court challenges, employers who rely on non-compete agreements should take care to closely monitor same.

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Also, you should take care to comply with N.J.A.C. 13:8-1.3. This rule, among other things, mandates that all persons engaged in the management of residential real property, including rentals, condos, and co-ops, must display the official New Jersey Division of Civil Rights discrimination in housing poster in places easily visible to all residents. In addition, a copy of the poster must be provided to all residents annually, and upon the request of a resident. ■