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# California AB 692

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**Seyfarth Shaw LLP**

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# Speakers

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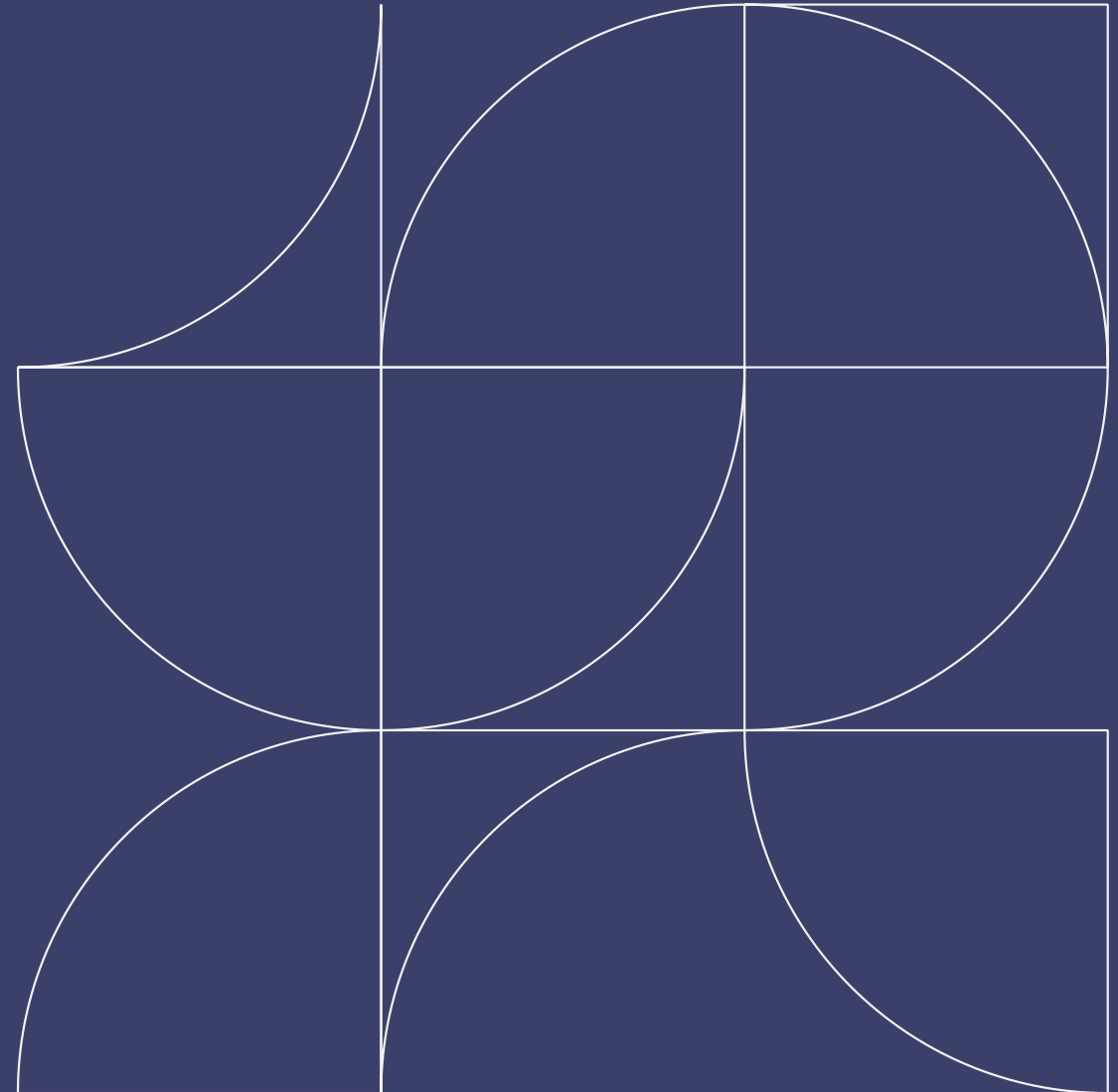
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# Agenda

- 1 | Key Highlights & Terms of AB 692 – California’s Prohibition on Stay or Pay Agreements
- 2 | Legislative History Insights
- 3 | AB 692 - Certain “Stay or Pay” Employment Contract Exceptions
- 4 | Applicability of AB 692 to Common Employer Agreements
- 5 | Enforcement & Penalties
- 6 | Similar Laws Outside of CA
- 7 | Employer Action Items

# Key Highlights & Terms of AB 692 – California's Prohibition on Stay or Pay Agreements



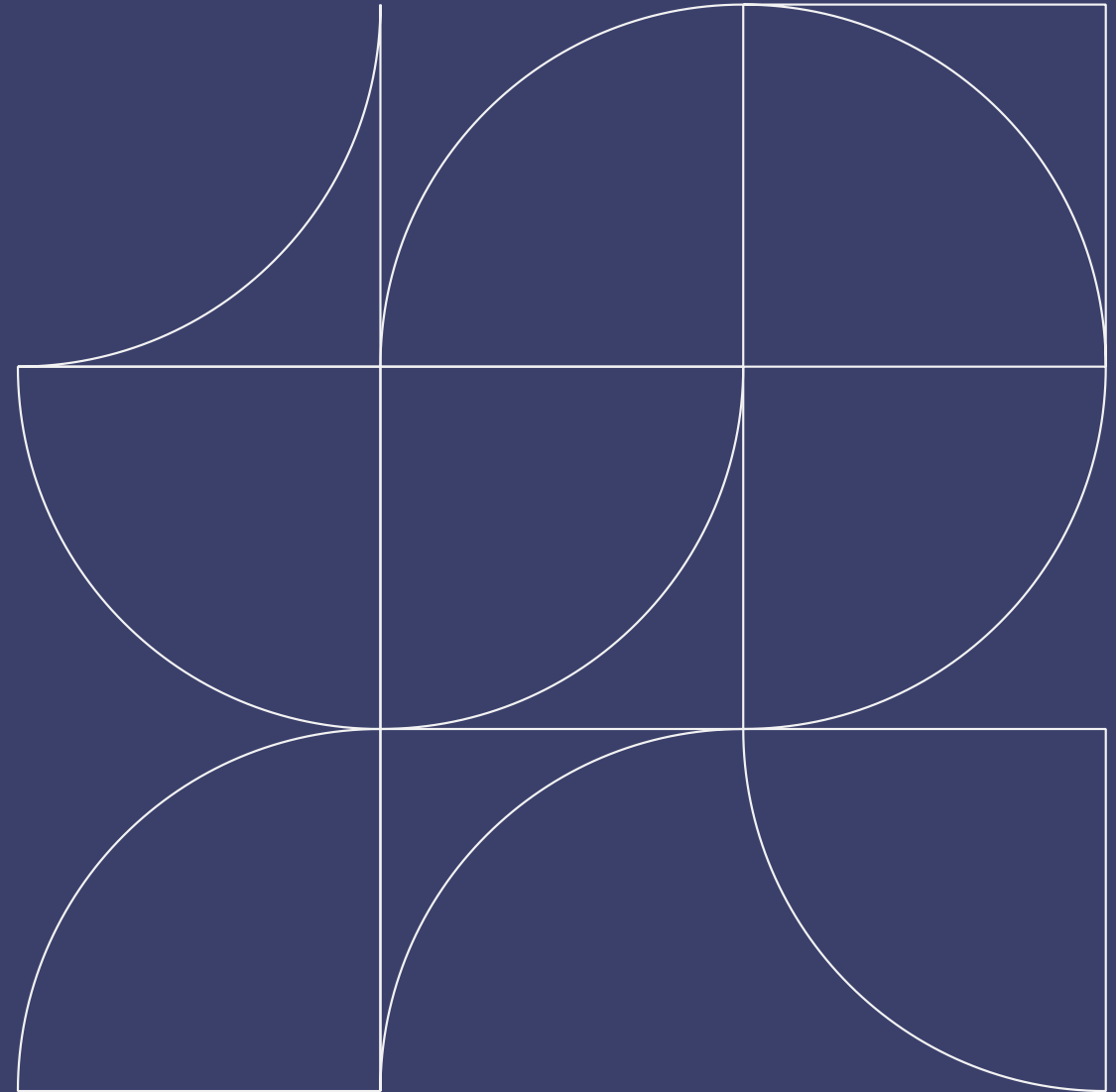
## Key Highlights

- **Effective Date:** January 1, 2026.
- **Purpose:** Prohibits “stay-or-pay” clauses in employment agreements.
- **What’s Banned?**
  - Repayment obligations for “debts” tied to leaving employment (training, relocation, bonuses).
  - Penalties, fees, or costs tied to termination.
- **Who’s Covered?**
  - All employers and “workers” in California.
- **Enforcement:**
  - Private right of action and/or Labor Commissioner Enforcement.
- **Remedies:**
  - \$5,000 minimum per worker (or actual damages, whichever is greater), injunctive relief, attorneys’ fees.

# AB 692 Key Terms Impacting the Scope of “Stay or Pay” Employment Contract Prohibitions

- **Contract:**
  - Includes a promise, contract or agreement, written, oral, express or implied.
- **Debt:**
  - Broadly defined to include money, personal property, including but not limited to employment-related costs, education-related costs, or consumer financial product or service.
- **Misconduct:**
  - Same meaning as section 1256 of Unemployment Insurance Code.
- **Worker**
  - Permitted to work for or on behalf of an employer; “includes but is not limited to” an employee or prospective employee.
- **Penalty, Fee, or Cost**
  - Includes but not limited to things such as replacement fees, liquidated damages and reimbursement for immigration or visa-related costs.
- **Transferable Credential**
  - “Degree” offered by 3<sup>rd</sup> party institution, accredited, authorized to operate in CA, not required for current employment, transferable and useful beyond current employer.

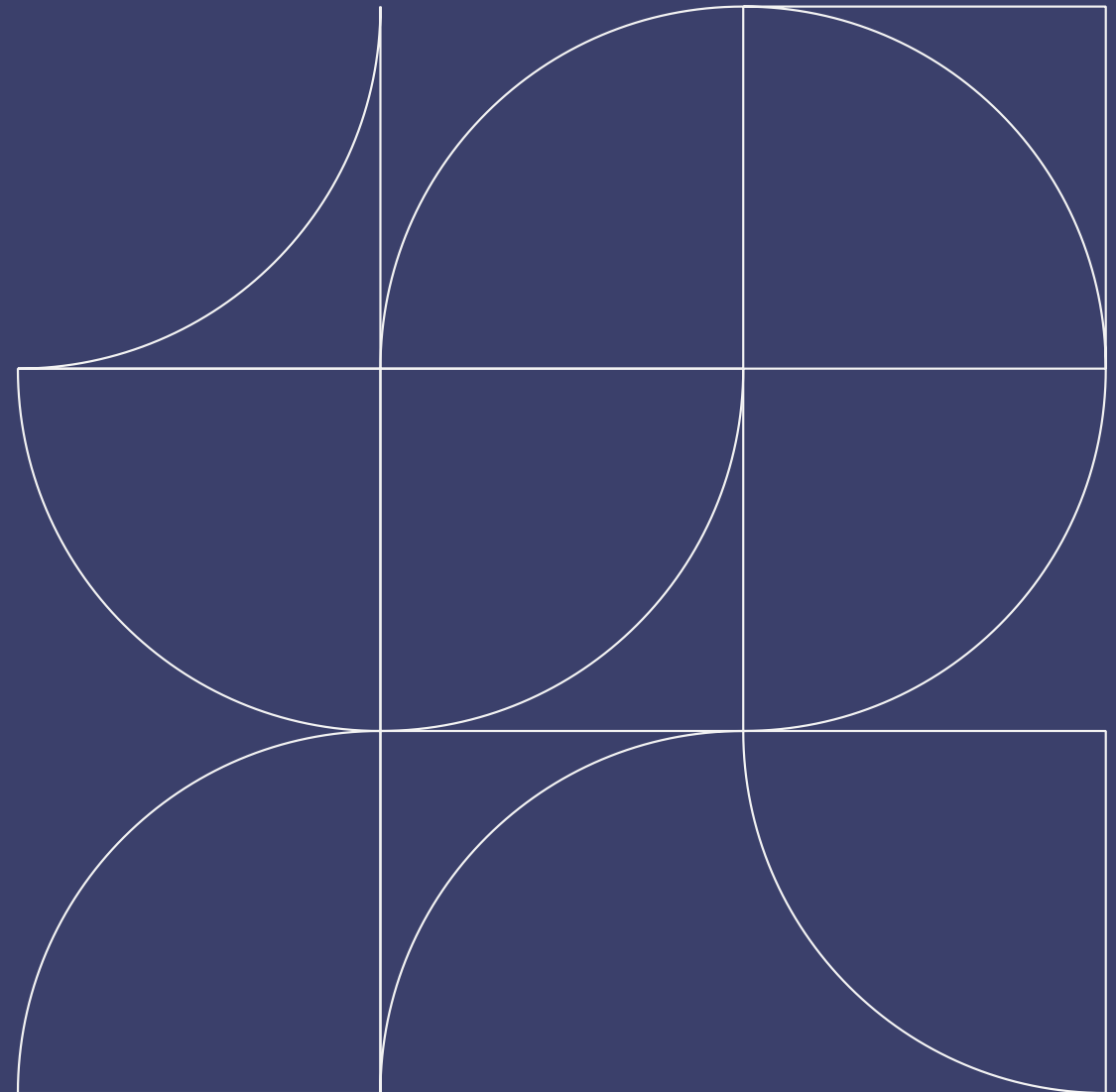
# Legislative History Insights



## AB 692 Legislative History

- **Training Repayment Agreements Provisions:**
  - Pejoratively labelled “TRAPs”
- **Likened to Non-Competes**
- **Discourage Employees Speaking Out**
- **Targeted Industries**
  - Health Care, Transportation, Retail, Tech

# AB 692 - Certain “Stay or Pay” Employment Contract Exceptions



## CA AB 692 – Stay or Pay Exceptions – Contracts Related to:

### Five Exceptions (Strict Conditions Apply)

1. Government loan forgiveness programs.
2. Tuition repayment **for transferable credentials (degrees) not required for employment** (IF separate agreement (not part of employment contract); total repayment amount identified (can't exceed actual cost), prorated amount, no accelerated payment schedule, only if terminated for “**misconduct**”).
3. Enrollment in apprenticeship programs approved by Division of Apprenticeship.
4. Discretionary payments/retention bonuses **at the outset of employment** (IF separate agreement, 5-day review to consult counsel, not tied to performance, prorated repayment  $\leq 2$  years; option to defer receipt of payment till end, only if EE elects to resign or term for “**misconduct**”).
5. Contracts related to the lease, financing, or purchase of real estate.

## CA AB 692 – Stay or Pay Exceptions – Tuition

### Tuition Repayment Exception (Strict Conditions Apply)

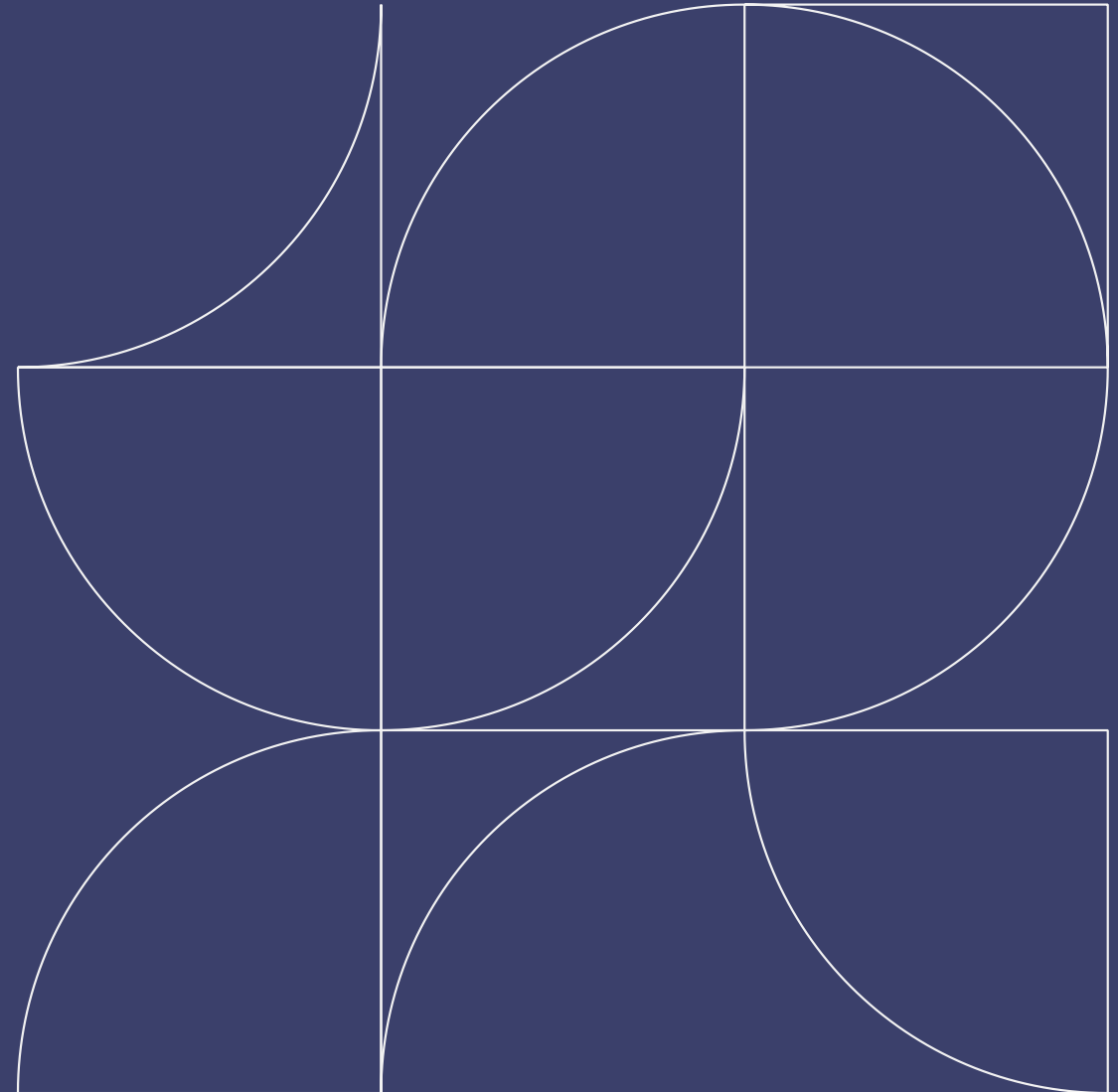
1. Terms are in Separate Agreement.
2. Transferable credit not required as a Condition of Employment.
3. Agreement states actual amount to be repaid, and amount cannot exceed actual cost to employer.
4. Provides for Prorated amount during any required employment period proportional to length of retention period and does not require accelerated payment schedule if worker separates.
5. Does not require repayment if worker is terminated, unless terminated for misconduct.

## CA AB 692 – Stay or Pay Exceptions – Discretionary Financial Incentives

### Exception: Repayment Agreements for Discretionary Financial Incentives (Strict Conditions Apply)

1. At the outset of employment.
2. Not tied to specific job performance.
3. Terms are in Separate Agreement.
4. Employee notified of right to consult attorney and at least 5 days to do so.
5. Repayment for early separation not subject to interest.
6. Repayment is prorated based on remaining term of retention period.
7. Retention period not to exceed 2 years “from receipt of payment.”
8. Option to defer receipt of payment until end of retention period.
9. Separation at sole election of employee or for *misconduct*.

# Applicability of AB 692 to Common Employer Agreements

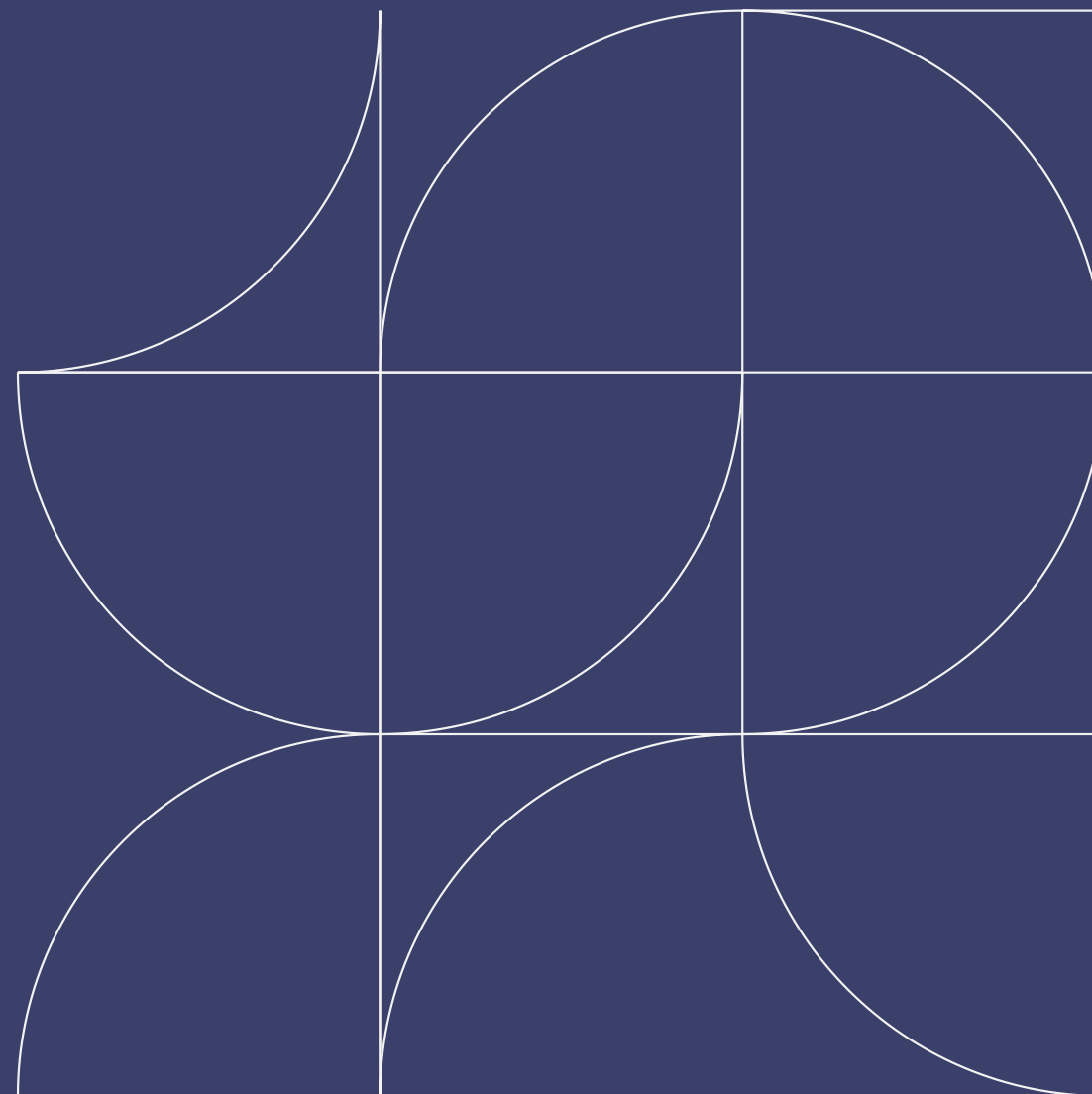


## CA AB 692 – Do These Employer Agreements Still Pass?

### Commonly Used Agreements – Do They Pass?

1. Sign-On Bonus
2. Relocation Assistance Repayment Agreements
  - Lump Sum
  - Relocation Programs with 3<sup>rd</sup> Party Provider
3. Retention for existing employees
4. Immigration Fees/Costs Repayment Agreements
5. Training Repayment Agreements
6. Tuition Repayment Agreements
7. Equity Agreements
8. Wage/Benefit Overpayments or Repayments
9. Loans

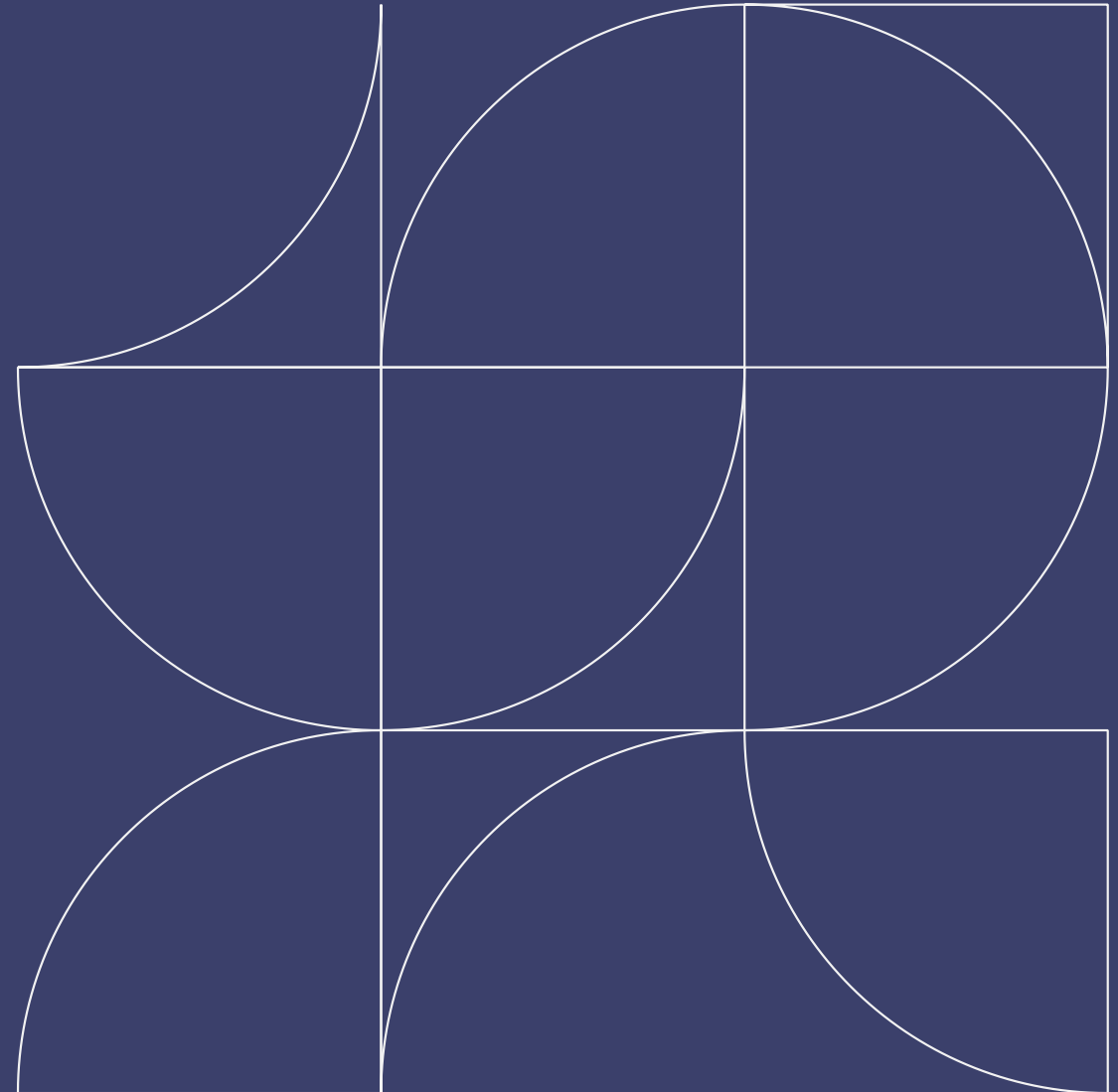
# Enforcement & Penalties



## CA AB 692 – Enforcement & Litigation Risks

- **Penalties/Private Right of Action:** Actual damages or up to \$5,000 in penalties per worker, injunctive relief, and attorneys' fees and costs.
- Claims can be made under Business and Professions Code and/or Labor Code.
- Class Action/PAGA Risks.
- Violation regardless of Employer Enforcement.

# Similar Laws Outside of CA



## Multi-state Employers Beware:

## CA AB 692 – The 1<sup>st</sup> but not the last!

### **New York:**

- Broad Ban on Repayment Agreements.
- Exception for "sums advanced to employees."
- **Effective December 19, 2025\*\* - Amendments Pending.**

### **Colorado:**

- TRAP law only.
- **Effective August 7, 2024.**

### **Indiana:**

- Health Care Industry Specific Prohibition on TRAPS and repayments for bonuses.
- **Effective July 1, 2025.**

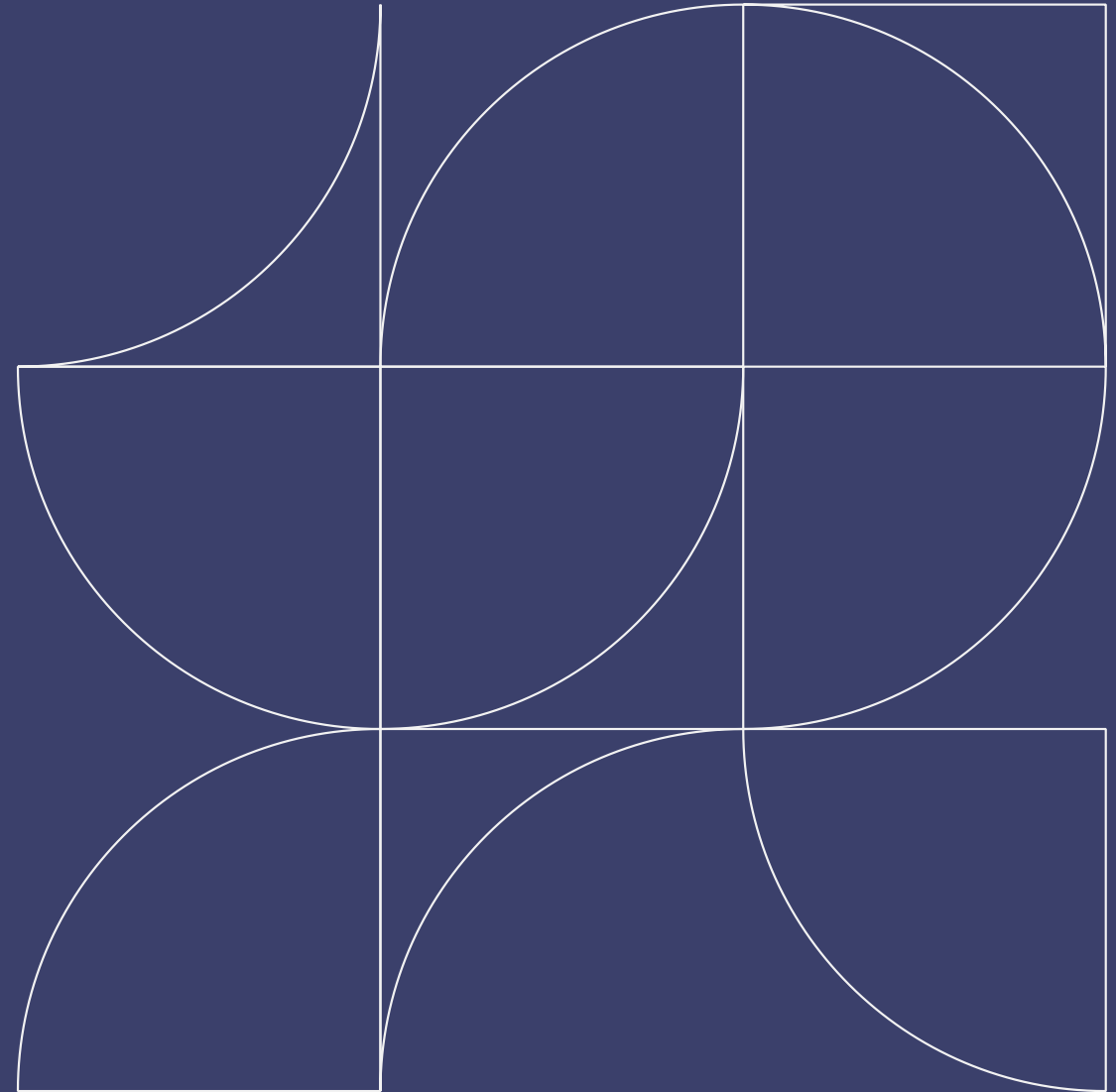
### **Wyoming**

- Primarily Non-competes, allows repayments agreements on sliding scale.
- **Effective July 1, 2025.**

### **Pending:**

- Maryland, New Jersey, Pennsylvania, Nevada, Ohio, Vermont, Washington.

# Employer Action Items



## CA AB 692 – Employer Action Items

### **For Post-January 1, 2026, CA Hires:**

- ✓ Audit employee agreement documents to identify if claw back/repayment clauses exist.
- ✓ Review and revise offer letters and related agreements to remove prohibited repayment clauses for post-1/1/2026 hires.
- ✓ Either defer payment to end of retention period or draft Separate Agreements for new hire relocation, bonus, and tuition-repayment obligations to use post-1/1/2026.
- ✓ If multi-state employer, develop strategy for compliance considering employee mobility issues.

### **For Current CA Employees:**

- ✓ Pre-January 1, 2026, Agreements still enforceable.
- ✓ No exception after 1/1/2026 for Stay or Pay for Bonus/Relocation/Benefits.
- ✓ Change approach to pay bonus/relocation at end of retention period.

Questions?

## We Built a Bench!

- **Who To Call:** Seyfarth has a Team of Experienced Counselors on the “AB 692 Counseling” Bench and we are following the Stay-or-Pay national trend.

From Legislative History:

“Employers, as they always do, will adapt.”

**thank  
you**

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