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A LOOK INSIDE CALIFORNIA'S NEW WORKPLACE LAWS

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Dwayne McKenzie of [Cox, Castle & Nicholson](#) breaks down the new workplace laws that rolled out at the beginning of the year.



This year, there are a handful of new workplace laws that will impact all business owners—including those in the commercial real estate industry. The most impactful of these laws is a construction contractor liability law that requires general contractors take wage and benefit liability for the employees of its subcontractors; however, there are

several other laws that could prove to have an impact as well. We sat down with **Dwayne McKenzie**, a partner at **Cox, Castle & Nicholson** to find out about those other laws, the impetus behind them and how they might impact business owners.

GlobeSt.com: Earlier we talked about the new construction contractor liability law, AB1701. Now, let's look at a few of the other new workplace laws, starting with immigration worksite enforcement actions, AB 450.

McKenzie: This is another step in a further extension of some immigrant protective legislation that we have seen over the last couple of years, and some relationship to concern about immigration enforcement actions with the new federal administration. The statute is trying to require that employers don't cooperate any more than is required on federal immigration enforcement action. There are also further steps that employers must take to keep employees informed of those investigations. Really, this is meant to protect the overall rights of their employees.

GlobeSt.com: There is also a new ban-the-box law for criminal convictions, AB 1008.

McKenzie: We have seen this preceding nationally and we have seen this in other jurisdictions. The ban the box law bans an employer from making any inquiry about an applicant's conviction history prior to a job offer. It is meant to help people get back to work, even though we do have low unemployment rates right now. The statute requires the employer to not make a pre-offer inquiry. Only after making the offer of employment can they make an inquiry into an applicant's conviction history, and even then, it should be banned to the needs of the job. There is also a further process that allows the employee to respond to any decision that is based on that conviction history.

GlobeSt.com: Can an employer then rescind an offer, if wanted?

McKenzie: It can. The employer is supposed to make a determination that is a specific and individualized assessment. If there is a legitimate basis for rescinding the offer, they can do so at that point in time. They need to be careful about stepping through the process.

GlobeSt.com: Gender identity has been a hot topic this year, and it looks like the gender identity, gender expression and sexual orientation, or SB 396, is aimed at adding education and protections.

McKenzie: We have pre-existing obligations of employers with 50 or more employees to do training with regards to sexual harassment. Now, the content of the training is being expanded. A few years ago, it was expanded to include bullying. Now, it is expanded to require specific training with specific training on gender identity, gender expression and sexual orientation. The training is supposed to have examples and interactive discussion of the issues. We are seeing that this training is being used to address a myriad of different kinds of discriminatory contact that is prohibited under state law.

GlobeSt.com: There is also an expansion to parent leave with the new parent leave act, SB 63. Tell me more.

McKenzie: We have a dividing line of 50 employees for various requirements. The new parent leave act really mirrors the baby-bonding leave act for employers with 50 or more employees for employers with between 50 to 20 employees. It has lowered the threshold and reaches smaller employers. This provides unpaid leave up to 12 weeks, and I think it is part of a trend of applying protections that larger employers had to provide to more mid-sized employers.

GlobeSt.com: Like the ban-the-box law, there are also new restrictions for requesting previous salary information with AB 168.

McKenzie: The salary information restrictions is a continuation of some of the things that we have seen in the equal pay act. It prohibits an employer from asking an applicant about salary or compensation history. The purpose is to try to eliminate historical wage discrepancies based on gender and other protected categories, such as race and ethnicity. By prohibiting an employer from obtaining or asking for wage or compensation history, we won't perpetuate those discrepancies that were based on improper criteria in the past. An applicant can disclose voluntarily disclose wage history, but an employer can only take that into consideration in terms of the compensation amount. It can be the terms of the hiring decision.