

A New Day Dawns For Georgia Non-Compete Law

Insights

11.03.10

In a landslide victory with 68% of the votes, the constitutional amendment authorizing a new statutory framework for enforcement of restrictive covenants in Georgia was passed by Georgia voters on November 2, 2010. The new framework goes into effect immediately, **but** it will only be applied to restrictive covenants that are signed today (November 3, 2010) or hereafter.

Is this a big deal or a radical change? Absolutely. Georgia law has long been known for its “unfriendliness” towards non-competes and other post-employment restrictive covenants. However, the statutory framework which has now been endorsed via the constitutional amendment will allow Georgia courts/judges flexibility in enforcing non-compete and other restrictive covenant provisions in employment agreements whereas before they had no meaningful wiggle room. The law also affects franchisor-franchisee, distributorship, lease, and partnership agreements.

But remember, the new law will only apply to agreements that are signed beginning November 3, 2010 and after. If an agreement was signed prior to that time, it will be governed by the old case law. Therefore, unless your agreements were tightly written to comply with the previous law, the constitutional amendment is of no impact for you ... until and unless you get new/amended agreements signed by your workforce.

Although the changes that will result from the new law are many, the most significant change is that Georgia courts/judges will have the ability to modify what would be an otherwise overbroad provision. Previously, Georgia judges did not have the discretion to modify, sever or blue pencil restrictive covenants in employment agreements (although there was a limited exception in the context of a sale of a business).

Click on the pdf link below if you are interested in reviewing the new statutory framework.

[GA Noncompete law HB 173 full text.pdf \(124.63 kb\)](#)

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