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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2025	.	
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The Committee on Judiciary (Leek) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Part I of chapter 542, Florida Statutes,
consisting of ss. 542.15-542.36, Florida Statutes, is created
and entitled the "Florida Antitrust Act of 1980."

Section 2. Part II of chapter 542, Florida Statutes,
consisting of ss. 542.41-542.45, Florida Statutes, is created
and entitled the "Florida Contracts Honoring Opportunity,
Investment, Confidentiality, and Economic Growth (CHOICE) Act."



839748

12 542.41 Short title.—This part may be cited as the “Florida
13 Contracts Honoring Opportunity, Investment, Confidentiality, and
14 Economic Growth (CHOICE) Act.”

15 542.42 Legislative findings.—The Legislature finds that a
16 proper and legitimate state interest is served by enforcing
17 strong legal protections in contracts between employers and
18 contracted personnel which encourage optimal levels of
19 information sharing and training and development. The
20 Legislature further finds that alternative means of protecting
21 confidential information and client relationships, such as
22 nondisclosure agreements, fixed-duration term contracts, and
23 nonsolicitation clauses in employment contracts, are inadequate
24 to protect against the significant global risks faced by
25 companies in this state. The Legislature further finds that
26 predictability in the enforcement of contracts described in this
27 part encourages investment in this state. Therefore, the
28 Legislature determines and declares that this part fulfills an
29 important state interest.

30 542.43 Definitions.—For the purposes of this part, the
31 term:

32 (1) “Annual mean wage of employees in Florida” or “annual
33 mean wage” means the most recent annual mean wage as calculated
34 by the United States Department of Labor Bureau of Labor
35 Statistics, or its successor calculation, for all occupations in
36 this state.

37 (2) “Benefit” means access to health insurance, life
38 insurance, or disability insurance that is the same as or
39 similar to the insurance that a covered employee had access to
40 and at the same cost to that employee during the month before



839748

41 the commencement of his or her notice period.

42 (3) "Covered employee" means an employee or individual
43 contractor who earns or is reasonably expected to earn a salary
44 greater than twice the annual mean wage, or who has access to
45 his or her employer's or client's confidential information or
46 customer relationships. The term does not include a person
47 classified as a medical professional as defined in s. 1006.0626.

48 (4) "Covered employer" means an entity or individual who
49 employs or engages a covered employee.

50 (5) "Covered garden leave agreement" means a written
51 agreement, or part of a written agreement, between a covered
52 employee and covered employer in which:

53 (a) The covered employee and covered employer agree to up
54 to, but no more than, 4 years of advance, express notice before
55 terminating the employment or contractor relationship;

56 (b) The covered employee agrees not to resign before the
57 end of such notice period; and

58 (c) The covered employer agrees to retain the covered
59 employee for the duration of such notice period and to continue
60 paying the covered employee the same salary and providing the
61 same benefits that the covered employee received from the
62 covered employer in the last month before the commencement of
63 the notice period. The covered employer is not obligated to
64 provide discretionary incentive compensation or benefits or have
65 the covered employee continue performing any work during the
66 notice period.

67 (6) "Covered noncompete agreement" means a written
68 agreement, or a portion of a written agreement, between a
69 covered employee and a covered employer in which, for a period



839748

70 not to exceed 4 years and within the geographic area defined in
71 the agreement, the covered employee agrees not to assume a role
72 with or for another business, entity, or individual:

73 (a) In which the covered employee would provide services
74 similar to the services provided to the covered employer during
75 the 3 years preceding the noncompete period; or

76 (b) In which it is reasonably likely the covered employee
77 would use the confidential information or customer relationships
78 of the covered employer.

79 (7) "Noncompete period" means the time from the covered
80 employee's termination of employment through the end of the
81 agreed-upon postemployment period of noncompetition as set forth
82 in the covered noncompete agreement.

83 (8) "Notice period" means the date from the covered
84 employee's or covered employer's written notice of intent to
85 terminate the covered employee's employment through the date of
86 termination as set forth in a covered garden leave agreement.

87 (9) "Primary place of work" means the location where the
88 covered employee spends more work time than any other single
89 workplace.

90 (10) "Salary" means the base compensation, calculated on an
91 annualized basis, which a covered employer pays a covered
92 employee, including a base wage, a salary, a professional fee,
93 or other compensation for personal services, and the fair market
94 value of any benefit other than cash. Salary does not include
95 health care benefits, severance pay, retirement benefits,
96 expense reimbursement, distribution of earnings and profits not
97 included as compensation for personal services, discretionary
98 incentives or awards, or anticipated but indeterminable



839748

99 compensation, including tips, bonuses, or commissions.

100 542.44 Covered garden leave agreement.—

101 (1) APPLICABILITY.—This section applies to:

102 (a) A covered garden leave agreement with a covered
103 employee who maintains a primary place of work in this state,
104 regardless of any applicable choice of law provisions; or

105 (b) A covered garden leave agreement with a covered
106 employer whose principal place of business is in this state and
107 that is expressly governed by the laws of this state.

108

109 If any provision of this section is in conflict with any other
110 law, the provisions of this section shall govern.

111 (2) RESTRAINT OF TRADE.—A covered garden leave agreement
112 does not violate public policy as a restraint of trade, as
113 described in s. 542.18, or an attempt to monopolize trade or
114 commerce in this state, as described in s. 542.19, and is fully
115 enforceable according to its terms, provided that:

116 (a) A covered employee was advised, in writing, of the
117 right to seek counsel prior to execution of the covered garden
118 leave agreement and was provided notice as described in
119 subsection (3);

120 (b) A covered employee acknowledges, in writing, receipt of
121 confidential information or customer relationships; and

122 (c) The covered garden leave agreement provides that:

123 1. After the first 90 days of the notice period, the
124 covered employee does not have to provide services to the
125 covered employer;

126 2. The covered employee may engage in nonwork activities at
127 any time, including during normal business hours, during the



839748

128 remainder of the notice period; and

129 3. The covered employee may, with the permission of the
130 covered employer, work for another employer while still employed
131 by the covered employer during the remainder of the notice
132 period.

133 4. The garden leave agreement notice period may be reduced
134 during the notice period if the covered employer provides at
135 least 30 days' advance notice in writing to the covered
136 employee.

137 (3) NOTICE.—

138 (a) A covered employer must provide a proposed covered
139 garden leave agreement to:

140 1. A prospective covered employee at least 7 days before an
141 offer of employment expires; or

142 2. A current covered employee at least 7 days before the
143 date that an offer to enter into a covered garden leave
144 agreement expires.

145 (b) A covered employer may, as provided for in the covered
146 garden leave agreement, shorten the term of the notice period at
147 any time during the notice period at any time during the notice
148 period by providing at least 30 days' advance notice in writing
149 to the covered employee.

150 (4) OTHER AGREEMENTS.—This section does not affect or limit
151 the enforceability of any other employment agreement or any
152 other agreement.

153 (5) BREACH OF A COVERED GARDEN LEAVE AGREEMENT; REMEDIES.—

154 (a) Upon application by a covered employer seeking
155 enforcement of a covered garden leave agreement, a court must
156 preliminarily enjoin a covered employee from providing services



839748

157 to any business, entity, or individual other than the covered
158 employer during the notice period. The court may modify or
159 dissolve the injunction only if the covered employee establishes
160 by clear and convincing evidence that:

161 1. The covered employee will not perform, during the notice
162 period, any work similar to the services provided to the covered
163 employer during the 3-year period preceding the commencement of
164 the notice period, or use confidential information or customer
165 relationships of the covered employer; or

166 2. The covered employer has failed to pay or provide the
167 salary and benefits provided for in the covered garden leave
168 agreement during the notice period and has had a reasonable
169 opportunity to cure the failure.

170 (b) Upon application by a covered employer seeking
171 enforcement of a covered garden leave agreement, a court must
172 preliminarily enjoin a business, an entity, or an individual
173 from engaging a covered employee during the covered employee's
174 notice period. The court may modify or dissolve the injunction
175 only if the business, entity, or individual establishes by clear
176 and convincing evidence, based on public or other
177 nonconfidential information, that:

178 1. The covered employee will not provide any services
179 similar to the services provided to the covered employer during
180 the 3-year period preceding the commencement of the notice
181 period, or use confidential information or customer
182 relationships of the covered employer; or

183 2. The business or individual seeking to employ or engage
184 the covered employee is not engaged in, and is not planning or
185 preparing to engage in, any business activity similar to that



839748

186 engaged in by the covered employer during the notice period.

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188 Any information filed with the court which the covered employer
189 deems to be confidential must be filed under seal to protect
190 confidentiality or avoid substantial injury. A court must
191 presume that an employee or individual contractor has access to
192 confidential information or customer relationships if the
193 employee or individual contractor acknowledges the access or
194 receipt of such access in writing.

195 (c) The injunctive relief provided under this section is
196 not an exclusive remedy, and a prevailing covered employer is
197 entitled to recover all available monetary damages for all
198 available claims.

199 (d) In any action to enforce this section, the prevailing
200 party is entitled to reasonable attorney fees and costs.

201 (e) If the covered employee engages in gross misconduct
202 against the covered employer, the covered employer may reduce
203 the salary or benefits of the covered employee or take other
204 appropriate action during the notice period, which reduction or
205 other action may not be considered a breach of the covered
206 garden leave agreement.

207 542.45 Covered noncompete agreements.-

208 (1) APPLICABILITY.-This section applies to:

209 (a) A covered noncompete agreement with a covered employee
210 who maintains a primary place of work in this state, regardless
211 of any applicable choice of law provisions; or

212 (b) A covered noncompete agreement with a covered employer
213 whose principal place of business is in this state and that is
214 expressly governed by the laws of this state.



839748

215
216 In either case, if any provision of this section is in conflict
217 with any other law, the provisions of this section govern.

218 (2) RESTRAINT OF TRADE.—A covered noncompete agreement does
219 not violate public policy as a restraint of trade, as described
220 in s. 542.18, or an attempt to monopolize trade or commerce in
221 this state, as described in s. 542.19, and is fully enforceable
222 according to its terms, provided that:

223 (a) A covered employee was advised, in writing, of the
224 right to seek counsel prior to execution of the covered
225 noncompete agreement and was provided notice as described in
226 subsection (3);

227 (b) A covered employee acknowledges, in writing, receipt of
228 confidential information or customer relationships; and

229 (c) A covered noncompete agreement provides that the
230 noncompete period is reduced day-for-day by any nonworking
231 portion of the notice period, pursuant to a covered garden leave
232 agreement between the covered employee and the covered employer,
233 if applicable.

234 (3) NOTICE.—A covered employer must provide a proposed
235 covered noncompete agreement to:

236 (a) A prospective covered employee at least 7 days before
237 an offer of employment expires; or

238 (b) A current covered employee at least 7 days before the
239 date that an offer to enter into a covered noncompete agreement
240 expires.

241 (4) OTHER AGREEMENTS.—This section does not affect or limit
242 the enforceability of any other employment agreement or any
243 other agreement.



839748

244 (5) BREACH OF COVERED NONCOMPETE AGREEMENT; REMEDIES.-

245 (a) Upon application by a covered employer seeking
246 enforcement of a covered noncompete agreement, a court must
247 preliminarily enjoin a covered employee from providing services
248 to any business, entity, or individual other than the covered
249 employer during the noncompete period. The court may modify or
250 dissolve the injunction only if the covered employee establishes
251 by clear and convincing evidence that:

252 1. The covered employee will not perform, during the
253 noncompete period, any work similar to the services provided to
254 the covered employer during the 3-year period preceding the
255 commencement of the noncompete period, or use confidential
256 information or customer relationships of the covered employer;
257 or

258 2. The covered employer has failed to pay or provide the
259 consideration provided for in the covered noncompete agreement
260 and has had a reasonable opportunity to cure the failure.

261 (b) Upon application by a covered employer seeking
262 enforcement of a covered noncompete agreement, a court must
263 preliminarily enjoin a business, an entity, or an individual
264 from engaging a covered employee during the covered employee's
265 noncompete period. The court may modify or dissolve the
266 injunction only if the business, entity, or individual
267 establishes by clear and convincing evidence, based on public or
268 other nonconfidential information, that:

269 1. The covered employee will not provide any services
270 similar to the services provided to the covered employer during
271 the 3-year period preceding the commencement of the noncompete
272 period, or use confidential information or customer



839748

273 relationships of the covered employer; or

274 2. The business or individual seeking to employ or engage
275 the covered employee is not engaged in, and is not planning or
276 preparing to engage in, any business activity in the geographic
277 area specified in the noncompete agreement during the noncompete
278 period if such business activity is similar to that engaged in
279 by the covered employer.

280

281 Any information filed with the court which the covered employer
282 deems to be confidential must be filed under seal to protect
283 confidentiality or avoid substantial injury. A court must
284 presume that an employee or individual contractor has access to
285 confidential information or customer relationships if the
286 employee or individual contractor acknowledges the access or
287 receipt of such access in writing.

288 (c) The injunctive relief provided in this section is not
289 an exclusive remedy, and a prevailing covered employer is
290 entitled to recover all available monetary damages for all
291 available claims.

292 (d) In any action to enforce this section, the prevailing
293 party is entitled to reasonable attorney fees and costs.

294 (e) If the covered employee engages in gross misconduct
295 against the covered employer, the covered employer may reduce
296 the salary or benefits of the covered employee or take other
297 appropriate action during the noncompete period, which reduction
298 or other action may not be considered a breach of the covered
299 noncompete agreement.

300

301 Any action regarding a restrictive covenant that does not meet



302 the definition of a covered garden leave agreement or a covered
303 noncompete agreement as provided in this part is governed by s.
304 542.335.

305 Section 3. This act shall take effect July 1, 2025.

306

307 ===== T I T L E A M E N D M E N T =====

308 And the title is amended as follows:

309 Delete everything before the enacting clause
310 and insert:

311 A bill to be entitled
312 An act relating to employment agreements; creating
313 part I of ch. 542, F.S., entitled the "Florida
314 Antitrust Act of 1980"; creating part II of ch. 542,
315 F.S., entitled the "Florida Contracts Honoring
316 Opportunity, Investment, Confidentiality, and Economic
317 Growth (CHOICE) Act"; creating s. 542.41, F.S.;
318 providing a short title; creating s. 542.42, F.S.;
319 providing legislative findings; creating s. 542.43,
320 F.S.; defining terms; creating s. 542.44, F.S.;
321 providing applicability; providing that certain
322 covered garden leave agreements are not a restraint of
323 trade or an attempt to monopolize trade or commerce;
324 providing notice requirements for covered garden leave
325 agreements; providing that a covered employer may
326 waive any portion of such notice requirements by
327 providing a specified amount of advance written notice
328 to the covered employee; providing that covered garden
329 leave agreements do not affect other agreements;
330 requiring a court to enter a preliminary injunction to



331 stop covered employees, businesses, entities, or
332 individuals if a breach of a covered garden leave
333 agreement is alleged; authorizing the court to modify
334 such an injunction if a covered employee, business,
335 entity, or individual establishes certain information
336 by clear and convincing evidence; requiring that
337 certain information be provided to the court under
338 seal; requiring the court to make presumptions of
339 certain fact; providing that a prevailing covered
340 employer is entitled to recover all available monetary
341 damages for all available claims; providing that a
342 prevailing party is entitled to reasonable attorney
343 fees and costs; authorizing a covered employer to
344 reduce the salary or benefits of a covered employee if
345 he or she engages in gross misconduct; providing that
346 such a reduction is not a breach of the covered garden
347 leave agreement; creating s. 542.45, F.S.; providing
348 applicability; providing that certain covered
349 noncompete agreements are not a restraint of trade or
350 an attempt to monopolize trade or commerce; providing
351 notice requirements for covered noncompete agreements;
352 providing that covered noncompete agreements do not
353 affect other agreements; requiring a court to enter a
354 preliminary injunction to stop covered employees,
355 businesses, entities, or individuals if a breach of a
356 covered noncompete agreement is alleged; authorizing
357 the court to modify such an injunction if a covered
358 employee, business, entity, or individual establishes
359 certain information by clear and convincing evidence;



839748

360 requiring that certain information be provided to the
361 court under seal; requiring the court to make
362 presumptions of certain facts; providing that a
363 prevailing covered employer is entitled to recover all
364 available monetary damages for all available claims;
365 providing that a prevailing party is entitled to
366 reasonable attorney fees and costs; authorizing a
367 covered employer to reduce the salary or benefits of a
368 covered employee if he or she engages in gross
369 misconduct; providing that such a reduction is not a
370 breach of the covered noncompete agreement; providing
371 construction regarding a restrictive covenant that
372 does not meet the definition of a covered garden leave
373 agreement or a covered noncompete agreement; providing
374 an effective date.