

1 **Uniform Restrictive Employment Agreement Act**

2 **Amendments**

3 **July 12, 2021**

4 **Section 2. Definitions**

5 In this [act]:

6 * * *

7 (12) “Sale of a business” means sale ~~or~~, merger, consolidation, amalgamation,
8 reorganization or other transaction, however denominated, of all or part of a business, ~~nonprofit,~~
9 ~~or other legal entity or non-profit association~~ or of substantially all the operating assets or
10 controlling substantial ownership interest of the entity association.

11 * * *

12 (19) “Worker” means an individual who works for an employer. The term
13 includes an employee, independent contractor, ~~partner,~~ extern, intern, volunteer, apprentice, ~~and~~
14 sole proprietor who provides service to a customer, and an individual who provides service
15 through an entity. The term does not include an individual whose sole relationship with the
16 employer is as a member of a board of directors or other governing or advisory board or, ~~under~~
17 whose authority the powers of an entity are exercised, investor, or ~~vendor of goods,~~ even if the
18 individual performs incidental service for the employer.

19 ***Legislative Note:*** *In paragraph (16), a state should cite to the state’s Uniform Trade Secrets Act*
20 *Section 1(4) or the equivalent definition of trade secret for civil misappropriation.*

21 **Section 3. Scope**

22 * * *

23 (b) This [act] supersedes common law that applies only to a restrictive employment
24 ~~contract~~ agreement but does not otherwise affect principles of law and equity consistent with this

1 [act].

2 (c) This [act] does not affect [cite to other state law or rule that regulates a restrictive
3 employment agreement not inconsistent with this act] ~~is compatible with this act and puts~~
4 ~~additional limits on a restrictive employment agreement~~].

5 (d) This [act] does not affect an agreement to take an action to transfer, perfect, or
6 enforce patent, copyright, or other similar rights.

7 (e) This [act] does not affect a noncompetition obligation arising solely as a result of
8 an existing ownership interest in the business entity.

9 (f) This [act] does not affect an agreement that requires the worker to forfeit post-
10 termination compensation, such as vacation or retirement benefits, the right to which accrued
11 prior to termination.

12 **Section 4. Notice Requirements**

13 (a) A restrictive employment agreement is prohibited and unenforceable unless:

14 (1) the employer provides a copy of the proposed agreement in a record to:

15 (A) a prospective worker 14 calendar days before ~~before~~ the acceptance of
16 work or the commencement of work, whichever is earlier;

17 (B) a current worker who receives a material increase in compensation 14
18 calendar days ~~before~~ before the increase or the worker accepts a change in job status or
19 responsibilities, whichever is earlier; or

20 (C) a departing worker who is given consideration in addition to anything
21 of value to which the worker already is entitled 14 calendar days before the agreement is signed;

22 * * *

23 (5) the employer provides an additional copy of the agreement to the worker not

1 later than 14 calendar days after the worker, in a record, requests a copy, unless the employer
2 when acting reasonably and in good faith is unable to provide the copy within 14 days after the
3 request and the worker is not prejudiced by the delay.

4 (b) A worker may waive the 14 calendar-day requirement of subsection (a)(1)(A) if the
5 worker receives the signed agreement before accepting work. If the worker waives the
6 requirement, the worker may rescind the employment agreement is not enforceable until within
7 14 calendar days after the worker ~~commences work~~ receives the agreement.

8 **Section 5. Worker Not Subject to Restrictive Employment Agreement**

9 A restrictive employment agreement, other than a confidentiality agreement or training-
10 repayment agreement, is prohibited and unenforceable unless:

11 * * *

12 (2) the worker:

13 (A) voluntarily quits without good cause attributable to the employer;

14 (B) ~~or~~ is terminated for substantial misconduct or an individual
15 performance-related cause; or

16 (C) is terminated at the end of a fixed-term contract.

17 **Section 7. Noncompete Agreement**

18 A noncompete agreement is prohibited and unenforceable unless:

19 (1) the agreement protects any of the following legitimate business interests:

20 (A) the sale of a business in which the worker is a substantial owner and
21 consents to the sale;

22 (B) the creation of a business in which the worker is a substantial owner;

23 (C) a trade secret; or

1 (DC) the employer’s ongoing customer relationships;
2 (2) when the worker signs the agreement and through the time of enforcement, the
3 agreement is narrowly tailored in duration, geographical area, and scope of actual competition to
4 protect an interest under paragraph (1), and the interest cannot be adequately protected by
5 another restrictive employment agreement; and
6 (3) the prohibition on competition lasts not longer than:
7 (A) five years after the work relationship ends when protecting an interest
8 under paragraph (1)(A) or (B); or
9 (B) one year after the work relationship ends when protecting an interest
10 only under paragraph (1)(~~CB~~) or (DC).

11 **Section 8. Confidentiality Agreement**

12 A confidentiality agreement is prohibited and unenforceable unless the agreement allows
13 the worker to use and ~~disclosure of~~ disclose information that:

14 * * *

15 **Section 9. No-Business Agreement**

16 A no-business agreement is prohibited and unenforceable unless the agreement:

17 (1) applies only to a prospective or ongoing client or customer of the employer
18 with whom the worker had worked personally; and
19 (2) lasts no longer than six months after the work relationship between employer
20 and worker ends.

21 **Section 10. Nonsolicitation Agreement**

22 A nonsolicitation agreement is prohibited and unenforceable unless the agreement:

23 (1) applies only to ~~an~~ a prospective or ongoing client or customer of the employer

1 with whom the worker had worked personally; and

2 (2) lasts no longer than one year after the work relationship between employer
3 and worker ends.

4 **Section 11. No-Recruit Agreement**

5 A no-recruit agreement is prohibited and unenforceable unless the agreement:

6 (1) applies only to a worker currently working for the employer with whom the
7 worker had worked personally; and

8 (2) lasts no longer than six months after the work relationship between employer
9 and worker ends.

10 **Section 12. Payment-for-Competition Agreement**

11 A payment-for-competition agreement is prohibited and unenforceable unless the
12 agreement:

13 * * *

14 (2) lasts no longer than one year after the work relationship between employer
15 and worker ends.

16 **Section 15. Enforcement and Remedy**

17 * * *

18 (b) A worker who is a party to a restrictive employment agreement or ~~an~~ a subsequent
19 employer that has hired or is considering hiring the worker may seek a declaratory judgment that
20 the agreement is unenforceable.

21 * * *

22 **Legislative Note:** A state should choose Alternative A or Alternative B for subsection (a). A state
23 should indicate whether the Attorney General, Department of Labor, or other state official has
24 the authority to bring ~~these actions~~ an action under subsection (e).

1 **Section 18. Saving Provision**

2 Except as provided in Section 19, this [act] does not affect the validity of ~~an~~ a restrictive
3 employment agreement in effect before [the effective date of this [act]].

4 **[Section 21. Repeals; Conforming Amendments**

5 (a) . . .

6 (b) . . .

7 ***Legislative Note:*** *The state should examine its statutes to determine whether conforming*
8 *revisions are required by provisions of this act relating to a restrictive employment agreement.*
9 *See Section 3(~~c~~b).]*