

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

(~~D~~) the employer's ongoing customer relationships;

(2) when the worker signs the agreement and through the time of enforcement, the agreement is narrowly tailored in duration, geographical area, and scope of actual competition to protect an interest under paragraph (1), and the interest cannot be adequately protected by another restrictive employment agreement; and

(3) the prohibition on competition lasts not longer than:

(A) five years after the work relationship ends when protecting an interest under paragraph (1)(A) or (B); or

(B) one year after the work relationship ends when protecting an interest only under paragraph (1)(~~C~~) or (~~D~~).

Section 8. Confidentiality Agreement

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

* * *

Section 9. No-Business Agreement

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

(1) applies only to a prospective or ongoing client or customer of the employer with whom the worker had worked personally; and

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

Section 10. Nonsolicitation Agreement

A nonsolicitation agreement is prohibited and unenforceable unless the agreement:

(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).]*