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Florida's CHOICE Act Reshapes the Noncompete Landscape: What In-House Counsel Need to Know

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Florida's newly enacted Contracts Honoring Opportunity, Investment, Confidentiality, and Economic Growth (CHOICE) Act brings sweeping changes to the enforceability of noncompete and garden leave agreements across the state. The law – which took effect July 1, 2025, without Governor Ron DeSantis's signature – broadens the permissible duration of noncompetes to four years, eliminates geographic limitations, and introduces a salary threshold for enforceability. It also authorizes employers to seek expedited injunctions when enforcing covered agreements. In-house counsel across Florida should carefully evaluate existing restrictive covenants and prepare to update their agreement templates and enforcement strategies accordingly.

Introduction

On July 1, 2025, Florida officially enacted one of the most consequential changes to its noncompete laws in decades. The CHOICE Act is now law, significantly reshaping the legal landscape for employers seeking to protect their propriety interests through restrictive covenants.

Although the Act became effective without Governor DeSantis's signature, its provisions are wide-ranging and immediately impactful. For in-house legal departments, this development offers both new tools and new responsibilities. Below is a breakdown of the law's key provisions, enforcement mechanisms, and practical implications for employers operating in Florida – or with Florida-based employees.

Expanded Duration and Elimination of Geographic Limitations

Under the CHOICE Act, noncompete agreements can now extend for up to four years, doubling the previous cap of two years under Florida law. Even more notably, the Act eliminates geographic limitations, meaning employers no longer need to tailor restrictive covenants to specific regions or locations to ensure enforceability.

This is a marked departure from the prior legal framework, which required courts to assess whether the scope and geography of a noncompete agreement were reasonable in relation to the employer's legitimate business interests.

For employers, this creates a broader shield against competitive threats – but it also raises the bar for ensuring compliance with new statutory requirements.

Minimum Salary Threshold for Covered Employees

The Act does not apply universally to all workers. It defines "covered employee" as any individual earning at least twice the annual wage in the county where:

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- The employee works;
- The employer has its principal place of business; or
- The employee resides (for non-Florida employers).

Non-salaried employees, as well as lower-wage workers, are excluded from the statute's coverage. This means companies must not only ensure that restrictive covenants are properly drafted but must also verify that the targeted employees meet the salary requirement.

This change is particularly relevant to in-house counsel responsible for maintaining enforceable agreements across job classes and business units with diverse compensation structures.

Garden Leave Agreements

For the first time, Florida has formally recognized garden leave agreements, where an employee remains on the payroll (and continues to receive compensation) during a notice period but is not required to work.

Under the CHOICE Act, a garden leave agreement is enforceable if it meets the following conditions:

- The employer provides advance written notice of the employee's right to seek counsel;
- The employee is given at least 7 days to review the agreement;
- The agreement includes express notice of termination (not exceeding 4 years);
- The employee receives regular salary and benefits throughout the notice period;
- The employee acknowledges receipt of confidential information and/or customer relationships in writing.

Garden leave can be a strategic alternative to traditional noncompetes – especially in situations where courts are wary of impeding a former employee's ability to earn a living. Importantly, during the final 90 days of a garden leave period, the employee may engage in noncompetitive work unless otherwise prohibited.

Enforcement: Fast Tracked Injunctions for Covered Agreements

One of the most employer-friendly features of the CHOICE Act is its streamlined injunction process. If a covered agreement is breached, employers can file for a preliminary injunction, and courts must issue the order without requiring the employer to present evidence upfront.

This automatic injunction halts the employee and/or subsequent employer from continuing the disputed activity. Only after the injunction is entered may the court modify or dissolve it – based on evidence from the employee or new employer showing:

- The employee is not engaging in competitive work,
- The agreement lacked proper consideration (e.g., unpaid salary or benefits),
- The new employer operates outside the relevant market.

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Healthcare Practitioners Excluded; Choice-of-Law Conflicts Anticipated

Notably, the Act excludes healthcare practitioners from its scope, as defined under Stat. § 456.001. It also includes a choice-of-law provision stating that if the employer is based on Florida, Florida law will apply – regardless of conflicting provisions.

This could generate friction in cases involving multi-jurisdictional employees, such as remote workers or individuals who move out of state. In such cases, employers should anticipate challenges to the enforceability of the Florida choice-of-law provision, especially where other states impose restrictions or bans on noncompetes.

Noncompliant Noncompetes Still Enforceable Under Prior Law

The CHOICE Act does not impact the enforceability of current noncompete agreements that do not meet its requirements. The Act specifically states that restrictive covenants that don't meet its requirements for covered garden leave or noncompete agreements will be enforced under existing Florida law governing noncompetes (Florida Statute § 542.335). Thus, noncompetes as well as nonsolicitation and nondisclosure agreements that don't comply with the CHOICE Act are still enforceable under prior Florida law.

Action Items for In-House Counsel

For in-house attorneys, the CHOICE Act should trigger a comprehensive review of all existing restrictive covenants since employers will want to consider whether to update existing noncompete agreements (which could be a complicated process and could damage employee relations) or to limit updates to new agreements going forward. Under prior noncompete law, many employers found it more effective to use nondisclosure or nonsolicitation agreements and will need to consider whether these types of agreements continue to be the most effective going forward. Next steps in-house counsel may want to consider include:

- Auditing existing noncompete and garden leave agreements to identify agreements that exceed two years or impose geographic limits;
- Implementing new template language that aligns with the CHOICE Act's notice, compensation, and acknowledgement requirements;
- Ensuring salary thresholds are met before applying restrictive covenants to employees;
- Training HR and business leaders on the new eligibility and enforcement standards; and
- Preparing for litigation risks involving employees who work out of state or in healthcare roles.

Conclusion

Florida's CHOICE Act is now in effect and marks a major shift in how employers can use and enforce restrictive covenants. By expanding the permissible duration of noncompetes, formally recognizing garden leave agreements, and simplifying enforcement, the law equips employers with stronger tools to protect their business needs.

But with greater power, comes greater responsibility. Agreements that fail to meet the Act's requirements will be analyzed under existing Florida noncompete law, which imposes greater burdens on the company seeking to enforce the agreement.

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For in-house legal departments, this is not just a compliance update – it's a strategic moment to reassert control over workforce mobility and protection of confidential or proprietary business information.

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