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ATTORNEYS AT LAW

**2008 LEGISLATURE EXPANDS LOUISIANA NON-COMPETE STATUTE**

Effective August 15, 2008, Louisiana businesses will be better able to protect their business interests against unfair competition. By Act No. 399, the Louisiana legislature amended Louisiana's non-compete statute, LSA-R.S. 23:921 in several significant ways. Prior to the amendment, an agreement to refrain from competing with a business was only enforceable in the following circumstances:

1. The sale of the goodwill of a business;
2. The separation of an agent, servant or employee from employment;
3. The last day of work of an independent contractor working under a written agreement;
4. Upon the dissolution of a partnership; and
5. Among the parties to a franchise agreement.

The amendment substantially expands the circumstances under which a business may enforce an agreement to refrain from competing with that business. Specifically, non-compete agreements may now additionally be enforced in the following circumstances:

1. A corporation and the individual shareholders may agree that the shareholders will not compete with the corporation after they cease to be shareholders;
2. A partnership and the individual partners may agree that the partners will not compete with the partnership after they cease to be partners, and
3. A limited liability company and the individual members of the company may agree that the members will not compete with the company after they cease to be members.

The key to utilizing the new provisions of the non-compete statute will be to incorporate the proper language into your corporation, partnership or L.L.C. documents. Existing businesses can take advantage of these new protections by implementing relatively simple amendments to their bylaws or operating agreements, or by written agreements with their individual shareholders, partners or members. However, any agreement to refrain from competing must be in writing and the document must strictly comply with the statute.

As with the original statute, the amendment is complicated by a myriad of conditions that must be met in both the drafting and implementation of the non-compete agreements. However, when a non-compete agreement is drafted and applied according to the revised statute, it will allow businesses a much greater range of protection against competition by individuals who may have had access to sensitive information about the company.



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Jude Bursavich and Jerry L. "Jay" Stovall, Jr., are both experienced in drafting and litigating issues related to non-compete agreements under Louisiana law. Don't hesitate to contact either Jude or Jay if you have any questions about these amendments or how your company can make effective use of the new protections provided by the amendments.