

Client Alert

February 2010

H. R. 178 PROPOSES TO GIVE JUDGES THE POWER TO “BLUE PENCIL” RESTRICTIVE COVENANTS

House Resolution 178, which would allow judges to alter restrictive covenants, cleared one hurdle when it passed the House Judiciary Committee on February 11, 2010. As the law currently stands, judges do not have the power to re-write or “blue pencil” a restrictive covenant which violates Georgia law because it is too broad. For example, if a restrictive covenant, such as a non-compete is too broad because it encompasses too large a geographic area, the judge cannot enforce the non-compete only for a smaller geographic area he believes is reasonable. In such a circumstance, the judge would have to find the entire non-compete void and unenforceable. H. R. 178 would allow a judge to modify a restrictive covenant to reflect the “original intent” of the parties, rather than voiding the entire contract.

If H. R. 178 passes the full House and the full Senate, it must then be signed by Governor Perdue before being placed on the ballot as a constitutional amendment this fall. Please contact us if you would like to see the full text of H. R. 178 or if you have questions as to how this potential change might affect you.

This client alert is intended to inform clients and other interested parties about legal matters of current interest and is not intended as legal advice.

ABOUT HBSS

Hall Booth Smith & Slover is a full-service and diverse law firm with eight regional offices in Georgia, Tennessee and South Carolina. The firm’s practice areas are focused and diverse, and include complex civil defense litigation, employment, mass torts, medical malpractice, healthcare, regulatory and governmental matters, and international law.

Whether it’s a matter of litigation taking place in the courtroom or negotiations happening in the board room, the attorneys at HBSS will aggressively represent your interests every step of the way.

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HEATHER SAUM is a Senior Associate with over 11 years of litigation experience. She represents employers in claims involving Title VII, FLSA, FMLA, ADEA, and ADA. She has an interest in litigation prevention through on-site training and investigation, however when litigation is necessary, her experience handling discrimination and harassment cases enables her to provide a valuable service to our clients from investigation through trial. Heather is licensed in Georgia and Mississippi.



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ASSOCIATE NICHOLE HAIR brings experience representing public and private employers in harassment and discrimination claims involving Title VII, FLSA, FMLA, ADEA, and ADA. She provides both

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