



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB3213

Introduced 2/18/2025, by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

820 ILCS 90/5
820 ILCS 90/10
820 ILCS 90/15
820 ILCS 90/7 rep.
820 ILCS 90/20 rep.
820 ILCS 90/35 rep.

Amends the Illinois Freedom to Work Act. Provides that, on and after January 1, 2026, no employer shall enter into a covenant not to compete or a covenant not to solicit with any employee. Provides that a covenant not to compete or a covenant not to solicit entered into on or after January 1, 2026 is illegal and void regardless of where and when the covenant not to compete or a covenant not to solicit was entered into. Provides that an employer or former employer shall not attempt to enforce a contract that is void and unenforceable under the Act regardless of whether the contract was signed and the employment was maintained outside of the State. Repeals provisions concerning the legitimate business interest of the employer; ensuring employees are informed about their obligations; and reformation of covenants not to compete and covenants not to solicit. Makes changes to definitions. Makes conforming changes. Effective January 1, 2026.

LRB104 08712 SPS 18766 b

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Freedom to Work Act is amended by
5 changing Sections 5, 10, and 15 as follows:

6 (820 ILCS 90/5)

7 Sec. 5. Definitions. In this Act:

8 ~~"Adequate consideration" means (1) the employee worked for~~
9 ~~the employer for at least 2 years after the employee signed an~~
10 ~~agreement containing a covenant not to compete or a covenant~~
11 ~~not to solicit or (2) the employer otherwise provided~~
12 ~~consideration adequate to support an agreement to not compete~~
13 ~~or to not solicit, which consideration can consist of a period~~
14 ~~of employment plus additional professional or financial~~
15 ~~benefits or merely professional or financial benefits adequate~~
16 ~~by themselves.~~

17 "Covenant not to compete" means an agreement between an
18 employer and an employee ~~that is entered into after the~~
19 ~~effective date of this amendatory Act of the 102nd General~~
20 ~~Assembly~~ that restricts the employee from performing:

21 (1) any work for another employer for a specified
22 period of time;

23 (2) any work in a specified geographical area; or

1 (3) work for another employer that is similar to
2 employee's work for the employer included as a party
3 to the agreement.

4 "Covenant not to compete" also means an agreement between
5 an employer and an employee, ~~entered into after the effective~~
6 ~~date of this amendatory Act of the 102nd General Assembly,~~
7 that by its terms imposes adverse financial consequences on
8 the former employee if the employee engages in competitive
9 activities after the termination of the employee's employment
10 with the employer.

11 "Covenant not to compete" does not include (1) a covenant
12 not to solicit, (2) a confidentiality agreement or covenant,
13 (3) a covenant or agreement prohibiting use or disclosure of
14 trade secrets or inventions, (4) invention assignment
15 agreements or covenants, (5) a covenant or agreement entered
16 into by a person purchasing or selling the goodwill of a
17 business or otherwise acquiring or disposing of an ownership
18 interest, (6) clauses or an agreement between an employer and
19 an employee requiring advance notice of termination of
20 employment, during which notice period the employee remains
21 employed by the employer and receives compensation, or (7)
22 agreements by which the employee agrees not to reapply for
23 employment to the same employer after termination of the
24 employee.

25 "Covenant not to solicit" means an agreement ~~that is~~
26 ~~entered into after the effective date of this amendatory Act~~

1 ~~of the 102nd General Assembly~~ between an employer and an
2 employee that (1) restricts the employee from soliciting for
3 employment the employer's employees or (2) restricts the
4 employee from soliciting, for the purpose of selling products
5 or services of any kind to, or from interfering with the
6 employer's relationships with, the employer's clients,
7 prospective clients, vendors, prospective vendors, suppliers,
8 prospective suppliers, or other business relationships.

9 ~~"Earnings" means the compensation, including earned~~
10 ~~salary, earned bonuses, earned commissions, or any other form~~
11 ~~of taxable compensation, reflected or that is expected to be~~
12 ~~reflected as wages, tips, and other compensation on the~~
13 ~~employee's IRS Form W-2 plus any elective deferrals not~~
14 ~~reflected as wages, tips, and other compensation on the~~
15 ~~employee's IRS Form W-2, such as, without limitation, employee~~
16 ~~contributions to a 401(k) plan, a 403(b) plan, a flexible~~
17 ~~spending account, or a health savings account, or commuter~~
18 ~~benefit related deductions.~~

19 "Employee" means any individual permitted to work by an
20 employer in an occupation.

21 "Employer" has the meaning given to such term in
22 subsection (c) of Section 3 of the Minimum Wage Law.
23 "Employer" does not include governmental or quasi-governmental
24 bodies.

25 ~~"Construction" means any constructing, altering,~~
26 ~~reconstructing, repairing, rehabilitating, refinishing,~~

1 ~~refurbishing, remodeling, remediating, renovating, custom~~
2 ~~fabricating, maintenance, landscaping, improving, wrecking,~~
3 ~~painting, decorating, demolishing, and adding to or~~
4 ~~subtracting from any building, structure, highway, roadway,~~
5 ~~street, bridge, alley, sewer, ditch, sewage disposal plant,~~
6 ~~water works, parking facility, railroad, excavation or other~~
7 ~~structure, project, development, real property or improvement,~~
8 ~~or to do any part thereof, whether or not the performance of~~
9 ~~the work herein described involves the addition to, or~~
10 ~~fabrication into, any structure, project, development, real~~
11 ~~property or improvement herein described of any material or~~
12 ~~article of merchandise.~~

13 (Source: P.A. 102-358, eff. 1-1-22.)

14 (820 ILCS 90/10)

15 Sec. 10. Prohibiting covenants not to compete and
16 covenants not to solicit.

17 (a) Before January 1, 2026, no ~~No~~ employer shall enter
18 into a covenant not to compete with any employee unless the
19 employee's actual or expected annualized rate of earnings
20 exceeds \$75,000 per year. On and after January 1, 2026, no
21 employer shall enter into a covenant not to compete with any
22 employee. ~~This amount shall increase to \$80,000 per year~~
23 ~~beginning on January 1, 2027, \$85,000 per year beginning on~~
24 ~~January 1, 2032, and \$90,000 per year beginning on January 1,~~
25 ~~2037.~~ A covenant not to compete entered into in violation of

1 this subsection is void and unenforceable.

2 (b) Before January 1, 2026, no ~~no~~ employer shall enter
3 into a covenant not to solicit with any employee unless the
4 employee's actual or expected annualized rate of earnings
5 exceeds \$45,000 per year. On and after January 1, 2026, no
6 employer shall enter into a covenant not to solicit with any
7 employee. ~~This amount shall increase to \$47,500 per year~~
8 ~~beginning on January 1, 2027, \$50,000 per year beginning on~~
9 ~~January 1, 2032, and \$52,500 per year beginning on January 1,~~
10 ~~2037.~~ A covenant not to solicit entered into in violation of
11 this subsection is void and unenforceable.

12 (c) (Blank). ~~No employer shall enter into a covenant not~~
13 ~~to compete or a covenant not to solicit with any employee who~~
14 ~~an employer terminates or furloughs or lays off as the result~~
15 ~~of business circumstances or governmental orders related to~~
16 ~~the COVID-19 pandemic or under circumstances that are similar~~
17 ~~to the COVID-19 pandemic, unless enforcement of the covenant~~
18 ~~not to compete includes compensation equivalent to the~~
19 ~~employee's base salary at the time of termination for the~~
20 ~~period of enforcement minus compensation earned through~~
21 ~~subsequent employment during the period of enforcement. A~~
22 ~~covenant not to compete or a covenant not to solicit entered~~
23 ~~into in violation of this subsection is void and~~
24 ~~unenforceable.~~

25 (d) A covenant not to compete is void and illegal with
26 respect to individuals covered by a collective bargaining

1 agreement under the Illinois Public Labor Relations Act or the
2 Illinois Educational Labor Relations Act.

3 (e) A covenant not to compete or a covenant not to solicit
4 is void and illegal with respect to individuals employed in
5 construction, regardless of whether an individual is covered
6 by a collective bargaining agreement. ~~This subsection (e) does
7 not apply to construction employees who primarily perform
8 management, engineering or architectural, design, or sales
9 functions for the employer or who are shareholders, partners,
10 or owners in any capacity of the employer.~~

11 (f) ~~(e)~~ Any covenant not to compete or covenant not to
12 solicit entered into after January 1, 2025 (the effective date
13 of Public Act 103-915) ~~this amendatory Act of the 103rd
14 General Assembly~~ shall not be enforceable with respect to the
15 provision of mental health services to veterans and first
16 responders by any licensed mental health professional in this
17 State if the enforcement of the covenant not to compete or
18 covenant not to solicit is likely to result in an increase in
19 cost or difficulty for any veteran or first responder seeking
20 mental health services.

21 For the purpose of this subsection:

22 "First responders" means emergency medical services
23 personnel, as defined in the Emergency Medical Services (EMS)
24 Systems Act, firefighters, and law enforcement officers.

25 "Licensed mental health professional" means a person
26 licensed under the Clinical Psychologist Licensing Act, the

1 Clinical Social Work and Social Work Practice Act, the
2 Marriage and Family Therapy Licensing Act, the Nurse Practice
3 Act, or the Professional Counselor and Clinical Professional
4 Counselor Licensing and Practice Act.

5 (Source: P.A. 102-358, eff. 1-1-22; 103-915, eff. 1-1-25;
6 103-921, eff. 1-1-25; revised 11-26-24.)

7 (820 ILCS 90/15)

8 Sec. 15. Enforceability of a covenant not to compete or a
9 covenant not to solicit.

10 (a) A covenant not to compete or a covenant not to solicit
11 entered into on or after January 1, 2026 is illegal and void
12 regardless of where and when the covenant not to compete or a
13 covenant not to solicit was entered into unless (1) the
14 employee receives adequate consideration, (2) the covenant is
15 ancillary to a valid employment relationship, (3) the covenant
16 is no greater than is required for the protection of a
17 legitimate business interest of the employer, (4) the covenant
18 does not impose undue hardship on the employee, and (5) the
19 covenant is not injurious to the public.

20 (b) An employer or former employer shall not attempt to
21 enforce a contract that is void and unenforceable under this
22 Act regardless of whether the contract was signed and the
23 employment was maintained outside of this State.

24 (Source: P.A. 102-358, eff. 1-1-22.)

1 (820 ILCS 90/7 rep.)

2 (820 ILCS 90/20 rep.)

3 (820 ILCS 90/35 rep.)

4 Section 10. The Illinois Freedom to Work Act is amended by
5 repealing Sections 7, 20, and 35.

6 Section 99. Effective date. This Act takes effect January
7 1, 2026.