



## Immediate Release

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## Illinois Chamber of Commerce Submits Comments Opposing FTC's Proposed Rule Banning Noncompetes

(Springfield, IL). The Illinois Chamber of Commerce recently filed comments with the Federal Trade Commission ("FTC") opposing the FTC's proposed rule banning on all noncompetition agreements nationwide. The Chamber opposes the proposed noncompete ban because it would wipe out Illinois's recently enacted bipartisan noncompete reform law (the "Illinois Compromise"), along with similar bipartisan compromises in many other states across the nation.

In recent years, abusive uses of noncompetes have received wide media attention, which has led to an active debate across the country about the appropriate uses of post-employment noncompetes. Should there be minimum income thresholds? If so, at what level? Should customer or coworker non-solicits be treated differently than noncompetes? Should employers be required to pay an employee not to compete, either via a paid-post employment restricted period or other mutually agreed consideration, or via a required advance notice of resignation or termination (*i.e.*, a mandatory "garden leave" period)?

All of these issues, and many more, were debated, negotiated, and hashed out in Illinois in 2021 – *democratically* – culminating in a comprehensive reform of noncompete and nonsolicit law that was passed *unanimously* by the Illinois state Senate and House of Representatives over Memorial Day weekend 2021. The Illinois Compromise was not a complete ban on noncompetes, as some competing bills and employee advocates originally sought. And the bill was certainly not "pro-enforcement," as many employers would have preferred. Instead, it was that increasingly rare political creature: *a true compromise*.

The Illinois Compromise was the result of negotiations primarily involving the Illinois Chamber (on behalf of the business community in Illinois), the Chicago Chapter of the National Employment Lawyers Association (whose members represent individuals in employment matters), the AFL-CIO, and the Illinois Attorney General's Office.

The Illinois Compromise *fairly* addressed the competing concerns of employees and employers in Illinois, as evidenced by the fact that it was *unanimously* passed by the state legislature, one of the most employee-friendly in the country.

This carefully crafted compromise, however, would be wiped out with the stroke of a

regulatory pen by the Proposed Rule. This would be grossly anti-democratic and would impinge on the role of states as laboratories of democracy. Accordingly, the Chamber opposes the proposed FTC rule.

For additional information about the Chamber's position on this issue, or to obtain a copy of the Chamber's comments, please contact Darbi Durham at: [ddurham@ilchamber.org](mailto:ddurham@ilchamber.org).

Thank you to our outside counsel, Epstein Becker & Green, P.C., for their assistance in drafting the comments.

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