

It's Official! Georgia's Restrictive Covenant Act Signed by Governor Deal

May 12, 2011 10:14

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On May 11, 2011, Governor Deal signed House Bill 30, Georgia's Restrictive Covenant Act. For those that have been following this issue, you understand "what a long strange trip it's been." If you are late to the game, please see prior posts to get up to speed.

The upshot of the signing of the legislation by Governor Deal is this – a new day has dawned in Georgia for restrictive covenants signed on or after May 11, 2011. The new legislation has no impact on non-competes and other restrictive covenants signed before May 11, 2011 (with a caveat – there is an argument that the first go around at the legislation would cover agreements signed on or after January 1, 2011, but that very debatable issue is also explained in prior posts).

So it is now time for businesses with employees in Georgia to dust off their restrictive covenant agreements. Georgia law does not require "additional consideration" to support a new agreement signed by a current employee. So if there is any question as to whether an agreement signed by a current employee is valid or whether it really provides you with the protection you need, now is the time to solidify the situation with a new agreement. But when drafting new agreements, businesses should be careful about getting too greedy. The law does not require judges to modify overbroad covenants; rather, any needed **modification** is left to the discretion of the judges.