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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/02/2025	.	
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The Committee on Judiciary (Leek) recommended the following:

Senate Amendment to Amendment (839748) (with title amendment)

Between lines 304 and 305
insert:

Section 3. Section 542.15, Florida Statutes, is amended to
read:

542.15 Short title.—This part act shall be known and may be
cited as the "Florida Antitrust Act of 1980."

Section 4. Section 542.16, Florida Statutes, is amended to
read:



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542.16 Purpose.—The Legislature declares it to be the purpose of this part ~~act~~ to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition. It is the intent of the Legislature that this part ~~act~~ be liberally construed to accomplish its beneficial purpose.

Section 5. Section 542.17, Florida Statutes, is amended to read:

542.17 Definitions.—Unless a different meaning is clearly indicated by the context, for the purposes of this part ~~chapter~~, the terms defined in this section have the following meanings ascribed to them:

(1) "Commodity" means any goods, merchandise, wares, produce, chose in action, land, article of commerce, or other tangible or intangible property, real, personal, or mixed, for use, consumption, production, enjoyment, or resale.

(2) "Service" means any kind of activity performed in whole or in part for economic benefit.

(3) "Person" means any individual, corporation, firm, partnership, limited partnership, incorporated or unincorporated association, professional association, or other legal, commercial, or governmental entity, including the State of Florida, its departments, agencies, political subdivisions, and units of government.

(4) "Trade or commerce" means any economic activity of any type whatsoever involving any commodity or service whatsoever.

(5) "Document" means any stored or retained data or information in whatever form.

(6) "Attorney General" includes not only the Attorney



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General of Florida but also any designee of the Attorney General or any assistant attorney general or special assistant attorney general.

(7) "State attorney" includes not only the state attorneys of Florida but also any designee of a state attorney or any assistant state attorney or special assistant state attorney.

(8) "Local government" means a municipality, county, school district, or any other general-function or special-function governmental unit established by the laws of the state.

Section 6. Section 542.20, Florida Statutes, is amended to read:

542.20 Exemptions.—Any activity or conduct exempt under Florida statutory or common law or exempt from the provisions of the antitrust laws of the United States is exempt from the provisions of this part ~~chapter~~.

Section 7. Subsection (1) of section 542.22, Florida Statutes, is amended to read:

542.22 Suits for damages.—

(1) Any person who shall be injured in her or his business or property by reason of any violation of s. 542.18 or s. 542.19 may sue therefor in the circuit courts of this state and shall recover threefold the damages by her or him sustained, and the cost of suit, including a reasonable attorney's fee. The court shall award a reasonable attorney's fee to a defendant prevailing in any action under this part ~~chapter~~ for damages or equitable relief in which the court finds there was a complete absence of a justiciable issue of either law or fact raised by the plaintiff.

Section 8. Section 542.23, Florida Statutes, is amended to



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read:

542.23 Equitable remedies.—In addition to other remedies provided by this part ~~chapter~~, any person shall be entitled to sue for and have injunctive or other equitable relief in the circuit courts of this state against threatened loss or damage by a violation of this part ~~chapter~~. In any action under this section in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to the plaintiff.

Section 9. Subsection (4) of section 542.235, Florida Statutes, is amended to read:

542.235 Limitations of actions and penalties against local governments and their officials and employees.—

(4) No criminal action shall be maintained pursuant to s. 542.21(2), and no civil penalties, damages, interest on damages, costs, or attorneys' fees shall be recovered pursuant to s. 542.21(1) or s. 542.22, against any local government official or employee for official conduct within the scope of her or his lawful authority, unless the official or employee has violated the provisions of this part ~~chapter~~ for the purpose of deriving personal financial or professional gain or for the professional or financial gain of her or his immediate family or of any principal by whom the official is retained.

Section 10. Section 542.24, Florida Statutes, is amended to read:

542.24 Consent decrees and settlement agreements.—In a civil action maintained under this part ~~chapter~~ by the Attorney General or a state attorney, any party to such action may petition the court for entry of a consent decree or for approval



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of a settlement agreement. The proposed decree or agreement shall set out the alleged violations, the future obligations of the parties, the damages or other relief agreed upon, and the reasons for entering into the consent decree or settlement agreement.

Section 11. Section 542.25, Florida Statutes, is amended to read:

542.25 Judgment in favor of state as prima facie evidence.— A final judgment or decree entered in any civil or criminal proceeding brought by the Attorney General or a state attorney under s. 542.21 or s. 542.23 to the effect that a defendant has violated s. 542.18 or s. 542.19, or entered in any civil or criminal proceeding brought by the United States Department of Justice under comparable federal laws, shall be prima facie evidence against such defendant in any civil action or proceeding under this part ~~chapter~~ brought by any other person against such defendant as to all matters with respect to which such judgment or decree would be an estoppel as between the parties thereto; however, this section does not apply to a consent judgment or decree entered before any testimony has been taken. Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel.

Section 12. Subsection (2) of section 542.26, Florida Statutes, is amended to read:

542.26 Limitation of actions.—

(2) Whenever any civil or criminal proceeding is instituted by the Attorney General or a state attorney to prevent, restrain, or punish any violation of this part ~~chapter~~, the running of the statute of limitations, with respect to every



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private right of action arising under this part ~~chapter~~ and based in whole or in part on any matter complained of in said proceeding, shall be suspended during the pendency thereof and for 1 year thereafter. Whenever the running of the statute of limitations in respect of a cause of action arising under s. 542.22(1) is suspended hereunder, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within the period of limitation.

Section 13. Section 542.27, Florida Statutes, is amended to read:

542.27 Enforcement authority.—

(1) The Attorney General, or a state attorney with written permission from the Attorney General, acting jointly or independently, may commence and try all criminal prosecutions under this part ~~chapter~~. Criminal prosecutions under this part ~~chapter~~ shall be commenced by indictment. With respect to commencement and trial of such prosecutions, the Attorney General or a state attorney shall have all the powers and duties vested by law with respect to criminal prosecutions generally. Incident to any investigation commenced under this part ~~chapter~~, the Attorney General may participate in and appear before a grand jury in assistance of any state attorney, irrespective of the provisions of chapter 905.

(2) The Attorney General is authorized to institute or intervene in civil proceedings seeking the full range of relief afforded by this part ~~chapter~~ or by federal laws pertaining to antitrust or restraints of trade on behalf of the state, its departments, agencies, and units of government. In addition, the



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Attorney General, as chief state legal officer, may institute any action authorized under this part ~~chapter~~, federal laws pertaining to antitrust or restraints of trade, or similar laws of other states on behalf of natural persons in the state.

(3) Whenever the Attorney General, by her or his own inquiry or as a result of a complaint, suspects that a violation of this part ~~chapter~~ or federal laws pertaining to restraints of trade is imminent, occurring, or has occurred, the Attorney General may investigate such suspected violation.

Section 14. Paragraph (b) of subsection (2), paragraph (b) of subsection (3), and subsections (5) and (13) of section 542.28, Florida Statutes, are amended to read:

542.28 Civil investigative demand.—

(2) The demand shall:

(b) State the nature of the conduct which constitutes the violation of this part ~~chapter~~ or of the federal antitrust laws and which is alleged to have occurred or to be imminent.

(3) No such demand shall require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if such material, answers, or testimony would be protected from disclosure under:

(b) The standards applicable to a discovery request under the Florida Rules of Civil Procedure, to the extent that the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this part ~~chapter~~.

(5) Within 30 days after the service of an investigative demand upon any person or at any time before the return date



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specified therein, whichever period is longer, the person served may file in the circuit court in and for the county in which the person resides or transacts business, and serve upon the Attorney General or state attorney, a petition for an order of the court modifying or setting aside the demand. The time allowed for compliance in whole or in part with the demand as deemed proper and ordered by the court shall not run while the petition is pending before the court. The petition shall specify each ground upon which the petitioner relies in seeking relief and may be based upon the failure of the demand to comply with the provisions of this part ~~chapter~~ or upon any constitutional or other legal right or privilege of such person.

(13) Nothing contained in this section shall impair the authority of the Attorney General or state attorney to:

(a) Institute a civil proceeding under s. 542.22;

(b) Lay before a grand jury of this state evidence concerning a violation of this part ~~chapter~~;

(c) Invoke the power of a court to compel the production of evidence before a grand jury; or

(d) File a civil complaint or criminal indictment alleging a violation of this part ~~chapter~~.

Section 15. Section 542.29, Florida Statutes, is amended to read:

542.29 Duty of public officers.—In any investigation and in any criminal or civil action commenced pursuant to this part ~~chapter~~, it shall be the duty of all public officers and their deputies, assistants, clerks, subordinates, or employees to render and furnish to the Attorney General or a state attorney, when so requested, assistance and all information available in



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their official capacity.

Section 16. Section 542.30, Florida Statutes, is amended to read:

542.30 Jurisdiction and venue.—Without regard to the amount in controversy, a suit or proceeding brought under this part ~~chapter~~ shall be brought in the circuit court in and for any county in which the cause of action arose; in which any defendant resides, is found, or has an agent; or in which any act in furtherance of the conduct prohibited by this part ~~chapter~~ occurred.

Section 17. Section 542.31, Florida Statutes, is amended to read:

542.31 Action not barred as affecting or involving interstate or foreign commerce.—No action under this part ~~chapter~~ shall be barred on the grounds that the activity or conduct complained of in any way affects or involves interstate or foreign commerce. It is the intent of the Legislature to exercise its powers to the fullest extent consistent with the Constitutions of this state and the United States.

Section 18. Section 542.32, Florida Statutes, is amended to read:

542.32 Rule of construction and coverage.—It is the intent of the Legislature that, in construing this part ~~chapter~~, due consideration and great weight be given to the interpretations of the federal courts relating to comparable federal antitrust statutes. In particular, the failure to include in this part ~~chapter~~ the substantive provisions of s. 3 of the Clayton Act, 15 U.S.C. s. 14, shall not be deemed in any way to limit the scope of s. 542.18 or s. 542.19.



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Section 19. Subsection (1) of section 542.33, Florida Statutes, is amended to read:

542.33 Contracts in restraint of trade valid.—

(1) Notwithstanding other provisions of this part ~~chapter~~ to the contrary, each contract by which any person is restrained from exercising a lawful profession, trade, or business of any kind, as provided by subsections (2) and (3) hereof, is to that extent valid, and all other contracts in restraint of trade are void.

Section 20. Section 542.35, Florida Statutes, is amended to read:

542.35 Remedies cumulative.—The remedies provided by this part ~~act~~ are cumulative of each other and of existing powers and remedies inherent in the courts.

Section 21. Section 542.36, Florida Statutes, is amended to read:

542.36 Continuing violations.—Violations commenced prior to October 1, 1980, ~~the effective date of this act~~ and continuing after the effective date shall be actionable as provided in this part ~~chapter~~. The fact that any conduct occurred prior to October 1, 1980, ~~the effective date of this act~~ shall not affect its relevance in proving that a violation of this part ~~chapter~~ has occurred or is occurring.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 373

and insert:

agreement or a covered noncompete agreement; amending



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273 ss. 542.15, 542.16, 542.17, 542.20, 542.22, 542.23,
274 542.235, 542.24, 542.25, 542.26, 542.27, 542.28,
275 542.29, 542.30, 542.31, 542.32, 542.33, 542.35, and
276 542.36, F.S., to conform to the changes made by this
277 act; providing