

Use this checklist to determine whether your covenant not to compete is enforceable under Texas law.

<p>1. Is the non-compete ancillary to another agreement?</p> <ul style="list-style-type: none"> <li>• An employment agreement</li> <li>• A stock option agreement</li> <li>• A non-disclosure agreement</li> <li>• Is not a stand-alone non-compete agreement</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>2. Is there adequate consideration?</p> <ul style="list-style-type: none"> <li>• Business goodwill</li> <li>• Confidential or proprietary information</li> <li>• Trade secrets</li> <li>• Customer information</li> <li>• Specialized training</li> <li>• Stock options</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>3. Is each restriction reasonable?</p> <ul style="list-style-type: none"> <li>• Do they impose a greater restraint than is necessary to protect the goodwill or other business interests of the employer?</li> <li>• Are they narrowly tailored to the individual employee and the job description?</li> <li>• Do other employees with access to the same information have the same restrictions?</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>3(a) Is the geographic scope reasonable?</p> <ul style="list-style-type: none"> <li>• Is it limited to the territory in which the employee worked during his or her employment?</li> <li>• Alternatively, is it limited to the employee's clients?</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>3(b) Is the temporal scope reasonable?</p> <ul style="list-style-type: none"> <li>• Is it limited to two years or less?</li> <li>• Is it tailored to the job level? (e.g., a high-level executive might have a longer limitation than an entry-level worker)</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>
<p>3(c) Is the prohibited scope of activity reasonable?</p> <ul style="list-style-type: none"> <li>• Does it bear some relation to the activities of the employee?</li> <li>• Is it narrow and not an industry-wide exclusion?</li> </ul>	<p>Yes <input type="checkbox"/> No <input type="checkbox"/></p>

If the answers to all of the questions in the checklist are “yes,” then it is likely an enforceable non-compete in Texas. However, this will of course be “judge dependent” who will be the final arbiter of reasonableness.



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