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H. B. 3046

(By Delegate Stagers)
[Introduced February 8, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §30-41-1 and
§30-41-2, all relating to voiding all noncompete agreements;
and providing exceptions.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended
by adding thereto a new article, designated §30-41-1 and §30-41-2,
all to read as follows:

ARTICLE 41. NONCOMPETE CONTRACTS.

§30-41-1. Noncompete clauses.

Except as provided in section two of this article, every
agreement, or clause in a contract, by which anyone is restrained
from engaging in a lawful profession, trade, or business of any
kind is to that extent void.

§30-41-2. Exceptions.

1 Section one of this article does not apply to:

2 (1) Any person who sells the goodwill of a business;

3 (2) Any owner of a business entity selling or otherwise
4 disposing of all of his or her ownership interest in a business
5 entity; or

6 (3) Any owner of a business entity that sells:

7 (A) All or substantially all of its operating assets together
8 with the goodwill of the business entity;

9 (B) All or substantially all of the operating assets of a
10 division or a subsidiary of the business entity together with the
11 goodwill of that division or subsidiary; or

12 (C) All of the ownership interest of any subsidiary, may agree
13 with the buyer to refrain from carrying on a similar business
14 within a specified geographic area in which the business so sold,
15 or that of the business entity, division, or subsidiary has been
16 carried on, so long as the buyer, or any person deriving title to
17 the goodwill or ownership interest from the buyer, carries on a
18 like business.

NOTE: The purpose of this bill is to void all noncompete agreements. The bill also provides exceptions.

This article is new; therefore, it has been completely underscored.