

## **Noncompete Agreements Protect the Company**

Losing a top job performer to a competitor can jeopardize the profitability of a small-business operation. Even worse, the ex-employee may impart trade secrets or reveal other proprietary information about the company. One way to deter these actions is to have employees in vital positions sign a noncompete agreement.

A noncompete agreement prevents an employee from performing the same or a similar job in a limited geographic area for a specific period of time. Depending upon the applicable state law, it may also prohibit the employee from divulging confidential information and contacting the company's client list.

If the noncompete agreement is violated, the company may seek monetary damages for lost business opportunities or have the terms of the agreement strictly enforced. Caveat: The courts often invalidate agreements that substantially restrict a person's right to pursue a livelihood in his or her given profession.

The noncompete agreement is enforceable only if it is reasonable under the circumstances. This typically depends upon the scope and nature of the employee's job. For example, a company may not be able to prohibit an employee from working for a competitor if he or she played a small role for the company.

Furthermore, the employee must receive some "consideration" in exchange. In other words, the employee must obtain something of value for signing the agreement, such as a signing bonus or severance. Note: The employee cannot be coerced into signing the agreement.

It is best to address this situation upon hiring. Have noncompete agreements reviewed by an attorney experienced in employment law.