

The House Committee on Judiciary offers the following substitute to HR 178:

## A RESOLUTION

1 Proposing an amendment to the Constitution so as to allow the enforcement of contracts that  
 2 restrict competition during or after the term of employment or of a commercial relationship  
 3 so long as such contracts are reasonable in time, geographic area, and line of business; to  
 4 provide that courts may modify such contracts to achieve the intent of the contracting parties;  
 5 to provide for the submission of this amendment for ratification or rejection; and for other  
 6 purposes.

7 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

### 8 SECTION 1.

9 Article III, Section VI of the Constitution is amended by revising subparagraph (c) of  
 10 Paragraph V as follows:

11 "(c)(1) Except as otherwise provided in this subparagraph, the The General Assembly  
 12 shall not have the power to authorize any contract or agreement which may have the  
 13 effect of or which is intended to have the effect of defeating or lessening competition, or  
 14 encouraging a monopoly, which are hereby declared to be unlawful and void.

15 (2) The General Assembly shall have the authority to provide by general law for  
 16 contracts that restrict competition during or after a term of employment or of a  
 17 commercial relationship so long as such contracts are reasonable in time, geographic area,  
 18 and line of business.

19 (3) In order to conform contracts with general laws relating to contracts that restrict  
 20 competition during or after a term of employment or of a commercial relationship and in  
 21 order to achieve the original intent of the contracting parties, a court may modify a  
 22 contract that restricts competition during or after a term of employment or of a  
 23 commercial relationship to cure any deficiencies relating to the competitive restrictions  
 24 where the restrictions would, if left unmodified, contravene any provision of this  
 25 Constitution or of the United States Constitution or would otherwise render the contract  
 26 or any restrictive covenant contained in the contract unlawful and unenforceable."

27

**SECTION 2.**

28 The above proposed amendment to the Constitution shall be published and submitted as  
29 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the  
30 above proposed amendment shall have written or printed thereon the following:

31 "( ) YES Shall the Constitution of Georgia be amended so as to authorize the General  
32 ( ) NO Assembly to provide for contracts that limit competition during or after the  
33 term of employment or of a commercial relationship and to authorize the  
34 courts to cure legal defects in such contracts in order to protect legitimate  
35 interests and achieve the intent of the parties?"

36 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

37 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If  
38 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall  
39 become a part of the Constitution of this state.