

Interested Party Testimony
Senate Bill 11

Chairman Manning, Vice Chair Reynolds, Ranking Member Hicks-Hudson, and members of the Senate Judiciary Committee, thank you for the opportunity to provide interested party testimony on Senate Bill 11.

My name is Jeff Smith and I'm proud to serve as Executive Director for the Ohio Insurance Agents Association (OIA). Our association is the collective voice of over 1,000 independent agencies that employ nearly 11,000 Ohioans. We promote, progress, and protect the profession and the guidance only independent insurance agents provide. Independent insurance agents are trusted advisors to Ohio citizens and businesses and are responsible for servicing 89% of the commercial policies and 46% of the personal policies in the state. I appreciate the opportunity to speak on behalf of our members and discuss our thoughts on SB 11, legislation that would ban non-compete agreements.

Independent agencies rely on employment agreements with individual agents and staff to protect their investments, maintain customer relationships, protect confidential information, and preserve the overall value of their business. These agreements are vital to ensuring stability and business continuity in the industry.

Many insurance agencies incorporate non-compete agreements into their employment contracts, while others have opted for non-solicitation or non-piracy clauses instead or in addition to non-compete agreements. Our association believes that the language in Senate Bill 11 does not prohibit the use of non-solicitation or non-piracy clauses, allowing agencies to protect business interests in that capacity. This is critically important for the stability of the independent agency distribution system and many other similarly situated businesses.

Our members have concerns about certain provisions in Senate Bill 11. Agencies invest time and resources in training employees and worry about them joining direct competitors in the same local market. Language that restricts non-competes based on geographic area raises concerns, as does language that would prohibit the enforcement of current non-compete agreements. These issues are important to many of our members.

These issues have been litigated through the Ohio court system and have been found to be legal as long as they are reasonable. We do not support the use of non-compete agreements in an unreasonable manner. However, Ohio courts have provided a reasonableness test for employers looking to utilize non-compete agreements to determine whether they meet that



standard. In *Raimonde v. Van Vlerah* (1975), the Ohio Supreme Court established a reasonableness test for evaluating employment covenants. A covenant is considered reasonable if it does not impose an undue burden on the employee, not greater than required for the protection of the employer and does not harm the public interest.

Our association has concerns about the impact a broad ban on non-compete agreements could have on the sale of businesses. Non-competes have been utilized during the sale of an agency to ensure that it retains value by preventing former owners from selling the business and then immediately competing with the new owners. For example, without a non-compete, a former agency owner could sell their business and then open a competing agency just a few blocks away drawing clients away and undermining the buyer's investment. To protect the stability and value of agency sales, OIA would like to see bill language that gives an exception for non-competes to be used in business transactions.

On the state and national level, we have seen the debate about non-competes rage on. The OIA has followed the April 2024 FTC rule decision to ban non-competes and the subsequent district court decision to prevent the rule from going into effect. Across the country, only four states have laws that broadly prohibit non-compete agreements, while other states have imposed restrictions based on factors like salary. The OIA has concerns about an overly broad ban on non-competes in Ohio, as they play a critical role in protecting business investments and maintaining fair competition. Given this, we have concerns with the current language of Senate Bill 11.

Thank you for the opportunity to provide interested party testimony on Senate Bill 11. I appreciate your time, and I would be happy to answer any questions.