

By Senator Hays

20-00595E-11

20111294

1 A bill to be entitled
2 An act relating to application of foreign law;
3 creating s. 45.022, F.S.; defining the term "foreign
4 law, legal code, or system"; specifying the public
5 policy of this state in applying the choice of a
6 foreign law, legal code, or system under certain
7 circumstances; declaring that certain decisions
8 rendered under such laws, codes, or systems are void;
9 declaring that certain choice of venue or forum
10 provisions in a contract are void; declaring that
11 claims of forum non conveniens or related claims must
12 be denied under certain circumstances; providing that
13 the act does not apply to a corporation, partnership,
14 or other form of business association; clarifying that
15 the public policies expressed in the act apply to
16 violations of a natural person's constitutional
17 rights; providing for severability; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Section 45.022, Florida Statutes, is created to
23 read:

24 45.022 Provisions contrary to public policy.—

25 (1) As used in this section, the term "foreign law, legal
26 code, or system" means any law, legal code, or system of a
27 jurisdiction outside any state or territory of the United
28 States, including, but not limited to, international
29 organizations or tribunals, and applied by that jurisdiction's

20-00595E-11

20111294

30 courts, administrative bodies, or other formal or informal
31 tribunals.

32 (2) Any court, arbitration, tribunal, or administrative
33 agency ruling or decision violates the public policy of this
34 state and is void and unenforceable if the court, arbitration,
35 tribunal, or administrative agency bases its ruling or decision
36 in the matter at issue in whole or in part on any law, legal
37 code, or system that does not grant the parties affected by the
38 ruling or decision the same fundamental liberties, rights, and
39 privileges granted under the State Constitution and the
40 Constitution of the United States, including, but not limited
41 to, due process, freedom of religion, speech, or press, and any
42 right of privacy or marriage as specifically defined by the
43 State Constitution.

44 (3) A contract or contractual provision, if severable,
45 which provides for the choice of a law, legal code, or system to
46 govern some or all of the disputes between the parties to be
47 adjudicated by a court of law or by an arbitration panel arising
48 from the contract violates the public policy of this state and
49 is void and unenforceable if the law, legal code, or system
50 chosen includes or incorporates any substantive or procedural
51 law, as applied to the dispute at issue, which would not grant
52 the parties the same fundamental liberties, rights, and
53 privileges granted under the State Constitution and the
54 Constitution of the United States.

55 (4) If any contractual provision or agreement provides for
56 the choice of venue or forum outside a state or territory of the
57 United States, and if the enforcement or interpretation of the
58 contract or agreement applying that choice of venue or forum

20-00595E-11

20111294

59 provision would result in a violation of any right guaranteed by
60 the State Constitution or the Constitution of the United States,
61 that contractual provision or agreement shall be interpreted or
62 construed to preserve the constitutional rights of the person
63 against whom enforcement is sought. Similarly, if a natural
64 person subject to personal jurisdiction in this state seeks to
65 maintain litigation, arbitration, agency, or similarly binding
66 proceedings in this state, and if a court of this state finds
67 that granting a claim of forum non conveniens or a related claim
68 violates or would likely lead to the violation of any
69 constitutional right of the nonclaimant in the foreign forum
70 with respect to the matter in dispute, the claim shall be
71 denied.

72 (5) Without prejudice to any other legal right, this
73 section does not apply to a corporation, partnership, or other
74 form of business association.

75 (6) This section applies only to actual or foreseeable
76 denials of a natural person's constitutional rights from the
77 foreign law, legal code, or system.

78 (7) If any provision of this section or its application to
79 any natural person or circumstance is held invalid, the
80 invalidity does not affect other provisions or applications of
81 this section which can be given effect, and to that end the
82 provisions of this act are severable.

83 Section 2. This act shall take effect upon becoming a law.