

HB 1209

2012

1 A bill to be entitled
2 An act relating to application of foreign law in
3 certain cases; creating s. 45.022, F.S.; defining the
4 term "foreign law, legal code, or system"; clarifying
5 that the public policies expressed in the act apply to
6 violations of a natural person's fundamental
7 liberties, rights, and privileges guaranteed by the
8 State Constitution or the United States Constitution;
9 providing that the act does not apply to a
10 corporation, partnership, or other form of business
11 association, except when necessary to provide
12 effective relief in proceedings under or relating to
13 chapters 61 and 88, F.S.; specifying the public policy
14 of this state in applying the choice of a foreign law,
15 legal code, or system under certain circumstances in
16 proceedings brought under or relating to chapters 61
17 and 88, F.S., which relate to dissolution of marriage,
18 support, time-sharing, the Uniform Child Custody
19 Jurisdiction and Enforcement Act, and the Uniform
20 Interstate Family Support Act; declaring that certain
21 decisions rendered under such laws, codes, or systems
22 are void; declaring that certain choice of venue or
23 forum provisions in a contract are void; providing for
24 the construction of a waiver by a natural person of
25 the person's fundamental liberties, rights, and
26 privileges guaranteed by the State Constitution or the
27 United States Constitution; declaring that claims of
28 forum non conveniens or related claims must be denied

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29 under certain circumstances; providing that the act
30 may not be construed to require or authorize any court
31 to adjudicate, or prohibit any religious organization
32 from adjudicating, ecclesiastical matters in violation
33 of specified constitutional provisions or to conflict
34 with any federal treaty or other international
35 agreement to which the United States is a party to a
36 specified extent; providing for severability;
37 providing an effective date.
38

39 Be It Enacted by the Legislature of the State of Florida:
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41 Section 1. Section 45.022, Florida Statutes, is created to
42 read:

43 45.022 Application of foreign law contrary to public
44 policy in certain cases.—

45 (1) As used in this section, the term "foreign law, legal
46 code, or system" means any law, legal code, or system of a
47 jurisdiction outside any state or territory of the United
48 States, including, but not limited to, international
49 organizations or tribunals, and applied by that jurisdiction's
50 courts, administrative bodies, or other formal or informal
51 tribunals. The term does not include the common law and statute
52 laws of England as described in s. 2.01 or any laws of the
53 Native American tribes in this state.

54 (2) (a) This section applies only to actual or foreseeable
55 denials of a natural person's fundamental liberties, rights, and
56 privileges guaranteed by the State Constitution or the United

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57 States Constitution from the application of a foreign law, legal
58 code, or system in proceedings brought under, pursuant to, or
59 pertaining to the subject matter of chapter 61 or chapter 88.

60 (b) Except as necessary to provide effective relief in
61 proceedings brought under, pursuant to, or pertaining to the
62 subject matter of chapter 61 or chapter 88, this section does
63 not apply to a corporation, partnership, or other form of
64 business association.

65 (3) Any court, arbitration, tribunal, or administrative
66 agency ruling or decision violates the public policy of this
67 state and is void and unenforceable if the court, arbitration,
68 tribunal, or administrative agency bases its ruling or decision
69 in the matter at issue in whole or in part on any foreign law,
70 legal code, or system that does not grant the parties affected
71 by the ruling or decision the same fundamental liberties,
72 rights, and privileges guaranteed by the State Constitution or
73 the United States Constitution.

74 (4) (a) A contract or contractual provision, if severable,
75 that provides for the choice of a foreign law, legal code, or
76 system to govern some or all of the disputes between the parties
77 to be adjudicated by a court of law or by an arbitration panel
78 arising from the contract violates the public policy of this
79 state and is void and unenforceable if the foreign law, legal
80 code, or system chosen includes or incorporates any substantive
81 or procedural law, as applied to the dispute at issue, which
82 would not grant the parties the same fundamental liberties,
83 rights, and privileges guaranteed by the State Constitution or
84 the United States Constitution.

85 (b) This subsection does not limit the right of a natural
86 person in this state to voluntarily restrict or limit his or her
87 fundamental liberties, rights, and privileges guaranteed by the
88 State Constitution or the United States Constitution by contract
89 or specific waiver consistent with constitutional principles,
90 but the language of any such contract or other waiver must be
91 strictly construed in favor of preserving such liberties,
92 rights, and privileges.

93 (5) (a) If any contractual provision or agreement provides
94 for the choice of venue or forum outside a state or territory of
95 the United States, and if the enforcement or interpretation of
96 the contract or agreement applying that choice of venue or forum
97 provision would result in a violation of any fundamental
98 liberties, rights, and privileges guaranteed by the State
99 Constitution or the United States Constitution, that contractual
100 provision or agreement shall be interpreted or construed to
101 preserve such liberties, rights, and privileges of the person
102 against whom enforcement is sought.

103 (b) If a natural person who is subject to personal
104 jurisdiction in this state seeks to maintain litigation,
105 arbitration, agency, or similarly binding proceedings in this
106 state and the courts of this state find that granting a claim of
107 forum non conveniens or a related claim denies or would likely
108 lead to the denial of any fundamental liberties, rights, and
109 privileges guaranteed by the State Constitution or the United
110 States Constitution of the nonclaimant in the foreign forum with
111 respect to the matter in dispute, it is the public policy of
112 this state that the claim be denied.

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113 (6) This section may not be construed to:

114 (a) Require or authorize any court to adjudicate, or
115 prohibit any religious organization from adjudicating,
116 ecclesiastical matters, including, but not limited to, the
117 election, appointment, calling, discipline, dismissal, removal,
118 or excommunication of a member, officer, official, priest, nun,
119 monk, pastor, rabbi, imam, or member of the clergy of the
120 religious organization, or determination or interpretation of
121 the doctrine of the religious organization, if such adjudication
122 or prohibition would violate s. 3, Art. I of the State
123 Constitution or the First Amendment to the United States
124 Constitution; or

125 (b) Conflict with any federal treaty or other
126 international agreement to which the United States is a party to
127 the extent that such federal treaty or international agreement
128 preempts or is superior to state law on the matter at issue.

129 (7) If any provision of this section or its application to
130 any natural person or circumstance is held invalid, the
131 invalidity does not affect other provisions or applications of
132 this section which can be given effect, and to that end the
133 provisions of this section are severable.

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