

By the Committee on Commerce; and Senator Baker

577-04360A-10

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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 granting comity to a decision  
6           rendered under any foreign law, legal code, or system;  
7           specifying the public policy of this state in applying  
8           the choice of a foreign law, legal code, or system  
9           under certain circumstances; providing for the  
10          construction of a waiver by a natural person of the  
11          person's constitutional rights; specifying the public  
12          policy of this state for interpreting a contract,  
13          arbitration agreement, or other agreement providing a  
14          choice of venue or forum outside any state or  
15          territory of the United States; specifying the public  
16          policy of this state to deny certain claims of forum  
17          non conveniens or a related claim if granting the  
18          claim would lead to the violation of a natural  
19          person's constitutional rights; providing that the act  
20          does not apply to a corporation, partnership, or other  
21          form of business association; clarifying that the  
22          public policies expressed in the act apply to  
23          violations of a natural person's constitutional  
24          rights; providing for severability; providing an  
25          effective date.

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27   Be It Enacted by the Legislature of the State of Florida:

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29          Section 1. Section 45.022, Florida Statutes, is created to

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30 read:

31 45.022 Provisions contrary to public policy.-

32 (1) As used in this section, the term "foreign law, legal  
33 code, or system" means any law, legal code, or system of a  
34 jurisdiction outside any state or territory of the United  
35 States, including, but not limited to, international  
36 organizations or tribunals, and applied by that jurisdiction's  
37 courts, administrative bodies, or other formal or informal  
38 tribunals.

39 (2) It is the public policy of this state that the primary  
40 factor that a court, administrative agency, arbitrator,  
41 mediator, or other entity or person acting under the authority  
42 of state law must consider in granting comity to a decision  
43 rendered under any foreign law, legal code, or system against a  
44 natural person in this state is whether the decision rendered  
45 violates or would violate any right of the natural person  
46 guaranteed by the State Constitution or the Constitution of the  
47 United States or any statute or decisions under those  
48 constitutions.

49 (3) (a) If any contract, arbitration agreement, or other  
50 agreement provides for the choice of a foreign law, legal code,  
51 or system to govern its interpretation or the resolution of any  
52 claim or dispute and the enforcement or interpretation of the  
53 contract, arbitration agreement, or other agreement applying  
54 that choice of law provision results or would result in a  
55 violation of any right guaranteed by the State Constitution or  
56 the Constitution of the United States, it is the public policy  
57 of this state that the primary factor in interpretation,  
58 enforcement, or application of the contract, arbitration

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59 agreement, or other agreement be preservation of the  
60 constitutional rights of a natural person in this state against  
61 whom enforcement is sought.

62 (b) This subsection does not limit the right of a natural  
63 person in this state to voluntarily restrict or limit his or her  
64 constitutional rights by contract or specific waiver consistent  
65 with constitutional principles, but the language of any such  
66 contract or other waiver must be strictly construed in favor of  
67 preserving the natural person's constitutional rights.

68 (4) (a) If any contract, arbitration agreement, or other  
69 agreement provides for the choice of venue or forum outside any  
70 state or territory of the United States and the enforcement or  
71 interpretation of the contract, arbitration agreement, or other  
72 agreement applying that choice of venue or forum provision  
73 results or would result in a violation of any right guaranteed  
74 by the State Constitution or the Constitution of the United  
75 States, it is the public policy of this state that, in  
76 interpreting or construing the contract, arbitration agreement,  
77 or other agreement, the primary factor to be considered is  
78 whether it can be interpreted or construed to preserve the  
79 constitutional rights of the natural person in this state  
80 against whom enforcement is sought.

81 (b) If a natural person who is subject to personal  
82 jurisdiction in this state seeks to maintain litigation,  
83 arbitration, agency, or similarly binding proceedings in this  
84 state and the courts of this state find that granting a claim of  
85 forum non conveniens or a related claim violates or would likely  
86 lead to the violation of the constitutional rights of the  
87 nonclaimant in the foreign forum with respect to the matter in

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88 dispute, it is the public policy of this state that the claim be  
89 denied.

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

93 (6) The public policies expressed in this section apply  
94 only to actual or foreseeable violations of a natural person's  
95 constitutional rights from the foreign law, legal code, or  
96 system.

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

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