

HB 1037

2010

1 A bill to be entitled
2 An act relating to application of foreign law; providing a
3 short title; creating s. 685.103, F.S.; providing a
4 definition; declaring choice of foreign law provisions
5 void if the foreign law would not grant the parties the
6 same fundamental liberties, rights, and privileges granted
7 under the United States and Florida Constitutions;
8 declaring specified rulings as void and unenforceable if
9 based in whole or in part on any foreign law, legal code,
10 or legal system that would not grant the parties the same
11 fundamental liberties, rights, and privileges granted
12 under the United States and Florida Constitutions;
13 prohibiting courts of or arbitration panels within this
14 state giving a foreign judgment or court order effect if
15 the judgment or order violates the public policy of this
16 state; providing that certain child custody orders violate
17 the public policy of this state; providing applicability;
18 providing an effective date.

19
20 WHEREAS, the Legislature finds that the right of parties to
21 contract freely is a fundamental liberty deserving of
22 protection, and

23 WHEREAS, the Legislature finds that the right to contract
24 freely includes the right to choose a law, legal code, or legal
25 system that will govern disputes between the parties adjudicated
26 by a court of law or by an arbitration panel arising from a
27 contract mutually agreed upon, and

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28 WHEREAS, the Legislature finds that the right to contract
 29 freely includes the right of the parties to agree upon a
 30 jurisdiction for purposes of granting the courts or arbitration
 31 panels jurisdiction over the parties for purposes of
 32 adjudicating disputes between the parties arising from a
 33 contract mutually agreed upon, and

34 WHEREAS, the Legislature finds that these rights to
 35 contract freely may be reasonably and rationally circumscribed
 36 pursuant to the state's interest to protect and promote
 37 fundamental civil liberties granted under the United States and
 38 Florida Constitutions, including, but not limited to, freedom of
 39 religion, freedom of speech, freedom of the press, due process,
 40 the right of privacy, and the right to marriage, NOW, THEREFORE,

41
 42 Be It Enacted by the Legislature of the State of Florida:

43
 44 Section 1. This act may be cited as the "American and
 45 Florida Laws for Florida Courts Act."

46 Section 2. Section 685.103, Florida Statutes, is created
 47 to read:

48 685.103 Provisions contrary to public policy.—

49 (1) For purposes of this section, the term "foreign law,
 50 legal code, or legal system" means a foreign law, legal code, or
 51 legal system used or applied in a jurisdiction outside of the
 52 United States and its territories and does not include any law,
 53 legal code, or legal system applied in any state or territory of
 54 the United States.

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55 (2) A contract or, if capable of segregation, a
56 contractual provision that provides for the choice of a foreign
57 law, legal code, or legal system to govern some or all of the
58 disputes between the parties adjudicated by a court of law or by
59 an arbitration panel arising from the contract mutually agreed
60 upon violates the public policy of this state and is void and
61 unenforceable if the foreign law, legal code, or legal system
62 chosen includes or incorporates any substantive or procedural
63 law specifically applicable to the dispute at issue that would
64 not grant the parties the same fundamental liberties, rights,
65 and privileges granted under the United States and Florida
66 Constitutions, including, but not limited to, freedom of
67 religion, freedom of speech, freedom of the press, due process,
68 the right of privacy, and the right to marriage.

69 (3) Any court, arbitration panel, tribunal, or
70 administrative agency ruling or decision violates the public
71 policy of this state and is void and unenforceable if the court,
72 arbitration panel, tribunal, or administrative agency bases its
73 rulings or decisions in whole or in part on any foreign law,
74 legal code, or legal system, irrespective of the specific
75 application of the foreign law, legal code, or legal system,
76 wherein the parties affected by the ruling or decision are
77 denied the same fundamental liberties, rights, and privileges
78 granted under the United States and Florida Constitutions,
79 including, but not limited to, freedom of religion, freedom of
80 speech, freedom of the press, due process, the right of privacy,
81 and the right to marriage.

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82 (4) No foreign judgment or court order shall be given
83 effect by the courts of or arbitration panels within this state
84 if the foreign judgment or court order violates the public
85 policy of this state. Without exception, any court order or
86 arbitration panel decision that renders an order, decision, or
87 judgment on the appropriate custody arrangements for a minor
88 child without rendering such order, decision, or judgment based
89 primarily upon the best interests of that child is presumptively
90 and conclusively a violation of the public policy of this state
91 and is void and unenforceable.

92 Section 3. Section 685.103, Florida Statutes, as created
93 by this act, applies to:

94 (1) Contracts entered into on or after July 1, 2010; and
95 (2) Contracts entered into prior to July 1, 2010, if an
96 action or proceeding relating to such contract is commenced on
97 or after that date.

98 Section 4. This act shall take effect July 1, 2010.