



202900

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/07/2010	.	
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The Committee on Commerce (Oelrich) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

45.022 Provisions contrary to public policy.—

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



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14 courts, administrative bodies, or other formal or informal  
15 tribunals.

16 (2) It is the public policy of this state that the primary  
17 factor that a court, administrative agency, arbitrator,  
18 mediator, or other entity or person acting under the authority  
19 of state law must consider in granting comity to a decision  
20 rendered under any foreign law, legal code, or system against a  
21 natural person in this state is whether the decision rendered  
22 violates or would violate any right of the natural person  
23 guaranteed by the State Constitution or the Constitution of the  
24 United States or any statute or decisions under those  
25 constitutions.

26 (3) (a) If any contract, arbitration agreement, or other  
27 agreement provides for the choice of a foreign law, legal code,  
28 or system to govern its interpretation or the resolution of any  
29 claim or dispute and the enforcement or interpretation of the  
30 contract, arbitration agreement, or other agreement applying  
31 that choice of law provision results or would result in a  
32 violation of any right guaranteed by the State Constitution or  
33 the Constitution of the United States, it is the public policy  
34 of this state that the primary factor in interpretation,  
35 enforcement, or application of the contract, arbitration  
36 agreement, or other agreement be preservation of the  
37 constitutional rights of a natural person in this state against  
38 whom enforcement is sought.

39 (b) This subsection does not limit the right of a natural  
40 person in this state to voluntarily restrict or limit his or her  
41 constitutional rights by contract or specific waiver consistent  
42 with constitutional principles, but the language of any such



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43 contract or other waiver must be strictly construed in favor of  
44 preserving the natural person's constitutional rights.

45 (4) (a) If any contract, arbitration agreement, or other  
46 agreement provides for the choice of venue or forum outside any  
47 state or territory of the United States and the enforcement or  
48 interpretation of the contract, arbitration agreement, or other  
49 agreement applying that choice of venue or forum provision  
50 results or would result in a violation of any right guaranteed  
51 by the State Constitution or the Constitution of the United  
52 States, it is the public policy of this state that, in  
53 interpreting or construing the contract, arbitration agreement,  
54 or other agreement, the primary factor to be considered is  
55 whether it can be interpreted or construed to preserve the  
56 constitutional rights of the natural person in this state  
57 against whom enforcement is sought.

58 (b) If a natural person who is subject to personal  
59 jurisdiction in this state seeks to maintain litigation,  
60 arbitration, agency, or similarly binding proceedings in this  
61 state and the courts of this state find that granting a claim of  
62 forum non conveniens or a related claim violates or would likely  
63 lead to the violation of the constitutional rights of the  
64 nonclaimant in the foreign forum with respect to the matter in  
65 dispute, it is the public policy of this state that the claim be  
66 denied.

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

70 (6) The public policies expressed in this section apply  
71 only to actual or foreseeable violations of a natural person's



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72 constitutional rights from the foreign law, legal code, or  
73 system.

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

79 Section 2. This act shall take effect upon becoming a law.  
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81 ===== T I T L E A M E N D M E N T =====

82 And the title is amended as follows:

83 Delete everything before the enacting clause  
84 and insert:

85 A bill to be entitled

86 An act relating to application of foreign law;  
87 creating s. 45.022, F.S.; defining the term "foreign  
88 law, legal code, or system"; specifying the public  
89 policy of this state in granting comity to a decision  
90 rendered under any foreign law, legal code, or system;  
91 specifying public policy of this state in applying the  
92 choice of a foreign law, legal code, or system under  
93 certain circumstances; providing for the construction  
94 of a waiver by a natural person of the person's  
95 constitutional rights; requiring that a contract,  
96 arbitration agreement, or other agreement that  
97 provides for the choice of venue or forum outside any  
98 state or territory of the United States to be  
99 interpreted in a manner that preserves a natural  
100 person's constitutional rights; requiring the denial



101 of certain claims of forum non conveniens or a related  
102 claim if granting the claim would likely lead to the  
103 violation of a natural person's constitutional rights;  
104 providing for severability; providing an effective  
105 date.