

By Senator Baker

20-00867A-10

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

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

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

29 WHEREAS, the Legislature finds that the right to contract

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

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

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

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

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

49 685.103 Provisions contrary to public policy.—

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

56 (2) A contract or, if capable of segregation, a contractual
57 provision that provides for the choice of a foreign law, legal
58 code, or legal system to govern some or all of the disputes

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

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

83 (4) No foreign judgment or court order shall be given
84 effect by the courts of or arbitration panels within this state
85 if the foreign judgment or court order violates the public
86 policy of this state. Without exception, any court order or
87 arbitration panel decision that renders an order, decision, or

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88 judgment on the appropriate custody arrangements for a minor
89 child without rendering such order, decision, or judgment based
90 primarily upon the best interests of that child is presumptively
91 and conclusively a violation of the public policy of this state
92 and is void and unenforceable.

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

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

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