

2014386er

1
2 An act relating to the application of foreign law in
3 courts; creating s. 61.040, F.S.; defining the term
4 "strong public policy"; prohibiting a court from
5 enforcing certain choice of law or forum selection
6 contractual provisions; requiring a court to review
7 judgments and orders of foreign courts for comity
8 before enforcing such orders or judgments; specifying
9 judgments and orders of foreign courts that are not
10 entitled to comity; providing that the attempt to
11 apply the law of a foreign country is void under
12 certain circumstances; prohibiting a trial court from
13 dismissing an action on the grounds that a
14 satisfactory remedy may be more conveniently sought in
15 a foreign country; providing an exception; providing
16 applicability; providing an effective date.

17
18 WHEREAS, the purpose of the courts of this state is to
19 fairly and justly adjudicate disputes, and

20 WHEREAS, the common law and other court interpreted law of
21 this state protects litigants from the application of unfair and
22 unjust laws of foreign countries, and

23 WHEREAS, with respect to the enforceability of choice of
24 law provisions, this act codifies the holdings of *Mintz & Fraade*
25 *P.C., v. Beta Drywall Acquisition, LLC*, 59 So.3d 1173, 1176
26 (Fla. 4th DCA 2011); *Walls v. Quick & Reilly, Inc.*, 824 So.2d
27 1016, 1018 (Fla. 5th DCA); and

28 WHEREAS, with respect to the enforceability of forum
29 selection clauses, this act codifies the holdings of *Manrique v.*

2014386er

30 *Fabbri*, 493 So.2d 437, 440 (Fla. 1986) and *Illinois Union*
31 *Insurance Co. v. Co-Free, Inc.*, 128 So.3d 820 (Fla. 1st DCA
32 2013); and

33 WHEREAS, with respect to the enforceability of a judgment
34 or order of a court of a foreign country, this act codifies the
35 holding of *Nahar v. Nahar*, 656 So.2d 225, 229 (Fla. 3d DCA
36 1995); and

37 WHEREAS, with respect to the application of the law of a
38 foreign state, this act codifies *McNamara v. McNamara*, 40 So.3d
39 78, 80 (Fla. 5th DCA 2010); and

40 WHEREAS, with respect to the dismissal of a case on the
41 grounds that a satisfactory remedy may be more conveniently
42 sought in a foreign country, this act codifies the result of
43 Rule 1.061(a)(1), Florida Rules of Civil Procedure, NOW,
44 THEREFORE,

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 61.040, Florida Statutes, is created to
49 read:

50 61.040 Application of the law of a foreign country in
51 courts relating to matters arising out of or relating to
52 chapters 61 and 88.—

53 (1) As used in this section, the term "strong public
54 policy" means public policy of sufficient importance to outweigh
55 the policy of protecting freedom of contract.

56 (2) A court may not enforce:

57 (a) A choice of law provision in a contract selecting the
58 law of a foreign country which contravenes the strong public

2014386er

59 policy of this state or that is unjust or unreasonable.

60 (b) A forum selection clause in a contract that selects a
61 forum in a foreign country if the clause is shown to be
62 unreasonable or unjust or if strong public policy would prohibit
63 the enforceability of the clause under the specific facts of the
64 case.

65 (3) Before enforcing a judgment or order of a court of a
66 foreign country, a court must review the judgment or order to
67 ensure that it complies with the rule of comity. A judgment or
68 order of a court of a foreign country is not entitled to comity
69 if the parties were not given adequate notice and the
70 opportunity to be heard, the foreign court did not have
71 jurisdiction, or the judgment or order of the foreign court
72 offends the public policy of this state. As used in this
73 subsection, a "foreign court" or "court of a foreign country"
74 includes any court or tribunal that has jurisdiction under the
75 laws of that nation over the subject of matters governed by
76 chapter 61 or chapter 88.

77 (4) Any attempt to apply the law of a foreign country is
78 void if it contravenes the strong public policy of this state or
79 if the law is unjust or unreasonable.

80 (5) A trial court may not dismiss an action on the grounds
81 that a satisfactory remedy may be more conveniently sought in a
82 foreign country unless the trial court finds in accordance with
83 all the applicable rules of civil procedure and this section
84 that an adequate alternate forum exists.

85 (6) This section applies only to matters governed by or
86 relating to chapter 61 or chapter 88.

87

2014386er

88 The purpose of this section is to codify existing case law, and
89 that intent should guide the interpretation of this section.

90 Section 2. This act shall take effect on October 1, 2014.