

1 SB44
2 145761-1
3 By Senators Allen, Ward, Dial, Williams, Bussman, Glover,
4 Whatley, Waggoner, Brewbaker, Scofield, Fielding, Beason,
5 Reed, Holtzclaw and Taylor
6 RFD: Judiciary
7 First Read: 05-FEB-13
8 PFD: 01/09/2013

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8 SYNOPSIS: This bill would prohibit the application of
9 foreign law in violation of rights guaranteed
10 natural citizens by the United States and Alabama
11 Constitutions, and the statutes, laws, and public
12 policy of this state.

13 This bill would not apply to a corporation,
14 partnership, limited liability company, business
15 association, or other legal entity that contracts
16 to subject itself to foreign laws.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To prohibit the application of foreign law in
23 violation of rights guaranteed natural citizens by the United
24 States and Alabama Constitutions, and the laws and public
25 policy of the state, without application to business entities.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. (a) This section shall be known and may
2 be cited as the American and Alabama Laws for Alabama Courts
3 Act.

4 (b) The law of Alabama provides:

5 (1) The State of Alabama has developed its unique
6 public policy of laws based on the United States Constitution,
7 as protected by Amendment 10 to the United States
8 Constitution.

9 (2) Upon becoming a state in 1819, Alabama adopted
10 its first constitutional and statutory enactments, upon which
11 it has built the rights, privileges, obligations, and
12 requirements of its government and citizens.

13 (3) Both the provisions of the Alabama Constitution
14 and the statutes and regulations of the State of Alabama, with
15 interpreting opinions by its courts of competent jurisdiction,
16 have developed the state's public policy.

17 (4) The public policy of the State of Alabama
18 protects the unique rights of its citizens beginning with
19 Article I, Section 1 of the Constitution of Alabama of 1901,
20 guaranteeing the equality and rights of men. Except as
21 permitted by due process of law and the right of the people to
22 vote for self-determination, the rights, privileges, and
23 immunities of the citizens of the State of Alabama are
24 inviolate.

25 (5) Different from the law of the State of Alabama
26 is foreign law, which is any law, rule, or legal code, or
27 system established, used, or applied in a jurisdiction outside

1 of the states or territories of the United States, or which
2 exist as a separate body of law, legal code, or system adopted
3 or used anywhere by any people, group, or culture different
4 from the Constitution and laws of the United States or the
5 State of Alabama.

6 (6) Alabama has a favorable business climate and has
7 attracted many international businesses. While Alabama
8 business persons and companies may decide to use foreign law
9 in foreign courts, the public policy of Alabama is to prohibit
10 anyone from requiring Alabama courts to apply and enforce
11 foreign laws.

12 (7) The public policy of this state is to protect
13 its citizens from the application of foreign laws when the
14 application of a foreign law will result in the violation of a
15 right guaranteed by the Alabama Constitution or of the United
16 States Constitution, including, but not limited to, due
17 process, freedom of religion, speech, assembly, or press, or
18 any right of privacy or marriage.

19 (8) Article IV, Section 1, of the United States
20 Constitution provides that full faith and credit shall be
21 given by each state to the public acts, records, and judicial
22 proceedings of other states. Provided, however, when any such
23 public acts, records, and judicial proceedings of another
24 state violate the public policy of the State of Alabama, the
25 State of Alabama is not and shall not be required to give full
26 faith and credit thereto.

1 (c) A court, arbitrator, administrative agency, or
2 other adjudicative, arbitrative, or enforcement authority
3 shall not apply or enforce a foreign law if doing so would
4 violate any state law or a right guaranteed by the
5 Constitution of this state or of the United States.

6 (d) If any contractual provision or agreement
7 provides for the choice of a foreign law to govern its
8 interpretation or the resolution of any dispute between the
9 parties, and if the enforcement or interpretation of the
10 contractual provision or agreement would result in a violation
11 of a right guaranteed by the Constitution of this state or of
12 the United States, the agreement or contractual provision
13 shall be modified or amended to the extent necessary to
14 preserve the constitutional rights of the parties.

15 (e) If any contractual provision or agreement
16 provides for the choice of venue or forum outside of the
17 states or territories of the United States, and if the
18 enforcement or interpretation of the contract or agreement
19 applying that choice of venue or forum provision would result
20 in a violation of any right guaranteed by the Constitution of
21 this state or of the United States, that contractual provision
22 or agreement shall be interpreted or construed to preserve the
23 constitutional rights of the person against whom enforcement
24 is sought. If a natural person subject to personal
25 jurisdiction in this state seeks to maintain litigation,
26 arbitration, an administrative proceeding, or a similarly
27 binding proceeding in this state, and if a court of this state

1 finds that granting a claim of forum non conveniens or a
2 related claim violates or would likely lead to the violation
3 of the constitutional rights of the nonclaimant in the foreign
4 forum with respect to the matter in dispute, the claim shall
5 be denied.

6 (f) Any contractual provision or agreement incapable
7 of being modified or amended in order to preserve the
8 constitutional rights of the parties pursuant to the
9 provisions of this act shall be null and void.

10 (g) Nothing in this act shall be interpreted to
11 limit the right of a natural person or entity of this state to
12 voluntarily restrict or limit his, her, or its own
13 constitutional rights by contract or specific waiver
14 consistent with constitutional principles. However, the
15 language of any such contract or other waiver shall be
16 strictly construed in favor of preserving the constitutional
17 rights of the natural person in this state. Further, no
18 Alabama court shall be required by any contract or other
19 obligation entered into by a person or entity to apply or
20 enforce any foreign law.

21 (h) Except as limited by subsection (g), without
22 prejudice to any legal right, this act shall not apply to a
23 corporation, partnership, limited liability company, business
24 association, or other legal entity that contracts to subject
25 itself to foreign law in a jurisdiction other than this state
26 or the United States.

1 (i) Where the public acts, records, or judicial
2 proceedings of another state violate the public policy of the
3 State of Alabama, the State of Alabama shall not give full
4 faith and credit thereto.

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.