

Regular Session, 2010

HOUSE BILL NO. 785

BY REPRESENTATIVE WOOTON

CIVIL/LAW: Provides relative to the application of foreign laws

1 AN ACT

2 To enact R.S. 13:4249, relative to the application of foreign laws; to provide for definitions;
3 to provide for legislative findings; to prohibit the enforcement of foreign laws under
4 certain circumstances; to provide for applicability to certain persons; and to provide
5 for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 13:4249 is hereby enacted to read as follows:

8 §4249. Application of foreign law

9 A. "Foreign law" means any law, rule, or legal code or system established
10 and used or applied in a jurisdiction outside of the states or territories of the United
11 States.

12 B. The legislature finds that it shall be the public policy of this state to
13 protect its citizens from the application of foreign laws when the application of a
14 foreign law will result in the violation of a right guaranteed by the constitution of this
15 state or of the United States, including but not limited to due process, freedom of
16 religion, speech, or press, and any right of privacy or marriage as specifically defined
17 by the constitution of this state.

18 C. A court, arbitrator, administrative agency, or other adjudicative,
19 mediation, or enforcement authority shall not enforce a foreign law if doing so would
20 violate a right guaranteed by the constitution of this state or of the United States.

1 D. If any contractual provision or agreement provides for the choice of a
2 foreign law to govern its interpretation or the resolution of any dispute between the
3 parties, and if the enforcement or interpretation of the contractual provision or
4 agreement would result in a violation of a right guaranteed by the constitution of this
5 state or of the United States, the agreement or contractual provision shall be
6 modified or amended to the extent necessary to preserve the constitutional rights of
7 the parties.

8 E. If any contractual provision or agreement provides for the choice of venue
9 or forum outside of the states or territories of the United States, and if the
10 enforcement or interpretation of the contract or agreement applying that choice of
11 venue or forum provision would result in a violation of any right guaranteed by the
12 constitution of this state or of the United States, that contractual provision or
13 agreement shall be interpreted or construed to preserve the constitutional rights of
14 the person against whom enforcement is sought. Similarly, if a natural person
15 subject to personal jurisdiction in this state seeks to maintain litigation, arbitration,
16 agency, or similarly binding proceedings in this state, and if a court of this state finds
17 that granting a claim of forum non conveniens or a related claim violates or would
18 likely lead to the violation of the constitutional rights of the non-claimant in the
19 foreign forum with respect to the matter in dispute, the claim shall be denied.

20 F. Any contractual provision or agreement incapable of being modified or
21 amended in order to preserve the constitutional rights of the parties pursuant to the
22 provisions of this Section shall be null and void.

23 G. Without prejudice to any other legal right, the provisions of this Section
24 shall not apply in favor of a juridical person as defined by Civil Code Article 24.

25 H. The public policies expressed in the provisions of this Section shall apply
26 only to actual or foreseeable violations of the constitutional rights of a person caused
27 by the application of the foreign law.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Wooton

HB No. 785

Abstract: Prohibits the enforcement of a foreign law or judgment or a provision of a contract applying foreign law if enforcement would result in a violation of a person's constitutional rights.

Present law (R.S. 13:4241-4248), the Enforcement of Foreign Judgments Act, provides for procedures for the enforcement of foreign judgments entitled to the full faith and credit of this state.

Proposed law defines "foreign law" as any law, rule, or legal code or system established and used or applied in a jurisdiction outside of the states or territories of the United States.

Proposed law provides that the public policy of this state is to protect its citizens from the application of foreign laws which will result in the violation of a constitutional right.

Proposed law prohibits the enforcement of a foreign law if doing so would violate a right guaranteed by the constitution of this state or the U.S.

Proposed law provides that if the enforcement of any choice of law, venue, or forum non conveniens provision in a contract would result in the violation of a constitutional right, that provision shall be amended so that the enforcement of the provision will not result in a violation of a constitutional right.

Proposed law provides that if any contractual provision or agreement is incapable of being modified in order to preserve the constitutional rights of the parties, it shall be declared null and void.

Proposed law prohibits the application of proposed law to juridical persons.

Proposed law provides for application of proposed law to only actual or foreseeable violations of constitutional rights.

(Adds R.S. 13:4249)