

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 Chapter 1 of Code Title I of Code Book IV of Title 9 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 9:6000, relative to the application of  
4 foreign laws; to provide for definitions; to provide for legislative findings; to prohibit  
5 the enforcement of foreign laws under certain circumstances; to provide for  
6 applicability to certain persons; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 1 of Code Title I of Code Book IV of Title 9 of the Louisiana  
9 Revised Statutes of 1950, comprised of R.S. 9:6000 is hereby enacted to read as follows:

10 CODE BOOK IV - CONFLICT OF LAWS

11 CODE TITLE I - OF FOREIGN LAWS

12 CHAPTER 1. APPLICATION OF FOREIGN LAWS

13 §6000. Application of foreign law

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

17 B. The legislature finds that it shall be the public policy of this state to  
18 protect its citizens from the application of foreign laws when the application of a  
19 foreign law will result in the violation of a right guaranteed by the constitution of this  
20 state or of the United States, including but not limited to due process, freedom of

1 religion, speech, or press, and any right of privacy or marriage as specifically defined  
2 by the constitution of this state.

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

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

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

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

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

- 1                    H. The public policies expressed in the provisions of this Section shall apply  
 2                    only to actual or foreseeable violations of the constitutional rights of a person caused  
 3                    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. 9:6000)

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Made technical changes, relocating proposed law to a new chapter of Title 9 of the Louisiana Revised Statutes of 1950.