
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1288 Session of
2015

INTRODUCED BY METCALFE, BENNINGHOFF, JAMES, DIAMOND, OBERLANDER,
A. HARRIS, SACCONI, GREINER, KAUFFMAN, MILLARD, TALLMAN,
WARD, MCGINNIS, IRVIN, MOUL, GROVE, GILLEN AND ZIMMERMAN,
JUNE 5, 2015

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 5, 2015

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in general provisions,
3 further providing for definitions; and, in bases of
4 jurisdiction and interstate and international procedure,
5 prohibiting the application of foreign law which would impair
6 constitutional rights.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 102 of Title 42 of the Pennsylvania
10 Consolidated Statutes is amended by adding a definition to read:

11 § 102. Definitions.

12 Subject to additional definitions contained in subsequent
13 provisions of this title which are applicable to specific
14 provisions of this title, the following words and phrases when
15 used in this title shall have, unless the context clearly
16 indicates otherwise, the meanings given to them in this section:

17 * * *

18 "Foreign legal code or system." A legal code or system of a
19 jurisdiction outside of the United States, including an

1 international organization or tribunal, which is applied by that
2 jurisdiction in a judicial proceeding or an administrative
3 proceeding.

4 * * *

5 Section 2. Section 5322(e) of Title 42 is amended to read:

6 § 5322. Bases of personal jurisdiction over persons outside
7 this Commonwealth.

8 * * *

9 (e) Inconvenient forum.--[When]

10 (1) Except as set forth in paragraph (2), when a
11 tribunal finds that in the interest of substantial justice
12 the matter should be heard in another forum, the tribunal may
13 stay or dismiss the matter in whole or in part on any
14 conditions that may be just.

15 (2) Relief under paragraph (1) shall not be granted if
16 the tribunal finds that granting relief has the potential to
17 violate a fundamental liberty, right or privilege granted
18 under the United States Constitution and the Constitution of
19 Pennsylvania. The exception under this paragraph does not
20 apply to any corporation, partnership, limited liability
21 company, business association or other legal entity that
22 contracts to subject itself to a foreign legal code or
23 system.

24 Section 3. Section 5327(c) of Title 42 is amended and the
25 section is amended by adding a subsection to read:

26 § 5327. Determination of foreign law.

27 * * *

28 (b.1) Prohibitions.--

29 (1) Except as set forth in paragraph (2), all of the
30 following apply:

1 (i) A tribunal shall not consider a foreign legal
2 code or system which does not grant the parties affected
3 by the ruling or decision the same fundamental liberties,
4 rights and privileges granted under the United States
5 Constitution and the Constitution of Pennsylvania. This
6 subparagraph includes due process, freedom of religion,
7 freedom of speech, freedom of press and a right of
8 privacy or marriage as specifically defined by the
9 Constitution of Pennsylvania.

10 (ii) A contract which provides for the choice of a
11 foreign legal code or system to govern a dispute which
12 arises out of the contract violates the public policy of
13 the Commonwealth and shall be void and unenforceable if
14 the foreign legal code or system chosen includes or
15 incorporates substantive law or procedural law, as
16 applied to the dispute at issue, which would not grant
17 the parties the same fundamental liberties, rights and
18 privileges granted under the United States Constitution
19 and the Pennsylvania Constitution. This subparagraph
20 includes due process, freedom of religion, freedom of
21 speech, freedom of press and a right of privacy or
22 marriage as specifically defined by the Constitution of
23 Pennsylvania.

24 (iii) A contract which confers upon a tribunal or
25 arbitrator in personam jurisdiction over a party to
26 adjudicate a dispute arising out of the contract violates
27 the public policy of the Commonwealth and shall be void
28 and unenforceable if the jurisdiction chosen includes or
29 incorporates substantive law or procedural law, as
30 applied to the dispute at issue, which would not grant

1 the parties the same fundamental liberties, rights and
2 privileges granted under the United States Constitution
3 and the Constitution of Pennsylvania. This subparagraph
4 includes due process, freedom of religion, freedom of
5 speech, freedom of press and a right of privacy or
6 marriage as specifically defined by the Constitution of
7 Pennsylvania.

8 (iv) It is the public policy of the Commonwealth to
9 deny a claim of forum non conveniens if a resident of
10 this Commonwealth, subject to personal jurisdiction in
11 this Commonwealth, seeks to maintain an action in this
12 Commonwealth and if a tribunal of this Commonwealth finds
13 that granting the claim would likely violate the
14 fundamental liberties, rights and privileges granted
15 under the United States Constitution and the Constitution
16 of Pennsylvania. This subparagraph includes due process,
17 freedom of religion, freedom of speech, freedom of press
18 and a right of privacy or marriage as specifically
19 defined by the Constitution of Pennsylvania.

20 (2) Paragraph (1) does not apply to any corporation,
21 partnership, limited liability company, business association
22 or other legal entity that contracts to subject itself to
23 foreign legal code or system.

24 (3) No tribunal or arbitrator shall interpret the
25 provisions of paragraph (1) to do any of the following:

26 (i) Limit the right of a person to the free exercise
27 of religion as guaranteed by the First Amendment to the
28 United States Constitution and by sections 3 and 4 of
29 Article I of the Constitution of Pennsylvania.

30 (ii) Require a tribunal or arbitrator to adjudicate

1 an ecclesiastical matter if adjudication would violate
2 the establishment clause of the First Amendment to the
3 United States Constitution or section 3 or 4 of Article I
4 of the Constitution of Pennsylvania. This subparagraph
5 includes:

6 (A) selection and sanction of any officer,
7 official or clergy member of a religious
8 organization; and

9 (B) determination or interpretation of the
10 doctrine of the religious organization.

11 (iii) Prohibit a religious organization from
12 adjudicating an ecclesiastical matter if adjudication
13 would violate the establishment clause of the First
14 Amendment to the United States Constitution or section 3
15 or 4 of Article I of the Constitution of Pennsylvania.
16 This subparagraph includes:

17 (A) selection and sanction of any officer,
18 official or clergy member of a religious
19 organization; and

20 (B) determination or interpretation of the
21 doctrine of the religious organization.

22 (iv) Conflict with a Federal treaty or other
23 international agreement to which the United States is a
24 party to the extent that the treaty or international
25 agreement preempts or is superior to State law on the
26 matter at issue.

27 (c) Court decision and review.--The court, not jury, shall
28 determine the law of any governmental unit outside this
29 Commonwealth and whether that law violates subsection (b.1)(1).
30 The determination of the tribunal is subject to review on appeal

1 as a ruling on a question of law.

2 Section 4. This act shall apply to actions initiated on or
3 after the effective date of this section.

4 Section 5. This act shall take effect in 60 days.