

SENATE BILL No. 701

September 27, 2011, Introduced by Senators KAHN, MARLEAU, NOFS, JANSEN, PAPPAGEORGE, BRANDENBURG, MEEKHOF, COLBECK and EMMONS and referred to the Committee on Government Operations.

A bill to limit the application and enforcement by a court, arbitrator, or administrative body of foreign laws that would impair constitutional rights; to provide for modification or voiding of certain contractual provisions or agreements that would result in a violation of constitutional rights; and to require a court, arbitrator, or administrative body to take certain actions to prevent violation of constitutional rights.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "restriction of application of foreign laws act".

3 (2) As used in this act "foreign law" means any law, legal
4 code, or system of a jurisdiction outside of any state or territory
5 of the United States, including, but not limited to, international
6 organizations and tribunals, and applied by that jurisdiction's

1 courts, administrative bodies, or other formal or informal
2 tribunals.

3 Sec. 2. A court, arbitrator, administrative agency, or other
4 adjudicative, mediation, or enforcement authority shall not enforce
5 a foreign law if doing so would violate a right guaranteed by the
6 constitution of this state or of the United States.

7 Sec. 3. (1) If any contractual provision or agreement provides
8 for the choice of a foreign law to govern its interpretation or the
9 resolution of any dispute between the parties and if the
10 enforcement or interpretation of the contractual provision or
11 agreement would result in a violation of a right guaranteed by the
12 constitution of this state or of the United States, the contractual
13 provision or agreement shall be applied as modified or amended to
14 the extent necessary to preserve the constitutional rights of the
15 parties.

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

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

5 (3) Any contractual provision or agreement incapable of being
6 modified or amended to preserve the constitutional rights of the
7 parties pursuant to the provisions of this section is null and
8 void.

9 (4) If a corporation, partnership, limited liability company,
10 business association, or other legal entity contracts to subject
11 itself to foreign law in a jurisdiction outside of any state or
12 territory of the United States, this act does not apply to that
13 contract.

14 Sec. 4. This act applies only to actual or foreseeable
15 violations of the constitutional rights of a person caused by the
16 application of the foreign law.