

MODEL LEGISLATION

AN ACT to protect rights and privileges granted under the United States or [State] Constitution.

BE IT ENACTED BY THE [GENERAL ASSEMBLY/LEGISLATURE] OF THE STATE OF []:

The [general assembly/state legislature] fully recognizes the right to contract freely under the laws of this state, and also recognizes that this right may be reasonably and rationally circumscribed pursuant to the state's interest to protect and promote rights and privileges granted under the United States or [State] Constitution.

[1] As used in this act, "foreign law, legal code, or system" means any law, legal code, or system of a jurisdiction outside of any state or territory of the United States, including, but not limited to, international organizations and tribunals, and applied by that jurisdiction's courts, administrative bodies, or other formal or informal tribunals.

[2] Any court, arbitration, tribunal, or administrative agency ruling or decision shall violate the public policy of this State and be void and unenforceable if the court, arbitration, tribunal, or administrative agency bases its rulings or decisions in the matter at issue in whole or in part on any law, legal code or system that would not grant the parties affected by the ruling or decision the same fundamental liberties, rights, and privileges granted under the U.S. and [State] Constitutions.

[3] A contract or contractual provision (if capable of segregation) which provides for the choice of a law, legal code or system to govern some or all of the disputes between the parties adjudicated by a court of law or by an arbitration panel arising from the contract mutually agreed upon shall violate the public policy of this State and be void and unenforceable if the law, legal code or system chosen includes or incorporates any substantive or procedural law, as applied to the dispute at issue, that

would not grant the parties the same fundamental liberties, rights, and privileges granted under the U.S. and [State] Constitutions.

[4]

A. A contract or contractual provision (if capable of segregation) which provides for a jurisdiction for purposes of granting the courts or arbitration panels *in personam* jurisdiction over the parties to adjudicate any disputes between parties arising from the contract mutually agreed upon shall violate the public policy of this State and be void and unenforceable if the jurisdiction chosen includes any law, legal code or system, as applied to the dispute at issue, that would not grant the parties the same fundamental liberties, rights, and privileges granted under the U.S. and [State] Constitutions.

B. If a resident of this state, subject to personal jurisdiction in this state, seeks to maintain litigation, arbitration, agency or similarly binding proceedings in this state and if the courts of this state find that granting a claim of forum non conveniens or a related claim violates or would likely violate the fundamental liberties, rights, and privileges granted under the U.S. and [State] Constitutions of the non-claimant in the foreign forum with respect to the matter in dispute, then it is the public policy of this state that the claim shall be denied.

Versions of the American Laws for American Courts have passed in Tennessee, Louisiana, Kansas, Oklahoma, North Carolina, Alabama, Arizona, in specialty courts in Washington, and to date has not been legally challenged on any grounds. In addition, similar, less far-reaching legislation has passed in Florida.