

1 SB61  
2 126241-1  
3 By Senators Ward, Waggoner, Beason and Dial (Constitutional  
4 Amendment)  
5 RFD: Judiciary  
6 First Read: 01-MAR-11

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8 SYNOPSIS: This bill proposes an amendment to the  
9 Constitution of Alabama of 1901, to prohibit the  
10 application of foreign law in violation of rights  
11 guaranteed natural citizens by the United States  
12 and Alabama Constitutions, and the statutes, laws,  
13 and public policy of this state.

14 This amendment would not apply to a  
15 corporation, partnership, limited liability  
16 company, business association, or other legal  
17 entity that contracts to subject itself to foreign  
18 laws.

19  
20 A BILL  
21 TO BE ENTITLED  
22 AN ACT  
23

24 Proposing an amendment to the Constitution of  
25 Alabama of 1901, to prohibit the application of foreign law in  
26 violation of rights guaranteed natural citizens by the United

1 States and Alabama Constitutions, and the laws and public  
2 policy of the state, without application to business entities.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The following amendment to the  
5 Constitution of Alabama of 1901, as amended, is proposed and  
6 shall become valid as a part thereof when approved by a  
7 majority of the qualified electors voting thereon and in  
8 accordance with Sections 284, 285, and 287 of the Constitution  
9 of Alabama of 1901, as amended:

10 PROPOSED AMENDMENT

11 (a) This amendment shall be known and may be cited  
12 as the American and Alabama Laws for Alabama Courts Amendment.

13 (b) The law of Alabama provides:

14 (1) The State of Alabama has developed its unique  
15 public policy of laws based on the United States Constitution,  
16 as protected by Amendment 10 to the United States  
17 Constitution.

18 (2) Upon becoming a state in 1819, Alabama adopted  
19 its first constitutional and statutory enactments, upon which  
20 it has built the rights, privileges, obligations, and  
21 requirements of its government and citizens.

22 (3) Both the provisions of the Alabama Constitution  
23 and the statutes and regulations of the State of Alabama, with  
24 interpreting opinions by its courts of competent jurisdiction,  
25 have developed the state's public policy.

26 (4) The public policy of the State of Alabama  
27 protects the unique rights of its citizens beginning with

1 Article I, Section 1 of the Constitution of Alabama of 1901,  
2 guaranteeing the equality and rights of men. Except as  
3 permitted by due process of law and the right of the people to  
4 vote for self-determination, the rights, privileges, and  
5 immunities of the citizens of the State of Alabama are  
6 inviolate.

7 (5) Different from the law of the State of Alabama  
8 is foreign law, which is any law, rule, or legal code, or  
9 system established, used, or applied in a jurisdiction outside  
10 of the states or territories of the United States, or which  
11 exist as a separate body of law, legal code, or system adopted  
12 or used anywhere by any people, group, or culture different  
13 from the Constitution and laws of the United States or the  
14 State of Alabama.

15 (6) Alabama has a favorable business climate and has  
16 attracted many international businesses. While Alabama  
17 business persons and companies may decide to use foreign law  
18 in foreign courts, the public policy of Alabama is to prohibit  
19 anyone from requiring Alabama courts to apply and enforce  
20 foreign laws.

21 (7) The public policy of this state is to protect  
22 its citizens from the application of foreign laws when the  
23 application of a foreign law will result in the violation of a  
24 right guaranteed by the Alabama Constitution or of the United  
25 States Constitution, including, but not limited to, due  
26 process, freedom of religion, speech, assembly, or press, or  
27 any right of privacy or marriage.

1           (c) A court, arbitrator, administrative agency, or  
2 other adjudicative, arbitrative, or enforcement authority  
3 shall not apply or enforce a foreign law if doing so would  
4 violate any state law or a right guaranteed by the  
5 Constitution of this state or of the United States.

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

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

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

6 (f) Any contractual provision or agreement incapable  
7 of being modified or amended in order to preserve the  
8 constitutional rights of the parties pursuant to the  
9 provisions of this amendment shall be null and void.

10 (g) Nothing in this amendment shall be interpreted  
11 to limit the right of a natural person or entity of this state  
12 to voluntarily restrict or limit his, her, or its own  
13 constitutional rights by contract or specific waiver  
14 consistent with constitutional principles. However, the  
15 language of any such contract or other waiver shall be  
16 strictly construed in favor of preserving the constitutional  
17 rights of the natural person in this state. Further, no  
18 Alabama court shall be required by any contract or other  
19 obligation entered into by a person or entity to apply or  
20 enforce any foreign law.

21 (h) Except as limited by subsection (g), without  
22 prejudice to any legal right, this amendment shall not apply  
23 to a corporation, partnership, limited liability company,  
24 business association, or other legal entity that contracts to  
25 subject itself to foreign law in a jurisdiction other than  
26 this state or the United States.

1           Section 2. An election upon the proposed amendment  
2 shall be held in accordance with Sections 284 and 285 of the  
3 Constitution of Alabama of 1901, now appearing as Sections 284  
4 and 285 of the Official Recompilation of the Constitution of  
5 Alabama of 1901, as amended, and the election laws of this  
6 state.

7           Section 3. The appropriate election official shall  
8 assign a ballot number for the proposed constitutional  
9 amendment on the election ballot and shall set forth the  
10 following description of the substance or subject matter of  
11 the proposed constitutional amendment:

12                 "Proposing an amendment to the Constitution of  
13 Alabama of 1901, to prohibit the application of foreign law in  
14 violation of rights guaranteed natural citizens by the United  
15 States and Alabama Constitutions, and the statutes, laws, and  
16 public policy thereof, but without application to business  
17 entities.

18                 "Proposed by Act \_\_\_\_\_."

19                 This description shall be followed by the following  
20 language:

21                 "Yes ( ) No ( )."