

1 SB84
2 133783-2
3 By Senator Ward (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 01/04/2012

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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 (8) Article IV, Section 1, of the United States
2 Constitution provides that full faith and credit shall be
3 given by each state to the public acts, records, and judicial
4 proceedings of other states. Provided, however, when any such
5 public acts, records, and judicial proceedings of another
6 state violate the public policy of the State of Alabama, the
7 State of Alabama is not and shall not be required to give full
8 faith and credit thereto.

9 (c) A court, arbitrator, administrative agency, or
10 other adjudicative, arbitrative, or enforcement authority
11 shall not apply or enforce a foreign law if doing so would
12 violate any state law or a right guaranteed by the
13 Constitution of this state or of the United States.

14 (d) If any contractual provision or agreement
15 provides for the choice of a foreign law to govern its
16 interpretation or the resolution of any dispute between the
17 parties, and if the enforcement or interpretation of the
18 contractual provision or agreement would result in a violation
19 of a right guaranteed by the Constitution of this state or of
20 the United States, the agreement or contractual provision
21 shall be modified or amended to the extent necessary to
22 preserve the constitutional rights of the parties.

23 (e) If any contractual provision or agreement
24 provides for the choice of venue or forum outside of the
25 states or territories of the United States, and if the
26 enforcement or interpretation of the contract or agreement
27 applying that choice of venue or forum provision would result

1 in a violation of any right guaranteed by the Constitution of
2 this state or of the United States, that contractual provision
3 or agreement shall be interpreted or construed to preserve the
4 constitutional rights of the person against whom enforcement
5 is sought. If a natural person subject to personal
6 jurisdiction in this state seeks to maintain litigation,
7 arbitration, an administrative proceeding, or a similarly
8 binding proceeding in this state, and if a court of this state
9 finds that granting a claim of forum non conveniens or a
10 related claim violates or would likely lead to the violation
11 of the constitutional rights of the nonclaimant in the foreign
12 forum with respect to the matter in dispute, the claim shall
13 be denied.

14 (f) Any contractual provision or agreement incapable
15 of being modified or amended in order to preserve the
16 constitutional rights of the parties pursuant to the
17 provisions of this amendment shall be null and void.

18 (g) Nothing in this amendment shall be interpreted
19 to limit the right of a natural person or entity of this state
20 to voluntarily restrict or limit his, her, or its own
21 constitutional rights by contract or specific waiver
22 consistent with constitutional principles. However, the
23 language of any such contract or other waiver shall be
24 strictly construed in favor of preserving the constitutional
25 rights of the natural person in this state. Further, no
26 Alabama court shall be required by any contract or other

1 obligation entered into by a person or entity to apply or
2 enforce any foreign law.

3 (h) Except as limited by subsection (g), without
4 prejudice to any legal right, this amendment shall not apply
5 to a corporation, partnership, limited liability company,
6 business association, or other legal entity that contracts to
7 subject itself to foreign law in a jurisdiction other than
8 this state or the United States.

9 (i) Where the public acts, records, or judicial
10 proceedings of another state violate the public policy of the
11 State of Alabama, the State of Alabama shall not give full
12 faith and credit thereto.

13 Section 2. An election upon the proposed amendment
14 shall be held in accordance with Sections 284 and 285 of the
15 Constitution of Alabama of 1901, now appearing as Sections 284
16 and 285 of the Official Recompilation of the Constitution of
17 Alabama of 1901, as amended, and the election laws of this
18 state.

19 Section 3. The appropriate election official shall
20 assign a ballot number for the proposed constitutional
21 amendment on the election ballot and shall set forth the
22 following description of the substance or subject matter of
23 the proposed constitutional amendment:

24 "Proposing an amendment to the Constitution of
25 Alabama of 1901, to prohibit the State of Alabama from giving
26 full faith and credit to public acts, records, or judicial
27 proceedings of another state that violate the public policy of

1 the State of Alabama and to prohibit the application of
2 foreign law in violation of rights guaranteed natural citizens
3 by the United States and Alabama Constitutions, and the
4 statutes, laws, and public policy thereof, but without
5 application to business entities.

6 "Proposed by Act _____."

7 This description shall be followed by the following
8 language:

9 "Yes () No ()."