

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 695

Short Title: Foreign Laws/Protect Constitutional Rights. (Public)

Sponsors: Representatives Whitmire, Cleveland, Schaffer, and Pittman (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee C.

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER THE UNITED
3 STATES AND NORTH CAROLINA CONSTITUTIONS IN THE APPLICATION OF
4 FOREIGN LAW.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 1 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 7A.

9 "Application of Foreign Law.

10 "**§ 1-87.2. Definitions.**

11 The following definitions apply in this Article:

- 12 (1) Constitutional right. – A right of a natural person guaranteed by the United
13 States Constitution or the North Carolina Constitution.
14 (2) Foreign law. – A law, rule, resolution, legal code, legal system, or any
15 component of a legal system established and used or applied in a foreign
16 venue or forum.
17 (3) Foreign venue or forum. – A venue or forum operating under the authority of
18 a government other than any of the following:
19 a. The United States.
20 b. A state, district, commonwealth, territory, or insular possession of
21 the United States.
22 c. Any other government with regard to which the decision in this State
23 as to whether to recognize a judgment of that government's courts is
24 initially subject to determination under the Full Faith and Credit
25 Clause of the United States Constitution.
26 (4) Legal right. – A right of a natural person granted under the laws of the
27 United States or the laws of North Carolina.

28 "**§ 1-87.3. Public policy.**

29 In recognition that the United States Constitution and the laws of the United States, and the
30 Constitution and laws of North Carolina not inconsistent therewith, constitute the supreme law
31 of this State, the General Assembly hereby declares it to be the public policy of this State to
32 protect its citizens from the application of foreign law that would result in the violation of a
33 legal or constitutional right of a natural person. The public policies expressed in this section
34 shall apply only to actual or foreseeable violations of a legal or constitutional right resulting
35 from the application of the foreign law.



1 **"§ 1-87.4. Nonapplication of foreign law that would violate legal or constitutional rights.**

2 A court, administrative agency, arbitrator, mediator, or other entity or person acting under
3 the authority of State law shall not apply a foreign law in any legal proceeding if doing so
4 would violate a legal or constitutional right of one or more natural persons who are parties to
5 the proceeding.

6 **"§ 1-87.5. Interpretation of contracts providing for choice of foreign law.**

7 (a) In the interpretation or enforcement by a court, administrative agency, arbitrator,
8 mediator, or other entity or person acting under the authority of State law of any contract or
9 other agreement that provides for the choice of a foreign law to govern its interpretation or the
10 resolution of any claim or dispute, the court or administrative agency shall preserve the legal
11 and constitutional rights of natural persons who are parties to the contract or other agreement.

12 (b) If enforcement of any provision in a contract or other agreement for the choice of
13 foreign law would result in a violation of a legal or constitutional right of one or more of the
14 natural persons who are parties to the contract or other agreement, the agreement or contract
15 shall be modified or amended to the extent necessary to preserve the legal and constitutional
16 rights of the natural persons.

17 **"§ 1-87.6. Interpretation of contracts providing for choice of foreign venue or forum.**

18 If the enforcement of any provision in a contract or other agreement providing for a choice
19 of a foreign venue or forum would result in a violation of a legal or constitutional right of one
20 or more of the natural persons who are parties to the contract or other agreement, that provision
21 shall be modified or amended to the extent necessary to preserve the legal and constitutional
22 rights of the natural persons.

23 **"§ 1-87.7. Motions to transfer proceedings to a foreign venue or forum.**

24 If a natural person subject to personal jurisdiction in this State seeks to maintain a litigation
25 proceeding, arbitration proceeding, or other similarly binding proceeding in this State, and if a
26 court of this State finds that granting a motion by another party to the proceeding to transfer the
27 proceeding to a foreign venue or forum would likely lead to the violation of the legal or
28 constitutional rights of the natural person who is the nonmovant in the foreign forum with
29 respect to the matter in dispute, the motion shall be denied.

30 **"§ 1-87.8. Contracts not capable of modification to preserve legal and constitutional**
31 **rights void.**

32 Any provision in a contract or other agreement incapable of being modified or amended
33 pursuant to this Article in order to preserve the legal and constitutional rights of the natural
34 persons who are parties to the contract or agreement shall be null and void.

35 **"§ 1-87.9. Strict construction of waivers of legal or constitutional rights.**

36 Nothing in this Article shall be interpreted to limit the right of natural persons voluntarily to
37 restrict or limit their own legal or constitutional rights by contract or specific waiver consistent
38 with constitutional principles; however, any ambiguity in the language of any such contract or
39 other waiver shall be strictly construed in favor of preserving the legal and constitutional rights
40 of natural persons in this State."

41 **SECTION 2.** This act is effective when it becomes law.