

By: Representative Smith (39th)

To: Judiciary A

HOUSE BILL NO. 1127

1 AN ACT TO ADDRESS THE APPLICATION OF FOREIGN LAWS IN JUDICIAL
2 PROCEEDINGS IN THIS STATE; TO PROVIDE LEGISLATIVE FINDINGS; TO
3 DEFINE CERTAIN TERMS; TO PROHIBIT THE USE AND ENFORCEMENT OF
4 FOREIGN LAWS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE FOR
5 APPLICABILITY IN CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** The Legislature finds that it is the public
8 policy of this state to protect its citizens from the application
9 of foreign laws when the application of a foreign law will result
10 in the violation of a right guaranteed by the Constitution of this
11 state or of the United States, including, but not limited to, due
12 process, freedom of religion, speech, or press, and any right of
13 privacy or marriage as specifically defined by the Constitution of
14 this state. The Legislature fully recognizes the right to
15 contract freely under the laws of this state, and also recognizes
16 that this right may be reasonably and rationally circumscribed
17 pursuant to the state's interest to protect and promote rights and
18 privileges granted under the United States or Mississippi
19 Constitution, including, but not limited to, due process, freedom



20 of religion, speech, or press, and any right of privacy or
21 marriage as specifically defined by the Constitution and laws of
22 this state.

23 **SECTION 2.** The following words and phrases shall have the
24 meanings ascribed herein, unless the context clearly indicates
25 otherwise:

26 (a) "Foreign law, legal code, or system" means any law,
27 legal code, or system of a jurisdiction outside of any state or
28 territory of the United States, including, but not limited to,
29 international organizations and tribunals, and applied by that
30 jurisdiction's courts, administrative bodies, or other formal or
31 informal tribunals. For the purposes of this act, foreign law
32 shall not mean, nor shall it include, any laws of the Native
33 American tribes in this state.

34 (b) "Court" means any court, board, administrative
35 agency, or other adjudicative or enforcement authority of this
36 state.

37 (c) "Religious organization" means any church,
38 seminary, synagogue, temple, mosque, religious order, religious
39 corporation, association, or society, whose identity is
40 distinctive in terms of common religious creed, beliefs,
41 doctrines, practices, or rituals, of any faith or denomination,
42 including any organization qualifying as a church or religious
43 organization under Section 501(c)(3) or 501(d) of the United
44 States Internal Revenue Code.



45 **SECTION 3.** Any court, arbitration, tribunal, or
46 administrative agency ruling or decision which violates the public
47 policy of this state shall be void and unenforceable if the court,
48 arbitration, tribunal, or administrative agency bases its rulings
49 or decisions in the matter at issue, in whole or in part, on any
50 law, legal code or system that would not grant the parties
51 affected by the ruling or decision the same fundamental liberties,
52 rights, and privileges granted under the United States and
53 Mississippi Constitutions, including, but not limited to, due
54 process, freedom of religion, speech, or press, and any right of
55 privacy or marriage as specifically defined by the Constitution of
56 this state.

57 **SECTION 4.** A contract or contractual provision (if capable
58 of segregation) which provides for the choice of a law, legal code
59 or system to govern some or all of the disputes between the
60 parties adjudicated by a court of law or by an arbitration panel
61 arising from the contract mutually agreed upon violates the public
62 policy of this state and shall be void and unenforceable if the
63 law, legal code or system chosen includes or incorporates any
64 substantive or procedural law, as applied to the dispute at issue,
65 that would not grant the parties the same fundamental liberties,
66 rights, and privileges granted under the United States and
67 Mississippi Constitutions, including, but not limited to, due
68 process, freedom of religion, speech, or press, and any right of



69 privacy or marriage as specifically defined by the Constitution of
70 this state.

71 **SECTION 5.** (1) A contract or contractual provision (if
72 capable of segregation) which provides for a jurisdiction for
73 purposes of granting the courts or arbitration panels in personam
74 jurisdiction over the parties to adjudicate any disputes between
75 parties arising from the contract mutually agreed upon violates
76 the public policy of this state and shall be void and
77 unenforceable if the jurisdiction chosen includes any law, legal
78 code or system, as applied to the dispute at issue, that would not
79 grant the parties the same fundamental liberties, rights, and
80 privileges granted under the United States and Mississippi
81 Constitutions, including, but not limited to, due process, freedom
82 of religion, speech, or press, and any right of privacy or
83 marriage as specifically defined by the Constitution of this
84 state.

85 (2) If a resident of this state, subject to personal
86 jurisdiction in this state, seeks to maintain litigation,
87 arbitration, agency or similarly binding proceedings in this state
88 and if the courts of this state find that granting a claim of
89 forum non conveniens or a related claim violates or would likely
90 violate the fundamental liberties, rights, and privileges granted
91 under the United States and Mississippi Constitutions of the
92 nonclaimant in the foreign forum with respect to the matter in



93 dispute, then it is the public policy of this state that the claim
94 shall be denied.

95 **SECTION 6.** Without prejudice to any legal right, this act
96 shall not apply to a corporation, partnership, limited liability
97 company, business association, or other legal entity that
98 contracts to subject itself to foreign law in a jurisdiction other
99 than this state or the United States.

100 **SECTION 7.** No court or arbitrator shall interpret this act
101 to limit the right of any person to the free exercise of religion
102 as guaranteed by the First Amendment to the United States
103 Constitution and by the Constitution of this state. No court
104 shall interpret this act to require or authorize any court to
105 adjudicate or prohibit any religious organization from
106 adjudicating ecclesiastical matters, including, but not limited
107 to, the election, appointment, calling, discipline, dismissal,
108 removal or excommunication of a member, officer, official, priest,
109 nun, monk, pastor, rabbi, imam or member of the clergy, of the
110 religious organization, or determination or interpretation of the
111 doctrine of the religious organization, where adjudication by a
112 court would violate the prohibition of the establishment clause of
113 the First Amendment of the United States or violate the
114 Constitution of this state.

115 **SECTION 8.** This act shall not be interpreted by any court to
116 conflict with any federal treaty or other international agreement
117 to which the United States is a party to the extent that such



118 treaty or international agreement preempts or is superior to state
119 law on the matter at issue.

120 **SECTION 9.** This act shall take effect and be in force from
121 and after July 1, 2013.

