

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2087

By Representatives Mast, Arpke, Boman, Brunk, Carlson, Collins, Crum, DeGraaf, Donohoe, Fund, Garber, Gonzalez, Goodman, Gregory, Grosserode, Hermanson, Hoffman, M. Holmes, Howell, Huebert, Kelley, Kiegerl, Kinzer, Landwehr, McLeland, Meier, Meigs, Montgomery, O'Brien, O'Hara, O'Neal, Osterman, Otto, Pauls, Rhoades, Rubin, Ryckman, Scapa, Seiwert, Siegfried, Smith, Spalding, Suellentrop, Vickrey and Weber

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1 AN ACT to protect rights and privileges granted under the United States or
2 Kansas constitutions.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. While the legislature fully recognizes the right to contract
6 freely under the laws of this state, it also recognizes that this right may be
7 reasonably and rationally circumscribed pursuant to the state's interest to
8 protect and promote rights and privileges granted under the United States
9 or Kansas constitution.

10 Sec. 2. As used in this act, "foreign law," "legal code" or "system"
11 means any law, legal code or system of a jurisdiction outside of any state
12 or territory of the United States, including, but not limited to, international
13 organizations and tribunals and applied by that jurisdiction's courts,
14 administrative bodies or other formal or informal tribunals.

15 Sec. 3. Any court, arbitration, tribunal or administrative agency ruling
16 or decision shall violate the public policy of this state and be void and
17 unenforceable if the court, arbitration, tribunal or administrative agency
18 bases its rulings or decisions in the matter at issue in whole or in part on
19 any **foreign** law, legal code or system that would not grant the parties
20 affected by the ruling or decision the same fundamental liberties, rights
21 and privileges granted under the United States and Kansas constitutions.

22 Sec. 4. A contract or contractual provision, if capable of segregation,
23 which provides for the choice of a **foreign** law, legal code or system to
24 govern some or all of the disputes between the parties adjudicated by a
25 court of law or by an arbitration panel arising from the contract mutually
26 agreed upon shall violate the public policy of this state and be void and
27 unenforceable if the **foreign** law, legal code or system chosen includes or
28 incorporates any substantive or procedural law, as applied to the dispute at
29 issue, that would not grant the parties the same fundamental liberties,
30 rights and privileges granted under the United States and Kansas
31 constitutions.

32 Sec. 5. (a) A contract or contractual provision, if capable of

1 segregation, which provides for a jurisdiction for purposes of granting the
2 courts or arbitration panels in personam jurisdiction over the parties to
3 adjudicate any disputes between parties arising from the contract mutually
4 agreed upon shall violate the public policy of this state and be void and
5 unenforceable if the jurisdiction chosen includes any **foreign** law, legal
6 code or system, as applied to the dispute at issue, that would not grant the
7 parties the same fundamental liberties, rights and privileges granted under
8 the United States and Kansas constitutions.

9 (b) If a resident of this state, subject to personal jurisdiction in this
10 state, seeks to maintain litigation, arbitration, agency or similarly binding
11 proceedings in this state and if the courts of this state find that granting a
12 claim of forum non conveniens or a related claim violates or would likely
13 violate the fundamental liberties, rights and privileges granted under the
14 United States and Kansas constitutions of the nonclaimant in the foreign
15 forum with respect to the matter in dispute, then it is the public policy of
16 this state that the claim shall be denied.

17 Sec. 6. This act shall take effect and be in force from and after its
18 publication in the statute book.

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