

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

# A Bill

SENATE BILL 97

5 By: Senators Bledsoe, J. Key, M. Lamoureux, Teague, Files, Holland, J. Hutchinson, Irvin, B. Sample, J.  
6 Taylor, Whitaker, Rapert, D. Wyatt  
7 By: Representatives English, Hubbard, Branscum, J. Burris, Deffenbaugh, Eubanks, Harris, Westerman,  
8 D. Altes, Biviano, Hobbs, D. Hutchinson, Kerr, Linck, Mauch, Stubblefield, Summers, Jean  
9

## For An Act To Be Entitled

11 AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER  
12 THE UNITED STATES CONSTITUTION AND THE ARKANSAS  
13 CONSTITUTION; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

17 TO PROTECT RIGHTS AND PRIVILEGES GRANTED  
18 UNDER THE UNITED STATES CONSTITUTION AND  
19 THE ARKANSAS CONSTITUTION.  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

### SECTION 1. LEGISLATIVE INTENT.

25 While the General Assembly fully recognizes the right to contract  
26 freely under the laws of this state, it also recognizes that this right may  
27 be reasonably and rationally circumscribed under the state's interest to  
28 protect and promote rights and privileges granted under the United States  
29 Constitution and the Arkansas Constitution.  
30

31 SECTION 2. Arkansas Code Title 16, Chapter 56, Subchapter 1 is amended  
32 to add an additional section to read as follows:

33 16-56-131. Application of foreign law, legal code, or system.

34 (a) As used in this section, "foreign law, legal code, or system"  
35 means any law, legal code, or system of a jurisdiction outside of any state,  
36 territory, or commonwealth of the United States, including without limitation



1 international organizations and tribunals, and applied by that jurisdiction's  
2 courts, administrative bodies, or other formal or informal tribunals.

3 (b) Any court, arbitration, tribunal, or administrative agency ruling  
4 or decision shall violate the public policy of this state and be void and  
5 unenforceable if the court, arbitration, tribunal, or administrative agency  
6 bases its rulings or decisions in the matter at issue in whole or in part on  
7 any foreign law, legal code, or system that would not grant the parties  
8 affected by the ruling or decision the same fundamental liberties, rights,  
9 and privileges granted under the United States Constitution and the Arkansas  
10 Constitution.

11 (c) A contract or contractual provision capable of segregation that  
12 provides for the choice of a foreign law, legal code, or system to govern  
13 some or all of the disputes between the parties adjudicated by a court of law  
14 or by an arbitration panel arising from the contract mutually agreed upon  
15 violates the public policy of this state and shall be void and unenforceable  
16 if the foreign law, legal code, or system chosen includes or incorporates any  
17 substantive or procedural law, as applied to the dispute at issue, that would  
18 not grant the parties the same fundamental liberties, rights, and privileges  
19 granted under the United States Constitution and the Arkansas Constitution.

20 (d)(1) A contract or contractual provision capable of segregation that  
21 provides for a jurisdiction to grant the courts or arbitration panels in  
22 personam jurisdiction over the parties to adjudicate any disputes between  
23 parties arising from the contract mutually agreed upon violates the public  
24 policy of this state and shall be void and unenforceable if the jurisdiction  
25 chosen includes any foreign law, legal code, or system, as applied to the  
26 dispute at issue, that would not grant the parties the same fundamental  
27 liberties, rights, and privileges granted under the United States  
28 Constitution and the Arkansas Constitution.

29 (2) If a resident of this state who is subject to personal  
30 jurisdiction in this state seeks to maintain litigation, arbitration, agency,  
31 or similarly binding proceedings in this state and if the courts of this  
32 state find that granting a claim of forum non conveniens or a related claim  
33 violates or would likely violate the fundamental liberties, rights, and  
34 privileges granted under the United States Constitution and the Arkansas  
35 Constitution of the nonclaimant in the foreign forum with respect to the  
36 matter in dispute, then it is the public policy of this state that the claim

1 shall be denied.  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36