

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013  
4

# A Bill

HOUSE BILL 1348

5 By: Representatives Alexander, D. Altes, Ballinger, Biviano, J. Burris, Deffenbaugh, Dotson, C. Douglas,  
6 Eubanks, Harris, Hobbs, Womack

7 By: Senators Bledsoe, J. Hendren, Hester, Holland, J. Hutchinson, Rapert, G. Stubblefield, J. Woods  
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## For An Act To Be Entitled

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10 AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER  
11 THE UNITED STATES CONSTITUTION AND THE ARKANSAS  
12 CONSTITUTION; AND FOR OTHER PURPOSES.  
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## Subtitle

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16 TO PROTECT RIGHTS AND PRIVILEGES GRANTED  
17 UNDER THE UNITED STATES CONSTITUTION AND  
18 THE ARKANSAS CONSTITUTION.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. DO NOT CODIFY. Legislative findings.

24 The General Assembly finds that:

25 (1)(A) While fully recognizing that judgments and rulings issued by  
26 foreign courts and foreign judicial bodies may be recognized and enforced if  
27 those judgments and rulings do not conflict with the public policy of  
28 Arkansas, the General Assembly also recognizes that this recognition is given  
29 as a discretionary accommodation to that foreign nation and not afforded as a  
30 right.

31 (B) As a matter of public policy, the recognition and  
32 enforcement of a foreign judgment or ruling is limited to the extent that its  
33 enforcement would not directly conflict with the public policy of Arkansas;

34 (2)(A) The fundamental rights and liberties granted to Arkansas  
35 citizens and residents found in the Bill of Rights of the United States  
36 Constitution and other amendments and the Declaration of Rights, Arkansas



1 Constitution, Article 2, are fundamental human rights that transcend  
2 jurisdiction.

3 (B) When determining whether to recognize or enforce a foreign  
4 judgment or ruling, it is in the best interest of Arkansas and the public  
5 policy of Arkansas to first determine whether the parties affected by such an  
6 enforcement or recognition have been afforded comparable protections,  
7 including without limitation due process and equal protection, by the foreign  
8 law or legal system upon which the judgment or ruling was based; and

9 (3) It is in the best interest and public policy of the state of  
10 Arkansas and its citizens to ensure that before the state of Arkansas  
11 recognizes and uses its police power to enforce a foreign decree, judgment,  
12 or ruling that it is determined whether the law or legal system upon which  
13 the decree, judgment, or ruling is based provides the same or similar  
14 fundamental liberties, rights, and privileges afforded parties in this state  
15 seeking or defending the same or similar decree, judgment, or ruling.

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17 SECTION 2. Arkansas Code Title 16, Chapter 55, Subchapter 1, is  
18 amended to add an additional section to read as follows:

19 16-55-123. Application of foreign law, legal code, or system.

20 (a) As used in this section, "foreign law, legal code, or system"  
21 means any law, legal code, or system of a jurisdiction outside of any state,  
22 territory, or commonwealth of the United States, including without limitation  
23 international organizations and tribunals, and applied by that jurisdiction's  
24 courts, administrative bodies, or other formal or informal tribunals.

25 (b) Any court, arbitration, tribunal, or administrative agency ruling  
26 or decision violates the public policy of this state and is void and  
27 unenforceable if the court, arbitration, tribunal, or administrative agency  
28 bases its ruling or decision in the matter at issue in whole or in part on  
29 any foreign law, legal code, or system that would not grant the parties  
30 affected by the ruling or decision the same fundamental liberties, rights,  
31 and privileges granted under the United States Constitution and the Arkansas  
32 Constitution.

33 (c) A contract or contractual provision capable of severability that  
34 provides for the choice of a foreign law, legal code, or system to govern  
35 some or all of the disputes between the parties adjudicated by a court of law  
36 or by an arbitration panel arising from the contract mutually agreed upon

1 violates the public policy of this state and is void and unenforceable if the  
2 foreign law, legal code, or system chosen includes or incorporates any  
3 substantive or procedural law, as applied to the dispute at issue, that would  
4 not grant the parties the same fundamental liberties, rights, and privileges  
5 granted under the United States Constitution and the Arkansas Constitution.

6 (d)(1) A contract or contractual provision capable of severability  
7 that provides for a jurisdiction to grant the courts or arbitration panels in  
8 personam jurisdiction over the parties to adjudicate any disputes between  
9 parties arising from the contract mutually agreed upon violates the public  
10 policy of this state and shall be void and unenforceable if the jurisdiction  
11 chosen includes any foreign law, legal code, or system, as applied to the  
12 dispute at issue, that would not grant the parties the same fundamental  
13 liberties, rights, and privileges granted under the United States  
14 Constitution and the Arkansas Constitution.

15 (2) If a resident of this state who is subject to personal  
16 jurisdiction in this state seeks to maintain litigation, arbitration, agency,  
17 or similarly binding proceedings in this state and if the courts of this  
18 state find that granting a claim of forum non conveniens or a related claim  
19 violates or would likely violate the fundamental liberties, rights, and  
20 privileges granted under the United States Constitution and the Arkansas  
21 Constitution of the nonclaimant in the foreign forum with respect to the  
22 matter in dispute, then it is the public policy of this state that the claim  
23 shall be denied.

24 (e) This section does not apply to a corporation, partnership, or  
25 other form of business association.

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