

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: H3/8/13 H3/27/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 1348

4

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

8

9

For An Act To Be Entitled

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

14

15

16

Subtitle

17

*TO REAFFIRM AMERICAN LAWS FOR AMERICAN
18 COURTS; AND TO DECLARE AN EMERGENCY.*

19

20

21

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

22

23

SECTION 1. DO NOT CODIFY. Legislative findings.

24

25

*(a) The General Assembly finds that it is the public policy of this
state to protect its citizens from the application of foreign laws when the
application of a foreign law will result in the violation of a right
guaranteed by the constitution of this state or of the United States,
including but not limited to due process, freedom of religion, speech, or
press, and any right of privacy or marriage as specifically defined by the
Arkansas Constitution.*

26

27

28

29

30

31

*(b) The General Assembly fully recognizes the right to contract freely
under the laws of this state and also recognizes that this right may be
reasonably and rationally circumscribed pursuant to the state's interest to
protect and promote rights and privileges granted under the United States
Constitution or Arkansas Constitution, including but not limited to due
process, freedom of religion, speech, or press, and any right of privacy or*

32

33

34

35

36



1 marriage as specifically defined by the Arkansas Constitution.

2
3 SECTION 2. Arkansas Code Title 1, Chapter 1, Subchapter 1, is amended
4 to add an additional section to read as follows:

5 1-1-103. Application of foreign law, legal code, or system.

6 (a) As used in this section:

7 (1) "Court" means any court, board, administrative agency, or
8 other adjudicative or enforcement authority of this state;

9 (2)(A) "Foreign law, legal code, or system" means any law, legal
10 code, or system of a jurisdiction outside of any state or territory of the
11 United States, including, but not limited to, international organizations and
12 tribunals, and applied by that jurisdiction's courts, administrative bodies,
13 or other formal or informal tribunals.

14 (B) "Foreign law, legal code, or system" does not mean any
15 laws of the Native American tribes in this state; and

16 (3) "Religious organization" means a church, seminary,
17 synagogue, temple, mosque, religious order, religious corporation,
18 association, or society with an identity that is distinctive in terms of
19 common religious creed, beliefs, doctrines, practices, or rituals of any
20 faith or denomination, including any organization qualifying as a church or
21 religious organization under 26 U.S.C. § 501(c)(3) or 26 U.S.C. § 501(d).

22 (b) Any court, arbitration, or tribunal ruling or decision violates
23 the public policy of this state and is void and unenforceable if the court,
24 arbitrator, tribunal, or administrative agency bases its rulings or decisions
25 in the matter at issue in whole or in part on any foreign law, legal code, or
26 legal system that would not grant the parties affected by the ruling or
27 decision the same fundamental liberties, rights, and privileges granted under
28 the Arkansas Constitution and United States Constitution, including without
29 limitation due process, freedom of religion, speech, or press, or any right
30 of privacy or marriage as specifically defined by the Arkansas Constitution.

31 (c) A contract or contractual provision that provides for the choice
32 of a law, legal code, or legal system to govern some or all of the disputes
33 between the parties adjudicated by a court or by an arbitrator arising from
34 the contract mutually agreed upon violates the public policy of this state
35 and is void and unenforceable if the foreign law, legal code, or legal system
36 chosen includes or incorporates any substantive or procedural law as applied

1 to the dispute at issue that would not grant the parties the same fundamental
2 liberties, rights, or privileges granted under the Arkansas Constitution and
3 United States Constitution, including without limitation due process, freedom
4 of religion, speech, or press, or any right of privacy or marriage as
5 specifically defined by the Arkansas Constitution.

6 (d)(1) A contract or contractual provision that provides for a
7 jurisdiction for purposes of granting a court or arbitrator in personam
8 jurisdiction over the parties to adjudicate any disputes between parties
9 arising from the contract mutually agreed upon violates the public policy of
10 this state and is void and unenforceable if the jurisdiction chosen includes
11 any foreign law, legal code, or legal system as applied to the dispute at
12 issue that would not grant the parties the same fundamental liberties,
13 rights, or privileges granted under the Arkansas Constitution and United
14 States Constitution, including without limitation due process, freedom of
15 religion, speech, or press, or any right of privacy or marriage as
16 specifically defined by the Arkansas Constitution.

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

26 (e) Without prejudice to any legal right, this section does not apply
27 to a corporation, partnership, limited liability company, business
28 association, or other legal entity that contractually subjects itself to a
29 foreign law, legal code, or legal system in a jurisdiction other than this
30 state or the United States.

31 (f)(1) A court or arbitrator shall not interpret this section to limit
32 the right of any person to the free exercise of religion as guaranteed by
33 Arkansas Constitution, Article 2, §§ 24 through 26, and the First Amendment
34 of the United States Constitution.

35 (2) A court shall not interpret this section to require or
36 authorize a court to adjudicate or prohibit any religious organization from

1 adjudicating ecclesiastical matters, including without limitation the
2 election, appointment, calling, discipline, dismissal, removal, or
3 excommunication of a member, officer, official, priest, nun, monk, pastor,
4 rabbi, imam, or member of the clergy of the religious organization, or
5 determination or interpretation of the doctrine of the religious organization
6 if adjudication by a court would violate the First Amendment of the United
7 States Constitution or the Arkansas Constitution.

8 (g) This section shall not be interpreted by any court to conflict
9 with any federal treaty or other international agreement to which the United
10 States is a party to the extent that the treaty or international agreement
11 preempts or is superior to state law on the matter at issue.

12
13 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that the laws of this state and
15 this nation are sacrosanct; that the influence of a foreign law should not
16 permeate the laws of this state or this nation; that harm will occur to the
17 citizens of Arkansas if it incorporates aspects of foreign law into its
18 judicial system; and that it is immediately necessary for the General
19 Assembly to act in order to protect the laws of this state and of this nation
20 from being influenced by foreign law. Therefore, an emergency is declared to
21 exist, and this act being immediately necessary for the preservation of the
22 public peace, health, and safety shall become effective on:

23 (1) The date of its approval by the Governor;

24 (2) If the bill is neither approved nor vetoed by the Governor,
25 the expiration of the period of time during which the Governor may veto the
26 bill; or

27 (3) If the bill is vetoed by the Governor and the veto is
28 overridden, the date the last house overrides the veto.

29
30
31 /s/Alexander
32
33
34
35
36