SB4

143800-2

By Senator Allen (Constitutional Amendment)

RFD: Judiciary

First Read: 05-FEB-13

PFD: 06/06/2012
ENROLLED, An Act,

Proposing an amendment to the Constitution of Alabama of 1901, to prohibit the application of foreign law in violation of rights guaranteed natural citizens by the United States and Alabama Constitutions, and the laws and public policy of the state, without application to business entities.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

(a) This amendment shall be known and may be cited as the American and Alabama Laws for Alabama Courts Amendment.

(b) The law of Alabama provides:

(1) The State of Alabama has developed its unique public policy of laws based on the United States Constitution, as protected by Amendment 10 to the United States Constitution.
(2) Upon becoming a state in 1819, Alabama adopted its first constitutional and statutory enactments, upon which it has built the rights, privileges, obligations, and requirements of its government and citizens.

(3) Both the provisions of the Alabama Constitution and the statutes and regulations of the State of Alabama, with interpreting opinions by its courts of competent jurisdiction, have developed the state's public policy.

(4) The public policy of the State of Alabama protects the unique rights of its citizens beginning with Article I, Section 1 of the Constitution of Alabama of 1901, guaranteeing the equality and rights of men. Except as permitted by due process of law and the right of the people to vote for self-determination, the rights, privileges, and immunities of the citizens of the State of Alabama are inviolate.

(5) Different from the law of the State of Alabama is foreign law, which is any law, rule, or legal code, or system established, used, or applied in a jurisdiction outside of the states or territories of the United States, or which exist as a separate body of law, legal code, or system adopted or used anywhere by any people, group, or culture different from the Constitution and laws of the United States or the State of Alabama.
(6) Alabama has a favorable business climate and has attracted many international businesses. While Alabama business persons and companies may decide to use foreign law in foreign courts, the public policy of Alabama is to prohibit anyone from requiring Alabama courts to apply and enforce foreign laws.

(7) The public policy of this state is 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 Alabama Constitution or of the United States Constitution, including, but not limited to, due process, freedom of religion, speech, assembly, or press, or any right of privacy or marriage.

(8) Article IV, Section 1, of the United States Constitution provides that full faith and credit shall be given by each state to the public acts, records, and judicial proceedings of other states. Provided, however, when any such public acts, records, and judicial proceedings of another state violate the public policy of the State of Alabama, the State of Alabama is not and shall not be required to give full faith and credit thereto.

(c) A court, arbitrator, administrative agency, or other adjudicative, arbitrative, or enforcement authority shall not apply or enforce a foreign law if doing so would
1 violate any state law or a right guaranteed by the
2 Constitution of this state or of the United States.
3
4 (d) If any contractual provision or agreement
5 provides for the choice of a foreign law to govern its
6 interpretation or the resolution of any dispute between the
7 parties, and if the enforcement or interpretation of the
8 contractual provision or agreement would result in a violation
9 of a right guaranteed by the Constitution of this state or of
10 the United States, the agreement or contractual provision
11 shall be modified or amended to the extent necessary to
12 preserve the constitutional rights of the parties.
13
14 (e) If any contractual provision or agreement
15 provides for the choice of venue or forum outside of the
16 states or territories of the United States, and if the
17 enforcement or interpretation of the contract or agreement
18 applying that choice of venue or forum provision would result
19 in a violation of any right guaranteed by the Constitution of
20 this state or of the United States, that contractual provision
21 or agreement shall be interpreted or construed to preserve the
22 constitutional rights of the person against whom enforcement
23 is sought. If a natural person subject to personal
24 jurisdiction in this state seeks to maintain litigation,
25 arbitration, an administrative proceeding, or a similarly
26 binding proceeding in this state, and if a court of this state
27 finds that granting a claim of forum non conveniens or a
related claim violates or would likely lead to the violation
of the constitutional rights of the nonclaimant in the foreign
forum with respect to the matter in dispute, the claim shall
be denied.

(f) Any contractual provision or agreement incapable
of being modified or amended in order to preserve the
constitutional rights of the parties pursuant to the
provisions of this amendment shall be null and void.

(g) Nothing in this amendment shall be interpreted
to limit the right of a natural person or entity of this state
to voluntarily restrict or limit his, her, or its own
constitutional rights by contract or specific waiver
consistent with constitutional principles. However, the
language of any such contract or other waiver shall be
strictly construed in favor of preserving the constitutional
rights of the natural person in this state. Further, no
Alabama court shall be required by any contract or other
obligation entered into by a person or entity to apply or
enforce any foreign law.

(h) Except as limited by subsection (g), without
prejudice to any legal right, this amendment shall not apply
to a corporation, partnership, limited liability company,
business association, or other legal entity that contracts to
subject itself to foreign law in a jurisdiction other than
this state or the United States.
Where the public acts, records, or judicial proceedings of another state violate the public policy of the State of Alabama, the State of Alabama shall not give full faith and credit thereto.

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, now appearing as Sections 284 and 285 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, to prohibit the State of Alabama from giving full faith and credit to public acts, records, or judicial proceedings of another state that violate the public policy of the State of Alabama and to prohibit the application of foreign law in violation of rights guaranteed natural citizens by the United States and Alabama Constitutions, and the statutes, laws, and public policy thereof, but without application to business entities.

"Proposed by Act ______."
This description shall be followed by the following language:

"Yes ( )  No ( )."
I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

By: Senator Allen