

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-416
HOUSE BILL 522

AN ACT TO PROTECT RIGHTS AND PRIVILEGES GRANTED UNDER THE UNITED STATES AND NORTH CAROLINA CONSTITUTIONS IN THE APPLICATION OF FOREIGN LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 7A.
"Application of Foreign Law.

"§ 1-87.2. Definitions.

The following definitions apply in this Article:

- (1) Fundamental constitutional right. – A fundamental right of a natural person guaranteed by the United States Constitution or the North Carolina Constitution.
- (2) Foreign law. – A law, rule, resolution, legal code, legal system, or any component of a legal system established and used or applied in a foreign venue or forum.
- (3) Foreign venue or forum. – A venue or forum operating under the authority of a government other than any of the following:
 - a. The United States.
 - b. A state, district, commonwealth, territory, or insular possession of the United States.
 - c. Any other government with regard to which the decision in this State as to whether to recognize a judgment of that government's courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

"§ 1-87.3. Public policy.

In recognition that the United States Constitution and the Constitution of North Carolina constitute the supreme law of this State, the General Assembly hereby declares it to be the public policy of this State to protect its citizens from the application of foreign law that would result in the violation of a fundamental constitutional right of a natural person. The public policies expressed in this section shall apply only to actual or foreseeable violations of a fundamental constitutional right resulting from the application of the foreign law.

"§ 1-87.4. Nonapplication of foreign law that would violate fundamental constitutional rights.

A court, administrative agency, arbitrator, mediator, or other entity or person acting under the authority of State law shall not apply a foreign law in any legal proceeding involving, or recognize a foreign judgment involving, a claim for absolute divorce, divorce from bed and board, child custody, child support, alimony, or equitable distribution if doing so would violate a fundamental constitutional right of one or more natural persons who are parties to the proceeding.

"§ 1-87.5. Interpretation of contracts providing for choice of foreign law.

(a) In the interpretation or enforcement by a court, administrative agency, arbitrator, mediator, or other entity or person acting under the authority of State law of any contract or other agreement that provides for the choice of a foreign law to govern its interpretation or the resolution of any claim or dispute, the court or administrative agency shall preserve the



fundamental constitutional rights of natural persons who are parties to the contract or other agreement.

(b) If enforcement of any provision in a contract or other agreement for the choice of foreign law would result in a violation of a fundamental constitutional right of one or more of the natural persons who are parties to the contract or other agreement, the agreement or contract shall be modified or amended to the extent necessary to preserve the fundamental constitutional rights of the natural persons.

"§ 1-87.6. Interpretation of contracts providing for choice of foreign venue or forum.

If the enforcement of any provision in a contract or other agreement providing for a choice of a foreign venue or forum would result in a violation of a fundamental constitutional right of one or more of the natural persons who are parties to the contract or other agreement, that provision shall be modified or amended to the extent necessary to preserve the fundamental constitutional rights of the natural persons.

"§ 1-87.7. Motions to transfer proceedings to a foreign venue or forum.

If a natural person subject to personal jurisdiction in this State seeks to maintain a litigation proceeding, arbitration proceeding, or other similarly binding proceeding in this State, and if a court of this State finds that granting a motion by another party to the proceeding to transfer the proceeding to a foreign venue or forum would likely lead to the violation of a fundamental constitutional right of the natural person who is the nonmovant in the foreign forum with respect to the matter in dispute, the motion shall be denied.

"§ 1-87.8. Contracts not capable of modification to preserve fundamental constitutional rights void.

Any provision in a contract or other agreement incapable of being modified or amended pursuant to this Article in order to preserve the fundamental constitutional rights of the natural persons who are parties to the contract or agreement shall be null and void.

"§ 1-87.9. Strict construction of waivers of constitutional rights.

Nothing in this Article shall be interpreted to limit the right of natural persons voluntarily to restrict or limit their own constitutional rights by contract or specific waiver consistent with constitutional principles; however, any ambiguity in the language of any such contract or other waiver shall be strictly construed in favor of preserving the constitutional rights of natural persons in this State.

"§ 1-87.10. Application.

The provisions in this act shall apply only to proceedings or matters under Chapter 50 and Chapter 50A of the General Statutes."

SECTION 2. This act becomes effective September 1, 2013, and applies to agreements and contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 25th day of July, 2013.

s/ Tom Apodaca
Presiding Officer of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 26th day of July, 2013 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 26th day of August, 2013.

s/ Karen Jenkins
Enrolling Clerk