

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1060

By: Kern, Fisher and Hulbert of
the House

and

Stanislawski of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to civil procedure; defining terms;
12 declaring certain rulings and decisions to be in
13 violation of public policy and making such rulings
14 and decisions void and unenforceable; declaring
15 certain contracts and contractual provisions to be in
16 violation of public policy and making such contracts
17 and contractual provisions void and unenforceable;
18 requiring denial of certain motions relating to
19 venue; excluding certain legal entities from scope of
20 law; providing for interpretation of law; providing
21 for codification; and providing an effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 20 of Title 12, unless there is
created a duplication in numbering, reads as follows:

1 A. As used in this section:

2 1. "Foreign law" means any law, legal code, or system of a
3 jurisdiction outside of any state or territory of the United States,
4 including, but not limited to, international organizations and
5 tribunals, and applied by that jurisdiction's courts, administrative
6 bodies, or other formal or informal tribunals. For the purposes of
7 this section, foreign law shall not mean, nor shall it include, any
8 laws of the federally recognized American Indian tribes or nations
9 in this state or territory of the United States;

10 2. "Court" means any court, board, administrative agency, or
11 other adjudicative or enforcement authority of this state; and

12 3. "Religious organization" means any church, seminary,
13 synagogue, temple, mosque, religious order, religious corporation,
14 association, or society, whose identity is distinctive in terms of
15 common religious creed, beliefs, doctrines, practices, or rituals,
16 of any faith or denomination, including any organization qualifying
17 as a church or religious organization under Section 501(c)(3) or
18 501(d) of the United States Internal Revenue Code.

19 B. Any court, arbitration, tribunal, or administrative agency
20 ruling or decision shall violate the public policy of this state and
21 be void and unenforceable if the court, arbitration, tribunal, or
22 administrative agency bases its rulings or decisions in the matter
23 at issue in whole or in part on foreign law that would not grant the
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1 parties affected by the ruling or decision the same fundamental
2 liberties, rights, and privileges granted under the U.S. and
3 Oklahoma Constitutions, including but not limited to due process,
4 freedom of religion, speech, or press, and any right of privacy or
5 marriage as specifically defined by the Constitution of this state.

6 C. A contract or contractual provision, if capable of
7 segregation, which provides for the choice of a foreign law to
8 govern some or all of the disputes between the parties shall violate
9 the public policy of this state and be void and unenforceable if the
10 foreign law chosen includes or incorporates any substantive or
11 procedural law, as applied to the dispute at issue, that would not
12 grant the parties at least the same fundamental liberties, rights,
13 and privileges granted under the U.S. and Oklahoma Constitutions,
14 including but not limited to due process, freedom of religion,
15 speech, or press, and any right of privacy or marriage as
16 specifically defined by the Constitution of this state.

17 D. 1. A contract or contractual provision, if capable of
18 segregation, which provides for a jurisdiction for purposes of
19 granting the courts or arbitration panels in personam jurisdiction
20 over the parties to adjudicate any disputes between parties arising
21 from the contract shall violate the public policy of this state and
22 be void and unenforceable if the jurisdiction chosen includes any
23 foreign law as applied to the dispute at issue, that would not grant
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1 the parties at least the same fundamental liberties, rights, and
2 privileges granted under the U.S. and Oklahoma Constitutions,
3 including but not limited to due process, freedom of religion,
4 speech, or press, and any right of privacy or marriage as
5 specifically defined by the Constitution of this state; and

6 2. If a resident of this state, subject to personal
7 jurisdiction in this state, seeks to maintain litigation,
8 arbitration, agency or similarly binding proceedings in this state
9 and if the courts of this state find that granting a claim of forum
10 non conveniens or a related claim violates or would likely lead to
11 the application of foreign law that would not grant a nonclaimant at
12 least the same fundamental liberties, rights, and privileges granted
13 under the U.S. and Oklahoma Constitutions, then it is the public
14 policy of this state that the claim shall be denied.

15 E. Without prejudice to any legal right, this section shall not
16 apply to a corporation, partnership, limited liability company,
17 business association, or other legal entity that contracts to
18 subject itself to foreign law in a jurisdiction other than this
19 state or the United States.

20 F. No court or arbitrator shall interpret this section to limit
21 the right of any person to the free exercise of religion as
22 guaranteed by the First Amendment to the U.S. Constitution and by
23 the Constitution of this state. No court shall interpret this
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1 section to require or authorize any court to adjudicate, or prohibit
2 any religious organization from adjudicating, ecclesiastical
3 matters, including, but not limited to, the election, appointment,
4 calling, discipline, dismissal, removal or excommunication of a
5 member, officer, official, priest, nun, monk, pastor, rabbi, imam or
6 member of the clergy, of the religious organization, or
7 determination or interpretation of the doctrine of the religious
8 organization, where adjudication by a court would violate the
9 prohibition of the establishment clause of the First Amendment of
10 the United States, or violate the Constitution of this state.

11 G. This section shall not be interpreted by any court to
12 conflict with any federal treaty including, but not limited to, any
13 treaty with any federally recognized American Indian tribe or
14 nation, or other international agreement to which the United States
15 is a party to the extent that such treaty or international agreement
16 preempts or is superior to state law on the matter at issue.

17 SECTION 2. This act shall become effective November 1, 2013.

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19 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2013 - DO
20 PASS, As Amended and Coauthored.