

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4

March 26, 2013

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1060

By: Kern, Fisher, Hulbert,
Blackwell, Ritze, Moore and
Walker of the House

and

Stanislawski of the Senate

An Act relating to civil procedure; defining terms; declaring certain rulings and decisions to be in violation of public policy and making such rulings and decisions void and unenforceable; declaring certain contracts and contractual provisions to be in violation of public policy and making such contracts and contractual provisions void and unenforceable; requiring denial of certain motions relating to venue; excluding certain contracts or agreements from scope of law; providing for interpretation of law; providing for codification; and providing an effective date.

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

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

A. As used in this section:

1. "Foreign law" means any law, legal code, or system of a jurisdiction outside of any state or territory of the United States,

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

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

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

16 B. Any court, arbitration, tribunal, or administrative agency
17 ruling or decision shall violate the public policy of this state and
18 be void and unenforceable if the court, arbitration, tribunal, or
19 administrative agency bases its rulings or decisions in the matter
20 at issue in whole or in part on foreign law that would not grant the
21 parties affected by the ruling or decision the same fundamental
22 liberties, rights, and privileges granted under the U.S. and
23 Oklahoma Constitutions, including but not limited to due process,
24

1 freedom of religion, speech, or press, and any right of privacy or
2 marriage as specifically defined by the Constitution of this state.

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

14 D. 1. A contract or contractual provision, if capable of
15 segregation, which provides for a jurisdiction for purposes of
16 granting the courts or arbitration panels in personam jurisdiction
17 over the parties to adjudicate any disputes between parties arising
18 from the contract shall violate the public policy of this state and
19 be void and unenforceable if the jurisdiction chosen includes any
20 foreign law as applied to the dispute at issue, that would not grant
21 the parties at least the same fundamental liberties, rights, and
22 privileges granted under the U.S. and Oklahoma Constitutions,
23 including but not limited to due process, freedom of religion,
24

1 speech, or press, and any right of privacy or marriage as
2 specifically defined by the Constitution of this state.

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

12 E. This section shall not apply to any contract or agreement to
13 which a corporation, partnership, limited liability company,
14 business association, or other legal entity binds itself.

15 F. No court or arbitrator shall interpret this section to limit
16 the right of any person to the free exercise of religion as
17 guaranteed by the First Amendment to the U.S. Constitution and by
18 the Constitution of this state. No court shall interpret this
19 section to require or authorize any court to adjudicate, or prohibit
20 any religious organization from adjudicating, ecclesiastical
21 matters, including, but not limited to, the election, appointment,
22 calling, discipline, dismissal, removal or excommunication of a
23 member, officer, official, priest, nun, monk, pastor, rabbi, imam or
24 member of the clergy, of the religious organization, or

1 determination or interpretation of the doctrine of the religious
2 organization, where adjudication by a court would violate the
3 prohibition of the establishment clause of the First Amendment of
4 the United States, or violate the Constitution of this state.

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
13 March 26, 2013 - DO PASS AS AMENDED
14
15
16
17
18
19
20
21
22
23
24