

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1060

By: Kern

6 AS INTRODUCED

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

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

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

20 A. The Legislature finds that it shall be the public policy of
21 this state to protect its citizens from the application of foreign
22 laws when the application of a foreign law will result in the
23 violation of a right guaranteed by the Constitution of this state or
24 of the United States, including but not limited to due process,

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 B. The Legislature fully recognizes the right to contract
4 freely under the laws of this state, and also recognizes that this
5 right may be reasonably and rationally circumscribed pursuant to the
6 state's interest to protect and promote rights and privileges
7 granted under the United States or Oklahoma Constitution, including
8 but not limited to due process, freedom of religion, speech, or
9 press, and any right of privacy or marriage as specifically defined
10 by the Constitution of this state.

11 C. As used in this section:

12 1. "Foreign law, legal code, or system" means any law, legal
13 code, or system of a jurisdiction outside of any state or territory
14 of the United States, including, but not limited to, international
15 organizations and tribunals, and applied by that jurisdiction's
16 courts, administrative bodies, or other formal or informal
17 tribunals. For the purposes of this section, foreign law shall not
18 mean, nor shall it include, any laws of the Native American tribes
19 in this state;

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

22 3. "Religious organization" means any church, seminary,
23 synagogue, temple, mosque, religious order, religious corporation,
24 association, or society, whose identity is distinctive in terms of

1 common religious creed, beliefs, doctrines, practices, or rituals,
2 of any faith or denomination, including any organization qualifying
3 as a church or religious organization under Section 501(c)(3) or
4 501(d) of the United States Internal Revenue Code.

5 D. Any court, arbitration, tribunal, or administrative agency
6 ruling or decision shall violate the public policy of this state and
7 be void and unenforceable if the court, arbitration, tribunal, or
8 administrative agency bases its rulings or decisions in the matter
9 at issue in whole or in part on any law, legal code or system that
10 would not grant the parties affected by the ruling or decision the
11 same fundamental liberties, rights, and privileges granted under the
12 U.S. and Oklahoma Constitutions, including but not limited to due
13 process, freedom of religion, speech, or press, and any right of
14 privacy or marriage as specifically defined by the Constitution of
15 this state.

16 E. A contract or contractual provision, if capable of
17 segregation, which provides for the choice of a law, legal code or
18 system to govern some or all of the disputes between the parties
19 adjudicated by a court of law or by an arbitration panel arising
20 from the contract mutually agreed upon shall violate the public
21 policy of this state and be void and unenforceable if the law, legal
22 code or system chosen includes or incorporates any substantive or
23 procedural law, as applied to the dispute at issue, that would not
24 grant the parties the same fundamental liberties, rights, and

1 privileges granted under the U.S. and Oklahoma Constitutions,
2 including but not limited to due process, freedom of religion,
3 speech, or press, and any right of privacy or marriage as
4 specifically defined by the Constitution of this state.

5 F. 1. A contract or contractual provision, if capable of
6 segregation, which provides for a jurisdiction for purposes of
7 granting the courts or arbitration panels in personam jurisdiction
8 over the parties to adjudicate any disputes between parties arising
9 from the contract mutually agreed upon shall violate the public
10 policy of this state and be void and unenforceable if the
11 jurisdiction chosen includes any law, legal code or system, as
12 applied to the dispute at issue, that would not grant the parties
13 the same fundamental liberties, rights, and privileges granted under
14 the U.S. and Oklahoma Constitutions, including but not limited to
15 due process, freedom of religion, speech, or press, and any right of
16 privacy or marriage as specifically defined by the Constitution of
17 this state; and

18 2. If a resident of this state, subject to personal
19 jurisdiction in this state, seeks to maintain litigation,
20 arbitration, agency or similarly binding proceedings in this state
21 and if the courts of this state find that granting a claim of forum
22 non conveniens or a related claim violates or would likely violate
23 the fundamental liberties, rights, and privileges granted under the
24 U.S. and Oklahoma Constitutions of the nonclaimant in the foreign

1 forum with respect to the matter in dispute, then it is the public
2 policy of this state that the claim shall be denied.

3 G. Without prejudice to any legal right, this section shall not
4 apply to a corporation, partnership, limited liability company,
5 business association, or other legal entity that contracts to
6 subject itself to foreign law in a jurisdiction other than this
7 state or the United States.

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

22 I. This section shall not be interpreted by any court to
23 conflict with any federal treaty or other international agreement to
24 which the United States is a party to the extent that such treaty or

1 international agreement preempts or is superior to state law on the
2 matter at issue.

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