

CHAPTER 2014-10

Senate Bill No. 386

An act relating to the application of foreign law in courts; creating s. 61.040, F.S.; defining the term “strong public policy”; prohibiting a court from enforcing certain choice of law or forum selection contractual provisions; requiring a court to review judgments and orders of foreign courts for comity before enforcing such orders or judgments; specifying judgments and orders of foreign courts that are not entitled to comity; providing that the attempt to apply the law of a foreign country is void under certain circumstances; prohibiting a trial court from dismissing an action on the grounds that a satisfactory remedy may be more conveniently sought in a foreign country; providing an exception; providing applicability; providing an effective date.

WHEREAS, the purpose of the courts of this state is to fairly and justly adjudicate disputes, and

WHEREAS, the common law and other court interpreted law of this state protects litigants from the application of unfair and unjust laws of foreign countries, and

WHEREAS, with respect to the enforceability of choice of law provisions, this act codifies the holdings of *Mintz & Fraade P.C., v. Beta Drywall Acquisition, LLC*, 59 So.3d 1173, 1176 (Fla. 4th DCA 2011); *Walls v. Quick & Reilly, Inc.*, 824 So.2d 1016, 1018 (Fla. 5th DCA); and

WHEREAS, with respect to the enforceability of forum selection clauses, this act codifies the holdings of *Manrique v. Fabbri*, 493 So.2d 437, 440 (Fla. 1986) and *Illinois Union Insurance Co. v. Co-Free, Inc.*, 128 So.3d 820 (Fla. 1st DCA 2013); and

WHEREAS, with respect to the enforceability of a judgment or order of a court of a foreign country, this act codifies the holding of *Nahar v. Nahar*, 656 So.2d 225, 229 (Fla. 3d DCA 1995); and

WHEREAS, with respect to the application of the law of a foreign state, this act codifies *McNamara v. McNamara*, 40 So.3d 78, 80 (Fla. 5th DCA 2010); and

WHEREAS, with respect to the dismissal of a case on the grounds that a satisfactory remedy may be more conveniently sought in a foreign country, this act codifies the result of Rule 1.061(a)(1), Florida Rules of Civil Procedure, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 61.040, Florida Statutes, is created to read:

61.040 Application of the law of a foreign country in courts relating to matters arising out of or relating to chapters 61 and 88.—

(1) As used in this section, the term “strong public policy” means public policy of sufficient importance to outweigh the policy of protecting freedom of contract.

(2) A court may not enforce:

(a) A choice of law provision in a contract selecting the law of a foreign country which contravenes the strong public policy of this state or that is unjust or unreasonable.

(b) A forum selection clause in a contract that selects a forum in a foreign country if the clause is shown to be unreasonable or unjust or if strong public policy would prohibit the enforceability of the clause under the specific facts of the case.

(3) Before enforcing a judgment or order of a court of a foreign country, a court must review the judgment or order to ensure that it complies with the rule of comity. A judgment or order of a court of a foreign country is not entitled to comity if the parties were not given adequate notice and the opportunity to be heard, the foreign court did not have jurisdiction, or the judgment or order of the foreign court offends the public policy of this state. As used in this subsection, a “foreign court” or “court of a foreign country” includes any court or tribunal that has jurisdiction under the laws of that nation over the subject of matters governed by chapter 61 or chapter 88.

(4) Any attempt to apply the law of a foreign country is void if it contravenes the strong public policy of this state or if the law is unjust or unreasonable.

(5) A trial court may not dismiss an action on the grounds that a satisfactory remedy may be more conveniently sought in a foreign country unless the trial court finds in accordance with all the applicable rules of civil procedure and this section that an adequate alternate forum exists.

(6) This section applies only to matters governed by or relating to chapter 61 or chapter 88.

The purpose of this section is to codify existing case law, and that intent should guide the interpretation of this section.

Section 2. This act shall take effect on October 1, 2014.

Approved by the Governor May 12, 2014.

Filed in Office Secretary of State May 12, 2014.