

1 SB4
2 143800-2
3 By Senator Allen (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 05-FEB-13
6 PFD: 06/06/2012

1 SB4

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4 ENROLLED, An Act,

5 Proposing an amendment to the Constitution of
6 Alabama of 1901, to prohibit the application of foreign law in
7 violation of rights guaranteed natural citizens by the United
8 States and Alabama Constitutions, and the laws and public
9 policy of the state, without application to business entities.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. The following amendment to the
12 Constitution of Alabama of 1901, as amended, is proposed and
13 shall become valid as a part thereof when approved by a
14 majority of the qualified electors voting thereon and in
15 accordance with Sections 284, 285, and 287 of the Constitution
16 of Alabama of 1901, as amended:

17 PROPOSED AMENDMENT

18 (a) This amendment shall be known and may be cited
19 as the American and Alabama Laws for Alabama Courts Amendment.

20 (b) The law of Alabama provides:

21 (1) The State of Alabama has developed its unique
22 public policy of laws based on the United States Constitution,
23 as protected by Amendment 10 to the United States
24 Constitution.

1 (2) Upon becoming a state in 1819, Alabama adopted
2 its first constitutional and statutory enactments, upon which
3 it has built the rights, privileges, obligations, and
4 requirements of its government and citizens.

5 (3) Both the provisions of the Alabama Constitution
6 and the statutes and regulations of the State of Alabama, with
7 interpreting opinions by its courts of competent jurisdiction,
8 have developed the state's public policy.

9 (4) The public policy of the State of Alabama
10 protects the unique rights of its citizens beginning with
11 Article I, Section 1 of the Constitution of Alabama of 1901,
12 guaranteeing the equality and rights of men. Except as
13 permitted by due process of law and the right of the people to
14 vote for self-determination, the rights, privileges, and
15 immunities of the citizens of the State of Alabama are
16 inviolate.

17 (5) Different from the law of the State of Alabama
18 is foreign law, which is any law, rule, or legal code, or
19 system established, used, or applied in a jurisdiction outside
20 of the states or territories of the United States, or which
21 exist as a separate body of law, legal code, or system adopted
22 or used anywhere by any people, group, or culture different
23 from the Constitution and laws of the United States or the
24 State of Alabama.

1 (6) Alabama has a favorable business climate and has
2 attracted many international businesses. While Alabama
3 business persons and companies may decide to use foreign law
4 in foreign courts, the public policy of Alabama is to prohibit
5 anyone from requiring Alabama courts to apply and enforce
6 foreign laws.

7 (7) The public policy of this state is to protect
8 its citizens from the application of foreign laws when the
9 application of a foreign law will result in the violation of a
10 right guaranteed by the Alabama Constitution or of the United
11 States Constitution, including, but not limited to, due
12 process, freedom of religion, speech, assembly, or press, or
13 any right of privacy or marriage.

14 (8) Article IV, Section 1, of the United States
15 Constitution provides that full faith and credit shall be
16 given by each state to the public acts, records, and judicial
17 proceedings of other states. Provided, however, when any such
18 public acts, records, and judicial proceedings of another
19 state violate the public policy of the State of Alabama, the
20 State of Alabama is not and shall not be required to give full
21 faith and credit thereto.

22 (c) A court, arbitrator, administrative agency, or
23 other adjudicative, arbitral, or enforcement authority
24 shall not apply or enforce a foreign law if doing so would

1 violate any state law or a right guaranteed by the
2 Constitution of this state or of the United States.

3 (d) If any contractual provision or agreement
4 provides for the choice of a foreign law to govern its
5 interpretation or the resolution of any dispute between the
6 parties, and if the enforcement or interpretation of the
7 contractual provision or agreement would result in a violation
8 of a right guaranteed by the Constitution of this state or of
9 the United States, the agreement or contractual provision
10 shall be modified or amended to the extent necessary to
11 preserve the constitutional rights of the parties.

12 (e) If any contractual provision or agreement
13 provides for the choice of venue or forum outside of the
14 states or territories of the United States, and if the
15 enforcement or interpretation of the contract or agreement
16 applying that choice of venue or forum provision would result
17 in a violation of any right guaranteed by the Constitution of
18 this state or of the United States, that contractual provision
19 or agreement shall be interpreted or construed to preserve the
20 constitutional rights of the person against whom enforcement
21 is sought. If a natural person subject to personal
22 jurisdiction in this state seeks to maintain litigation,
23 arbitration, an administrative proceeding, or a similarly
24 binding proceeding in this state, and if a court of this state
25 finds that granting a claim of forum non conveniens or a

1 related claim violates or would likely lead to the violation
2 of the constitutional rights of the nonclaimant in the foreign
3 forum with respect to the matter in dispute, the claim shall
4 be denied.

5 (f) Any contractual provision or agreement incapable
6 of being modified or amended in order to preserve the
7 constitutional rights of the parties pursuant to the
8 provisions of this amendment shall be null and void.

9 (g) Nothing in this amendment shall be interpreted
10 to limit the right of a natural person or entity of this state
11 to voluntarily restrict or limit his, her, or its own
12 constitutional rights by contract or specific waiver
13 consistent with constitutional principles. However, the
14 language of any such contract or other waiver shall be
15 strictly construed in favor of preserving the constitutional
16 rights of the natural person in this state. Further, no
17 Alabama court shall be required by any contract or other
18 obligation entered into by a person or entity to apply or
19 enforce any foreign law.

20 (h) Except as limited by subsection (g), without
21 prejudice to any legal right, this amendment shall not apply
22 to a corporation, partnership, limited liability company,
23 business association, or other legal entity that contracts to
24 subject itself to foreign law in a jurisdiction other than
25 this state or the United States.

1 (i) Where the public acts, records, or judicial
2 proceedings of another state violate the public policy of the
3 State of Alabama, the State of Alabama shall not give full
4 faith and credit thereto.

5 Section 2. An election upon the proposed amendment
6 shall be held in accordance with Sections 284 and 285 of the
7 Constitution of Alabama of 1901, now appearing as Sections 284
8 and 285 of the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended, and the election laws of this
10 state.

11 Section 3. The appropriate election official shall
12 assign a ballot number for the proposed constitutional
13 amendment on the election ballot and shall set forth the
14 following description of the substance or subject matter of
15 the proposed constitutional amendment:

16 "Proposing an amendment to the Constitution of
17 Alabama of 1901, to prohibit the State of Alabama from giving
18 full faith and credit to public acts, records, or judicial
19 proceedings of another state that violate the public policy of
20 the State of Alabama and to prohibit the application of
21 foreign law in violation of rights guaranteed natural citizens
22 by the United States and Alabama Constitutions, and the
23 statutes, laws, and public policy thereof, but without
24 application to business entities.

25 "Proposed by Act _____."

1 This description shall be followed by the following
2 language:
3 "Yes () No ()."

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB4
Senate 20-MAR-13
I hereby certify that the within Act originated in and passed
the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 20-MAY-13

By: Senator Allen