SENATE BILL No. 36

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-7-8.

Synopsis: Foreign law. Prohibits the enforcement of a foreign law (defined as a law established and used outside the jurisdiction of the United States) if the enforcement would violate a right granted by the Indiana or United States Constitution. Provides that a provision in a contract or agreement calling for the application of foreign law is not enforceable and is void if the provision cannot be modified, unless the contract explicitly states that it will be enforced in accordance with foreign law. Prohibits a court from granting certain motions to transfer a case to another jurisdiction if the transfer is likely to affect the constitutional rights of the nonmoving party.

Effective: July 1, 2012.

Waterman

January 4, 2012, read first time and referred to Committee on Judiciary.

C o p y

Introduced

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 36

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-7-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 8. Application of Foreign Law

Sec. 1. As used in this chapter, "foreign law" means any law, rule, or legal code or system:

(1) established; and

(2) used or applied;

in a jurisdiction outside the states of the United States, the District of Columbia, or the territories of the United States.

Sec. 2. A court, arbitrator, administrative agency, or other adjudicative, mediation, or enforcement authority may not enforce a foreign law if doing so would violate a right guaranteed by the Constitution of the State of Indiana or the Constitution of the United States.

Sec. 3. (a) Unless a contract or agreement specifically provides that it is to be interpreted in accordance with a foreign law, if any

contractual provision or agreement provides for the choice of a foreign law to govern its interpretation or the resolution of any dispute between the parties, and if the enforcement or interpretation of the contractual provision or agreement would result in a violation of a right guaranteed by the Constitution of the State of Indiana or the Constitution of the United States, the agreement or contractual provision shall be modified or amended to the extent necessary to preserve the constitutional rights of the parties.

(b) Unless a contract or agreement specifically provides that it is to be interpreted in accordance with a foreign law, any contractual provision or agreement incapable of being modified or amended in order to preserve the constitutional rights of the parties in accordance with this chapter is void.

Sec. 4. (a) Unless a contract or agreement specifically provides for venue or a forum outside the states of the United States, the District of Columbia, or the territories of the United States, if a contractual provision or agreement provides for the choice of venue or forum outside the states of the United States, the District of Columbia, or the territories of the United States, and if the enforcement or interpretation of the contract or agreement applying that choice of venue or forum provision would result in a violation of any right guaranteed by the Constitution of the State of Indiana or the Constitution of the United States, that contractual provision or agreement shall be interpreted or construed to preserve the constitutional rights of the person against whom enforcement is sought.

(b) A court may not grant a motion of forum non conveniens or a related motion:

(1) in a case in which a natural person subject to personal jurisdiction in Indiana seeks to maintain an action in Indiana; and

(2) if the court finds that granting the motion violates or would likely lead to the violation of the constitutional rights of the nonmovant in the foreign forum with respect to the matter in dispute.

C o p y