

SENATE BILL No. 90

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-7-8.

Synopsis: Application of 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 between natural persons calling for the application of foreign law is not enforceable and is void if the provision cannot be modified. 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.

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

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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.

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SENATE BILL No. 90



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:

1 SECTION 1. IC 34-7-8 IS ADDED TO THE INDIANA CODE AS
 2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2012]:
 4 **Chapter 8. Application of Foreign Law**
 5 **Sec. 1. This chapter does not apply to a contract or agreement**
 6 **in which one (1) or more of the parties is not a natural person.**
 7 **Sec. 2. As used in this chapter, "foreign law" means any law,**
 8 **rule, or legal code or system:**
 9 **(1) established; and**
 10 **(2) used or applied;**
 11 **in a jurisdiction outside the states of the United States, the District**
 12 **of Columbia, or the territories of the United States.**
 13 **Sec. 3. A court, arbitrator, administrative agency, or other**
 14 **adjudicative, mediation, or enforcement authority may not enforce**
 15 **a foreign law if doing so would violate a right guaranteed by the**
 16 **Constitution of the State of Indiana or the Constitution of the**
 17 **United States.**



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

10 **(b) Any contractual provision or agreement incapable of being**
11 **modified or amended in order to preserve the constitutional rights**
12 **of the parties in accordance with this chapter is void.**

13 **Sec. 5. (a) If a contractual provision or agreement provides for**
14 **the choice of venue or forum outside the states of the United States,**
15 **the District of Columbia, or the territories of the United States, and**
16 **if the enforcement or interpretation of the contract or agreement**
17 **applying that choice of venue or forum provision would result in a**
18 **violation of any right guaranteed by the Constitution of the State**
19 **of Indiana or the Constitution of the United States, that contractual**
20 **provision or agreement shall be interpreted or construed to**
21 **preserve the constitutional rights of the person against whom**
22 **enforcement is sought.**

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

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

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

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