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HOUSE BILL NO. 631

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend the Code of Virginia by adding in Title 8.01 a chapter numbered 17.4, consisting of sections numbered 8.01-465.26 through 8.01-465.30, relating to the application of foreign law in Virginia courts.*

Patrons—Morris and Cole

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 8.01 a chapter numbered 17.4, consisting of sections numbered 8.01-465.26 through 8.01-465.30, as follows:

CHAPTER 17.4.**APPLICATION OF FOREIGN LAWS.****§ 8.01-465.26. Definitions.**

For purposes of this chapter, unless the context requires otherwise:

"Foreign law" means any law, legal code, or system established and used or applied in a jurisdiction outside of the states or territories of the United States.

§ 8.01-465.27. Application of foreign law by courts, etc.

A. It shall be considered a violation of the public policy of the Commonwealth for a court, arbitrator, administrative agency, or other adjudicative, mediation, or enforcement authority to base its ruling or decision in any matter at issue, in whole or in part, on any foreign law, if the ruling or decision would violate a person's rights guaranteed by the United States Constitution or the Constitution of Virginia. Any ruling or decision that violates this subsection shall be void and unenforceable.

B. If a resident of the Commonwealth who is subject to personal jurisdiction in the Commonwealth seeks to maintain litigation, arbitration, administrative, or similarly binding adjudicative proceedings in the Commonwealth, it shall be considered a violation of the public policy of the Commonwealth for a court to find that it is an inconvenient forum if such a finding would violate a person's rights guaranteed by the United States Constitution or the Constitution of Virginia. Any ruling or decision that violates this subsection shall be void and unenforceable.

§ 8.01-465.28. Application of foreign law; contracts.

A. It shall be considered a violation of the public policy of the Commonwealth for a contract, arbitration agreement, or other agreement to provide for the choice of a foreign law to govern the interpretation, enforcement, or resolution of any claim under the contract, arbitration agreement, or other agreement if the foreign law chosen, as applied to the contract, arbitration agreement, or other agreement, would violate a person's rights guaranteed by the United States Constitution or the Constitution of Virginia. A choice of law provision in any contract, arbitration agreement, or other agreement that violates this subsection shall be void and unenforceable.

B. It shall be considered a violation of the public policy of the Commonwealth for a contract, arbitration agreement, or other agreement to provide for the choice of a venue or forum outside of any state or territory of the United States if the foreign venue or forum chosen, as applied to the contract, arbitration agreement, or other agreement, would violate a person's rights guaranteed by the United States Constitution or the Constitution of Virginia. A choice of venue or forum provision in any contract, arbitration agreement, or other agreement that violates this subsection shall be void and unenforceable.

§ 8.01-465.29. Application of foreign law; business entities.

Without prejudice to any other legal right, this chapter shall not apply to a corporation, partnership, limited liability company, or any other form of business association or legal entity that is a party to a contract or agreement subject itself to foreign law in a jurisdiction other than the Commonwealth or any of the states or territories of the United States.

§ 8.01-465.30. Application of foreign law; exceptions.

A. The provisions of this chapter shall not apply to any church, religious sect or society, or denomination with respect to matters that are purely ecclesiastical in nature when the exercise of jurisdiction by the courts of the Commonwealth over such matters would be contrary to the rights guaranteed by the United States Constitution or the Constitution of Virginia.

B. The provisions of this chapter shall not be construed to conflict with any federal treaty or other international agreement to which the United States is a signatory to the extent that such treaty or other

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