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HOUSE BILL 1392

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State of Washington                      63rd Legislature                      2013 Regular Session

By Representatives Shea, Overstreet, Taylor, and Short

Read first time 01/24/13. Referred to Committee on Judiciary.

1            AN ACT Relating to protecting citizens from the application of  
2 foreign laws that would result in a violation of a constitutional  
3 right; and adding a new section to chapter 1.20 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 1.20 RCW  
6 to read as follows:

7            (1) The legislature finds that Washington has a compelling state  
8 interest in protecting citizens and lawful residents within its borders  
9 from the application of a foreign law when the application of the  
10 foreign law would result in the violation of any right guaranteed by  
11 the Constitution of this state or of the United States, including but  
12 not limited to the rights of due process, freedom of religion, speech,  
13 and press, and the rights to privacy, property, and to bear arms in the  
14 defense of self or others.

15            (2) A court, arbitrator, administrative agency, and any other  
16 adjudicative, mediation, or enforcement authority shall not enforce a  
17 foreign law if doing so would violate any right guaranteed by the  
18 Constitution of this state or of the United States.

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

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

24 (c) Any contractual provision or agreement incapable of being  
25 modified or amended in order to preserve the constitutional rights of  
26 the parties pursuant to the provisions of this section is null and void  
27 and unenforceable as against the public policy of this state.

28 (4) Without prejudice to any other legal right, this section shall  
29 not apply when an entity other than a natural person is a party to the  
30 contract or agreement.

31 (5) The public policies expressed in this section shall apply only  
32 if the application of foreign law would violate or would more likely  
33 than not violate any constitutional right of a natural person.

34 (6) For the purposes of this section:

35 (a) "Foreign law" means any law, rule, or legal code or system  
36 established and used or applied in a jurisdiction outside of the states

1 or territories of the United States.

2 (b) "Natural person" means a human being.

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