

## AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, prohibiting the  
3 application of foreign law which would impair constitutional  
4 rights.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 102 of Title 42 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a definition to read:

9 § 102. Definitions.

10 Subject to additional definitions contained in subsequent  
11 provisions of this title which are applicable to specific  
12 provisions of this title, the following words and phrases when  
13 used in this title shall have, unless the context clearly  
14 indicates otherwise, the meanings given to them in this section:

15 \* \* \*

16 "Foreign legal code or system." A legal code or system of a  
17 jurisdiction outside of the United States, including an  
18 international organization or tribunal, which is applied by that

1 jurisdiction in a judicial proceeding or an administrative  
2 proceeding.

3 \* \* \*

4 Section 2. Section 5322(e) of Title 42 is amended to read:

5 § 5322. Bases of personal jurisdiction over persons outside  
6 this Commonwealth.

7 \* \* \*

8 (e) Inconvenient forum.-- [When]

9 (1) Except as set forth in paragraph (2), when a

10 tribunal finds that in the interest of substantial justice  
11 the matter should be heard in another forum, the tribunal may  
12 stay or dismiss the matter in whole or in part on any  
13 conditions that may be just.

14 (2) Relief under paragraph (1) shall not be granted if  
15 the tribunal finds that granting relief has the potential to  
16 violate a fundamental liberty, right or privilege granted  
17 under the United States Constitution and the Constitution of  
18 Pennsylvania. The exception under this paragraph does not  
19 apply to any corporation, partnership, limited liability  
20 company, business association or other legal entity that  
21 contracts to subject itself to a foreign legal code or  
22 system.

23 Section 3. Section 5327(c) of Title 42 is amended and the  
24 section is amended by adding a subsection to read:

25 § 5327. Determination of foreign law.

26 \* \* \*

27 (b.1) Prohibitions.--

28 (1) Except as set forth in paragraph (2), all of the  
29 following apply:

30 (i) A tribunal shall not consider a foreign legal

1 code or system which does not grant the parties affected  
2 by the ruling or decision the same fundamental liberties,  
3 rights and privileges granted under the United States  
4 Constitution and the Constitution of Pennsylvania. This  
5 subparagraph includes due process, freedom of religion,  
6 freedom of speech, freedom of press and a right of  
7 privacy or marriage as specifically defined by the  
8 Constitution of Pennsylvania.

9 (ii) A contract which provides for the choice of a  
10 foreign legal code or system to govern a dispute which  
11 arises out of the contract violates the public policy of  
12 the Commonwealth and shall be void and unenforceable if  
13 the foreign legal code or system chosen includes or  
14 incorporates substantive or procedural law, as applied to  
15 the dispute at issue, which would not grant the parties  
16 the same fundamental liberties, rights and privileges  
17 granted under the United States Constitution and the  
18 Pennsylvania Constitution. This subparagraph includes due  
19 process, freedom of religion, freedom of speech, freedom  
20 of press and a right of privacy or marriage as  
21 specifically defined by the Constitution of Pennsylvania.

22 (iii) A contract which confers upon a tribunal or  
23 arbitrator in personam jurisdiction over a party to  
24 adjudicate a dispute arising out of the contract violates  
25 the public policy of the Commonwealth and shall be void  
26 and unenforceable if the jurisdiction chosen includes or  
27 incorporates substantive or procedural law, as applied to  
28 the dispute at issue, which would not grant the parties  
29 the same fundamental liberties, rights and privileges  
30 granted under the United States Constitution and the

1 Constitution of Pennsylvania. This subparagraph includes  
2 due process, freedom of religion, freedom of speech,  
3 freedom of press and a right of privacy or marriage as  
4 specifically defined by the Constitution of Pennsylvania.

5 (iv) It is the public policy of the Commonwealth to  
6 deny a claim of forum non conveniens if a resident of  
7 this Commonwealth, subject to personal jurisdiction in  
8 this Commonwealth, seeks to maintain an action in this  
9 Commonwealth and if a tribunal of this Commonwealth finds  
10 that granting the claim would likely violate the  
11 fundamental liberties, rights and privileges granted  
12 under the United States Constitution and the Constitution  
13 of Pennsylvania. This subparagraph includes due process,  
14 freedom of religion, freedom of speech, freedom of press  
15 and a right of privacy or marriage as specifically  
16 defined by the Constitution of Pennsylvania.

17 (2) Paragraph (1) does not apply to any corporation,  
18 partnership, limited liability company, business association  
19 or other legal entity that contracts to subject itself to  
20 foreign legal code or system.

21 (3) No tribunal or arbitrator shall interpret the  
22 provisions of paragraph (1) to do any of the following:

23 (i) Limit the right of a person to the free exercise  
24 of religion as guaranteed by the First Amendment to the  
25 United States Constitution and by sections 3 and 4 of  
26 Article I of the Constitution of Pennsylvania.

27 (ii) Require a tribunal or arbitrator to adjudicate  
28 an ecclesiastical matter if adjudication would violate  
29 the establishment clause of the First Amendment of the  
30 United States or section 3 or 4 of Article I of the

1 Constitution of Pennsylvania. This subparagraph includes:

2 (A) selection and sanction of any officer,  
3 official or clergy member of a religious  
4 organization; and

5 (B) determination or interpretation of the  
6 doctrine of the religious organization.

7 (iii) Prohibit a religious organization from  
8 adjudicating an ecclesiastical matter if adjudication  
9 would violate the establishment clause of the First  
10 Amendment of the United States or section 3 or 4 of  
11 Article I of the Constitution of Pennsylvania. This  
12 subparagraph includes:

13 (A) selection and sanction of any officer,  
14 official or clergy member of a religious  
15 organization; and

16 (B) determination or interpretation of the  
17 doctrine of the religious organization.

18 (iv) Conflict with a Federal treaty or other  
19 international agreement to which the United States is a  
20 party to the extent that the treaty or international  
21 agreement preempts or is superior to State law on the  
22 matter at issue.

23 (c) Court decision and review.--The court, not jury, shall  
24 determine the law of any governmental unit outside this  
25 Commonwealth and whether that law violates subsection (b.1)(1).  
26 The determination of the tribunal is subject to review on appeal  
27 as a ruling on a question of law.

28 Section 4. This act shall apply to actions initiated on or  
29 after the effective date of this section.

30 Section 5. This act shall take effect in 60 days.