PUBLIC CHAPTER NO. 983

HOUSE BILL NO. 3768

By Representatives Dennis, Lundberg, Campfield, Niceley, Coley, Evans, Weaver, Floyd, Harry Brooks, Lynn, Maggart, White, Rich, Lollar, Halford, Moore, Carr

Substituted for: Senate Bill No. 3740

By Senators Bunch, Gresham, Tracy, Black

AN ACT to protect rights and privileges granted under the United States or Tennessee Constitution.

WHEREAS, while the general assembly fully recognizes the right to contract freely under the laws of this state, it also recognizes that this right may be reasonably and rationally circumscribed pursuant to the state's interest to protect and promote rights and privileges granted under the United States or Tennessee Constitutions; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. As used in this act, "foreign law, legal code, or system" means any law, legal code, or system of a jurisdiction outside of any state or territory of the United States, including, but not limited to, international organizations and tribunals, and applied by that jurisdiction's courts, administrative bodies, or other formal or informal tribunals.

SECTION 2. It is the public policy of this state that the primary factor which a court, administrative agency, arbitrator, mediator or other entity or person acting under the authority of state law shall consider in granting comity to a decision rendered under any foreign law, legal code or system against a natural person in this state is whether the decision rendered either violated or would violate any right of the natural person in this state guaranteed by the Tennessee Constitution or the United States Constitution or any statute or decision under those constitutions.

SECTION 3.

(a) If any contract, arbitration agreement or other agreement provides for the choice of a foreign law, legal code or system to govern its interpretation or the resolution of any claim or dispute and if the enforcement or interpretation of the contract, arbitration agreement or other agreement applying that choice of law provision either resulted or would result in a violation of any right guaranteed by the Tennessee Constitution or the United States Constitution, then it is the public policy of this state that the primary factor in interpretation, enforcement or application of the contract, arbitration agreement or other agreement shall be preservation of the constitutional rights of the natural person in this state against whom enforcement is sought, unless otherwise directed by state statute.

(b) Nothing in this act shall be interpreted to limit the right of a natural person of this state to voluntarily restrict or limit their own constitutional rights by contract or specific waiver consistent with constitutional principles; however, the language of any such contract or other waiver shall be strictly construed in favor of preserving the constitutional rights of the natural person in this state.

SECTION 4.

(a) If any contract, arbitration agreement or other agreement provides for the choice of venue or forum outside any state or territory of the United States and if the enforcement or interpretation of the contract, arbitration agreement or other agreement applying that choice of venue or forum provision either resulted or would result in a violation of any right of a natural person in this state guaranteed by the Tennessee Constitution or the United States Constitution, then it is the public policy of this state that, in interpreting or construing the contract or arbitration agreement or other agreement, the primary factor to be considered is whether it can be interpreted or construed to preserve the constitutional rights of the natural person in this state against whom enforcement is sought.

(b) If a natural person of this state, subject to personal jurisdiction in this state, seeks to maintain litigation, arbitration, agency or similarly binding proceedings in this state and if the courts of this state find that granting a claim of forum non conveniens or a related claim violates or would likely violate the constitutional rights of the non-claimant in the foreign forum with respect to the matter in dispute, then it is the public policy of this state that the claim shall be denied.

SECTION 5. Without prejudice to any other legal right, this act shall not apply to a corporation, partnership or other form of business association.

SECTION 6. The public policies expressed in this act shall apply only to actual or foreseeable violations of the constitutional rights of a natural person in this state from a foreign law, legal code or system.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 13, 2010

KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 27th day of May 2010

PHIL BREDESEN, GOVERNOR