

CS FOR HOUSE BILL NO. 88(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/25/11

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVES GATTO, Lynn, Keller

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting a court, arbitrator, mediator, administrative agency, or**
2 **enforcement authority from applying a law, rule, or provision of an agreement that**
3 **violates an individual's right under the Constitution of the State of Alaska or the United**
4 **States Constitution."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that citizens of the state should be protected from
9 the application of a foreign law if application of the foreign law would violate an individual's
10 right guaranteed by the Constitution of the State of Alaska or the United States Constitution.

11 * **Sec. 2.** AS 09.68 is amended by adding a new section to read:

12 **Sec. 09.68.140. Foreign law prohibited.** (a) A court, arbitrator, mediator,
13 administrative agency, or enforcement agency may not apply a foreign law if
14 application of the foreign law would violate an individual's right guaranteed by the

1 Constitution of the State of Alaska or the United States Constitution.

2 (b) If an agreement includes a choice of law provision requiring foreign law to
3 govern its interpretation or the resolution of a dispute between the parties to the
4 agreement and if the interpretation or enforcement of the agreement would violate an
5 individual's right guaranteed by the Constitution of the State of Alaska or the United
6 States Constitution, the agreement must be modified or amended as necessary to
7 preserve the constitutional right. An agreement that may not be modified or amended
8 in order to preserve the constitutional right of an individual under this section is void.

9 (c) If an agreement provides for the choice of venue or a choice of forum
10 outside of the United States or its territories and if the enforcement of the agreement
11 applying the choice of venue or choice of forum provision would result in a violation
12 of an individual's right guaranteed by the Constitution of the State of Alaska or the
13 United States Constitution, the choice of venue or choice of forum provision in the
14 agreement shall be interpreted to preserve the individual's constitutional right.

15 (d) If a person subject to personal jurisdiction in the state asserts a claim of
16 forum non conveniens in litigation in the state, and if a court, arbitrator, mediator,
17 agency, or similar enforcement authority of this state finds that granting the claim of
18 forum non conveniens or similar claim would violate an individual's right guaranteed
19 by the Constitution of the State of Alaska or the United States Constitution, the claim
20 shall be denied.

21 (e) This section applies only to an actual or foreseeable violation of an
22 individual's constitutional right caused by the application of foreign law.

23 (f) This section does not apply to a corporation, partnership, or other form of
24 business association.

25 (g) In this section, "foreign law" means a law, rule, or legal code or system
26 established and used or applied in a jurisdiction outside of the United States and the
27 territories of the United States, except that "foreign law" does not mean nor shall it
28 include a law of an Alaska Native or Native American tribe in the state.