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Bailey  
3/30/11

**CS FOR HOUSE BILL NO. 88( )**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

**BY**

**Offered:**

**Referred:**

**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.** The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 LEGISLATIVE INTENT. It is the intent of the legislature that AS 09.68.140, enacted  
14 by sec. 3 of this Act, does not address, directly or indirectly, any question of tribal law or the

1 application of tribal law or otherwise address the intersection between state law and tribal law.

2 \* **Sec. 3.** AS 09.68 is amended by adding a new section to read:

3 **Sec. 09.68.140. Foreign law prohibited.** (a) A court, arbitrator, mediator,  
4 administrative agency, or enforcement agency may not apply a foreign law if  
5 application of the foreign law would violate an individual's right guaranteed by the  
6 Constitution of the State of Alaska or the United States Constitution.

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

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

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

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

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

30 (g) In this section, "foreign law" means a law, rule, or legal code or system  
31 established and used or applied in a jurisdiction outside of the United States and the

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territories of the United States.