

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 647**

Introduced by Christensen, 44.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to provide that the use of a foreign  
2 law, legal code, or system in decisions renders such  
3 decisions void and unenforceable if the law, legal code,  
4 or system violates the fundamental liberties, rights, and  
5 privileges of the State of Nebraska.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. (1) The Legislature fully recognizes the right  
2 to contract freely under the laws of this state. The Legislature also  
3 recognizes that this right may be reasonably and rationally  
4 circumscribed pursuant to the state's interest to protect and promote  
5 rights and privileges granted under the United States Constitution  
6 and the Constitution of Nebraska.

7           (2) For purposes of this section, foreign law, legal  
8 code, or system means any law, legal code, or system of a  
9 jurisdiction outside of any state or territory of the United States,  
10 including, but not limited to, an international organization or  
11 tribunal, and applied by such jurisdiction's courts, administrative  
12 bodies, or other formal or informal tribunals.

13           (3) A court, arbitration, tribunal, or administrative  
14 agency ruling or decision shall violate the public policy of this  
15 state and be void and unenforceable if the court, arbitration,  
16 tribunal, or administrative agency bases its rulings on any foreign  
17 law, legal code, or system that would not grant the parties affected  
18 by the ruling or decisions the same fundamental liberties, rights,  
19 and privileges granted under the United States Constitution and the  
20 Constitution of Nebraska.

21           (4) A contract or contractual provision, if severable,  
22 which provides for the choice of a foreign law, legal code, or system  
23 to govern some or all of the disputes between the parties adjudicated  
24 by a court of law or by an arbitration panel arising from the  
25 contract mutually agreed upon shall violate the public policy of this

1 state and be void and unenforceable if the foreign law, legal code,  
2 or system chosen includes or incorporates any substantive or  
3 procedural law, as applied to the dispute at issue, that would not  
4 grant the parties the same fundamental liberties, rights, and  
5 privileges granted under the United States Constitution and the  
6 Constitution of Nebraska.

7           (5)(a) A contract or contractual provision, if severable,  
8 which provides for a jurisdiction for purposes of granting the courts  
9 or arbitration panels in personam jurisdiction over the parties to  
10 adjudicate any disputes between parties arising from the contract  
11 mutually agreed upon shall violate the public policy of this state  
12 and be void and unenforceable if the jurisdiction chosen includes at  
13 foreign law, legal code, or system, as applied to the dispute at  
14 issue, that would not grant the parties the same fundamental  
15 liberties, rights, and privileges granted under the United States  
16 Constitution and the Constitution of Nebraska.

17           (b) If a resident of this state, subject to personal  
18 jurisdiction in this state, seeks to maintain litigation,  
19 arbitration, agency, or similarly binding proceedings in this state  
20 and if the courts of this state find that granting a claim of forum  
21 non conveniens or a related claim violates or would likely violate  
22 the fundamental liberties, rights, and privileges granted under the  
23 United States Constitution and the Constitution of Nebraska of the  
24 nonclaimant in the foreign forum with respect to the matter in  
25 dispute, then it is the public policy of this state that the claim

1 shall be denied.