

1-1 By: Carona, Birdwell, Paxton S.B. No. 1639
1-2 (In the Senate - Filed March 8, 2013; March 20, 2013, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 March 25, 2013, referred to Committee on Business and Commerce;
1-5 April 15, 2013, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 5, Nays 4; April 15, 2013,
1-7 sent to printer.)

1-8 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|--------------|-----|--------|-----|
| 1-9 | | | | |
| 1-10 | Carona | X | | |
| 1-11 | Taylor | X | | |
| 1-12 | Eltife | X | | |
| 1-13 | Estes | | X | |
| 1-14 | Hancock | X | | |
| 1-15 | Lucio | X | | |
| 1-16 | Van de Putte | | X | |
| 1-17 | Watson | | X | |
| 1-18 | Whitmire | | X | |

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 1639 By: Carona

1-20 A BILL TO BE ENTITLED
1-21 AN ACT

1-22 relating to the application of foreign laws and foreign forum
1-23 selection in certain family law proceedings.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle A, Title 1, Family Code, is amended by
1-26 adding Chapter 1A to read as follows:

1-27 CHAPTER 1A. APPLICATION OF FOREIGN LAW

1-28 Sec. 1A.001. DEFINITIONS. In this chapter:

1-29 (1) "Arbitrator" means an arbitrator or arbitration
1-30 panel.

1-31 (2) "Foreign law" means a substantive or procedural
1-32 law, rule, or legal code of a jurisdiction outside of the states and
1-33 territories of the United States. The term does not include a law
1-34 of a Native American tribe of the states and territories of the
1-35 United States.

1-36 (3) "Foreign tribunal" means any tribunal outside the
1-37 states and territories of the United States. The term does not
1-38 include a tribunal of a Native American tribe of a state or
1-39 territory of the United States.

1-40 (4) "Tribunal" means any court or administrative
1-41 adjudicator.

1-42 Sec. 1A.002. DECISION BASED ON FOREIGN LAW. A tribunal of
1-43 this state may not apply foreign law to adjudicate a suit for
1-44 dissolution of a marriage if the application of that law would not
1-45 guarantee the same fundamental rights guaranteed by the United
1-46 States Constitution.

1-47 Sec. 1A.003. CHOICE OF LAW IN CONTRACT. A contract
1-48 provision requiring the application of foreign law to adjudicate a
1-49 suit for dissolution of a marriage is void to the extent that the
1-50 application of foreign law would not guarantee the same fundamental
1-51 rights guaranteed by the United States Constitution.

1-52 Sec. 1A.004. ENFORCEMENT OF JUDGMENT BASED ON FOREIGN LAW.
1-53 A tribunal of this state may not enforce or grant comity to a
1-54 finding, ruling, order, or judgment in a suit for dissolution of a
1-55 marriage issued by an arbitrator or foreign tribunal based on
1-56 foreign law if the foreign law, as applied, would not guarantee the
1-57 same fundamental rights guaranteed by the United States
1-58 Constitution.

1-59 Sec. 1A.005. CHOICE OF FORUM IN CONTRACT. Any contract
1-60 provision requiring that a foreign tribunal or arbitrator

2-1 adjudicate a suit for dissolution of a marriage is void if the
 2-2 foreign law that would be applied to the dispute by that tribunal or
 2-3 arbitrator would, as applied, not guarantee the same fundamental
 2-4 rights guaranteed by the United States Constitution.

2-5 Sec. 1A.006. FORUM NON CONVENIENS. A tribunal of this state
 2-6 that has jurisdiction to adjudicate a suit for dissolution of a
 2-7 marriage may not decline jurisdiction because a foreign tribunal is
 2-8 a more convenient forum if the foreign tribunal would apply foreign
 2-9 law that would not guarantee the same fundamental rights guaranteed
 2-10 by the United States Constitution.

2-11 Sec. 1A.007. APPLICATION OF CHAPTER. (a) This chapter
 2-12 does not apply to:

2-13 (1) a corporation or other legal entity that contracts
 2-14 to subject the entity to foreign law before a foreign tribunal or
 2-15 arbitrator;

2-16 (2) any transaction that is primarily for business,
 2-17 commercial, investment, agricultural, or similar purposes; or

2-18 (3) any transaction, issue, agreement, or provision of
 2-19 an agreement governed by Chapter 271, Business & Commerce Code.

2-20 (b) This chapter is inapplicable to the extent a statute or
 2-21 treaty of the United States requires the application of foreign law
 2-22 or the enforcement of a judgment rendered by a foreign tribunal.

2-23 SECTION 2. Subtitle A, Title 5, Family Code, is amended by
 2-24 adding Chapter 112 to read as follows:

2-25 CHAPTER 112. APPLICATION OF FOREIGN LAW

2-26 Sec. 112.001. DEFINITIONS. In this chapter:

2-27 (1) "Arbitrator" means an arbitrator or arbitration
 2-28 panel.

2-29 (2) "Foreign law" means a law, rule, or legal code of a
 2-30 jurisdiction outside of the states and territories of the United
 2-31 States. The term does not include a law of a Native American tribe
 2-32 of the states and territories of the United States.

2-33 (3) "Foreign tribunal" means any tribunal outside the
 2-34 states and territories of the United States. The term does not
 2-35 include a tribunal of a Native American tribe of a state or
 2-36 territory of the United States.

2-37 (4) "Tribunal" means any court or administrative
 2-38 adjudicator.

2-39 Sec. 112.002. DECISION BASED ON FOREIGN LAW. A tribunal of
 2-40 this state may not apply foreign law to adjudicate a suit affecting
 2-41 the parent-child relationship if the application of that law would
 2-42 not guarantee the same fundamental rights guaranteed by the United
 2-43 States Constitution.

2-44 Sec. 112.003. CHOICE OF LAW IN CONTRACT. A contract
 2-45 provision requiring the application of foreign law to adjudicate a
 2-46 suit affecting the parent-child relationship is void to the extent
 2-47 that the application of foreign law would not guarantee the same
 2-48 fundamental rights guaranteed by the United States Constitution.

2-49 Sec. 112.004. ENFORCEMENT OF JUDGMENT BASED ON FOREIGN LAW.
 2-50 A tribunal of this state may not enforce or grant comity to a
 2-51 finding, ruling, order, or judgment in a suit affecting the
 2-52 parent-child relationship issued by an arbitrator or foreign
 2-53 tribunal based on foreign law if the foreign law, as applied, would
 2-54 not guarantee the same fundamental rights guaranteed by the United
 2-55 States Constitution.

2-56 Sec. 112.005. CHOICE OF FORUM IN CONTRACT. Any contract
 2-57 provision requiring that a foreign tribunal or arbitrator
 2-58 adjudicate a suit affecting the parent-child relationship is void
 2-59 if the foreign law that would be applied to the dispute by that
 2-60 tribunal or arbitrator would, as applied, not guarantee the same
 2-61 fundamental rights guaranteed by the United States Constitution.

2-62 Sec. 112.006. FORUM NON CONVENIENS. A tribunal of this
 2-63 state that has jurisdiction to adjudicate a suit affecting the
 2-64 parent-child relationship may not decline jurisdiction because a
 2-65 foreign tribunal is a more convenient forum if the foreign tribunal
 2-66 would apply foreign law that would not guarantee the same
 2-67 fundamental rights guaranteed by the United States Constitution.

2-68 Sec. 112.007. APPLICATION OF CHAPTER. (a) This chapter
 2-69 does not apply to:

3-1 (1) a corporation or other legal entity that contracts
3-2 to subject the entity to foreign law before a foreign tribunal or
3-3 arbitrator;

3-4 (2) any transaction that is primarily for business,
3-5 commercial, investment, agricultural, or similar purposes; or

3-6 (3) any transaction, issue, agreement, or provision of
3-7 an agreement governed by Chapter 271, Business & Commerce Code.

3-8 (b) This chapter is inapplicable to the extent a statute or
3-9 treaty of the United States requires the application of foreign law
3-10 or the enforcement of a judgment rendered by a foreign tribunal.

3-11 SECTION 3. Chapter 271, Business & Commerce Code, is
3-12 amended by adding Section 271.012 to read as follows:

3-13 Sec. 271.012. APPLICATION OF CERTAIN FAMILY LAW PROVISIONS.
3-14 Chapters 1A and 112, Family Code, do not apply to this chapter.

3-15 SECTION 4. Chapters 1A and 112, Family Code, as added by
3-16 this Act, apply to a suit for dissolution of a marriage or a suit
3-17 affecting the parent-child relationship pending in a trial court on
3-18 or filed on or after the effective date of this Act.

3-19 SECTION 5. This Act takes effect September 1, 2013.

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