

By: Fallon

H.B. No. 899

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

CHAPTER 1A. APPLICATION OF FOREIGN LAW

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

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

(2) "Foreign law" means a substantive or procedural law, rule, or legal code of a jurisdiction outside of the states and territories of the United States. The term does not include a law of a Native American tribe of a state or territory of the United States.

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

(4) "Tribunal" means any court or administrative adjudicator.

Sec. 1A.002. DECISION BASED ON FOREIGN LAW. A tribunal of this state may not apply foreign law to adjudicate a suit for dissolution of a marriage if the application of that law would not

1 guarantee the same fundamental rights guaranteed by the United  
2 States Constitution.

3 Sec. 1A.003. CHOICE OF LAW IN CONTRACT. A contract  
4 provision requiring the application of foreign law to adjudicate a  
5 suit for dissolution of a marriage is void to the extent that the  
6 application of foreign law would not guarantee the same fundamental  
7 rights guaranteed by the United States Constitution.

8 Sec. 1A.004. ENFORCEMENT OF JUDGMENT BASED ON FOREIGN LAW.  
9 A tribunal of this state may not enforce or grant comity to a  
10 finding, ruling, order, or judgment in a suit for dissolution of a  
11 marriage issued by an arbitrator or foreign tribunal based on  
12 foreign law if the foreign law, as applied, would not guarantee the  
13 same fundamental rights guaranteed by the United States  
14 Constitution.

15 Sec. 1A.005. CHOICE OF FORUM IN CONTRACT. Any contract  
16 provision requiring that a foreign tribunal or arbitrator  
17 adjudicate a suit for dissolution of a marriage is void if the  
18 foreign law that would be applied to the dispute by that tribunal or  
19 arbitrator would, as applied, not guarantee the same fundamental  
20 rights guaranteed by the United States Constitution.

21 Sec. 1A.006. FORUM NON CONVENIENS. A tribunal of this state  
22 that has jurisdiction to adjudicate a suit for dissolution of a  
23 marriage may not decline jurisdiction because a foreign tribunal is  
24 a more convenient forum if the foreign tribunal would apply foreign  
25 law that would not guarantee the same fundamental rights guaranteed  
26 by the United States Constitution.

27 Sec. 1A.007. APPLICATION OF CHAPTER. (a) This chapter does

1 not apply to:

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

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

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

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

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

14 CHAPTER 112. APPLICATION OF FOREIGN LAW

15 Sec. 112.001. DEFINITIONS. In this chapter:

16 (1) "Arbitrator" means an arbitrator or arbitration  
17 panel.

18 (2) "Foreign law" means a law, rule, or legal code of a  
19 jurisdiction outside of the states and territories of the United  
20 States. The term does not include a law of a Native American tribe  
21 of a state or territory of the United States.

22 (3) "Foreign tribunal" means any tribunal outside the  
23 states and territories of the United States. The term does not  
24 include a tribunal of a Native American tribe of a state or  
25 territory of the United States.

26 (4) "Tribunal" means any court or administrative  
27 adjudicator.

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

6       Sec. 112.003. CHOICE OF LAW IN CONTRACT. A contract  
7 provision requiring the application of foreign law to adjudicate a  
8 suit affecting the parent-child relationship is void to the extent  
9 that the application of foreign law would not guarantee the same  
10 fundamental rights guaranteed by the United States Constitution.

11       Sec. 112.004. ENFORCEMENT OF JUDGMENT BASED ON FOREIGN LAW.  
12 A tribunal of this state may not enforce or grant comity to a  
13 finding, ruling, order, or judgment in a suit affecting the  
14 parent-child relationship issued by an arbitrator or foreign  
15 tribunal based on foreign law if the foreign law, as applied, would  
16 not guarantee the same fundamental rights guaranteed by the United  
17 States Constitution.

18       Sec. 112.005. CHOICE OF FORUM IN CONTRACT. Any contract  
19 provision requiring that a foreign tribunal or arbitrator  
20 adjudicate a suit affecting the parent-child relationship is void  
21 if the foreign law that would be applied to the dispute by that  
22 tribunal or arbitrator would, as applied, not guarantee the same  
23 fundamental rights guaranteed by the United States Constitution.

24       Sec. 112.006. FORUM NON CONVENIENS. A tribunal of this  
25 state that has jurisdiction to adjudicate a suit affecting the  
26 parent-child relationship may not decline jurisdiction because a  
27 foreign tribunal is a more convenient forum if the foreign tribunal

1 would apply foreign law that would not guarantee the same  
2 fundamental rights guaranteed by the United States Constitution.

3 Sec. 112.007. APPLICATION OF CHAPTER. (a) This chapter  
4 does not apply to:

5 (1) a corporation or other legal entity that contracts  
6 to subject the entity to foreign law before a foreign tribunal or  
7 arbitrator;

8 (2) any transaction that is primarily for business,  
9 commercial, investment, agricultural, or similar purposes; or

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

12 (b) This chapter is inapplicable to the extent a statute or  
13 treaty of the United States requires the application of foreign law  
14 or the enforcement of a judgment rendered by a foreign tribunal.

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

17 Sec. 271.012. APPLICATION OF CERTAIN FAMILY LAW PROVISIONS.  
18 Chapters 1A and 112, Family Code, do not apply to this chapter.

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

23 SECTION 5. This Act takes effect September 1, 2015.