

The House Committee on Judiciary Non-civil offers the following substitute to
HB 242:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 1 of the Official Code of Georgia Annotated, relating to laws
2 and statutes, so as to revise provisions relating to the effect and enforcement of foreign laws;
3 to provide that no court, arbitration panel, administrative agency, or other tribunal shall
4 enforce a foreign law if doing so would violate a right guaranteed by the United States
5 Constitution or the Georgia Constitution; to provide for definitions; to provide for
6 exceptions; to change provisions relating to forum non conveniens; to amend Part 1 of
7 Article 2 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to
8 general provisions relating to venue, so as to provide for a cross-reference; to provide for
9 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
10 and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 3 of Title 1 of the Official Code of Georgia Annotated, relating to laws and statutes,
14 is amended by revising Code Section 1-3-9, relating to the effect and enforcement of foreign
15 laws, as follows:

16 "1-3-9.

17 (a) As used in this Code section, the term:

18 (1) 'Foreign law' means any law, legal code, or system of a jurisdiction outside of any
19 state or territory of the United States, including, but not limited to, international
20 organizations and tribunals, and applied by such jurisdiction's courts, administrative
21 bodies, or other formal or informal tribunals. For the purposes of this Code section, the
22 term shall not mean, nor shall it include, any laws of the Native American tribes in this
23 state.

24 (2) 'Tribunal' means a court, administrative agency, tribunal, arbitrator, or arbitration
25 panel.

26 (b) The laws of other states and foreign nations law shall have no force and effect of
 27 themselves within this state further than is provided by the Constitution of the United
 28 States and is recognized by the comity of states. The courts shall enforce this comity,
 29 unless restrained by the General Assembly, so long as its enforcement is not contrary to the
 30 policy or prejudicial to the interests of this state.

31 (c) Any tribunal ruling shall be void and unenforceable if the tribunal bases its ruling in
 32 whole or in part on any foreign law that would deny the parties the rights and privileges
 33 granted under the United States Constitution or the Georgia Constitution.

34 (d)(1) This Code section shall not apply to Part 2 of Article 1 of Chapter 9 of Title 9
 35 involving international arbitration.

36 (2) This Code section shall not apply to Article 3 of Chapter 5 of Title 14.

37 (3) This Code section shall not apply to a corporation, partnership, limited liability
 38 company, business association, sole proprietorship, or other legal entity that contracts to
 39 subject itself to foreign law; provided, however, that the exception provided by this
 40 paragraph shall not apply to domestic relation contracts, including, but not limited to,
 41 antenuptial agreements or contracts, divorce agreements, adoptions, and other contracts
 42 or agreements related to or arising from matters of family law.

43 (e) When litigation is pending in this state, no court shall grant a motion of forum non
 44 conveniens to allow a case to be refiled in a foreign jurisdiction outside any state or
 45 territory of the United States unless the court finds by clear and convincing evidence that
 46 the foreign jurisdiction has in place a body of foreign law, the application of which would
 47 not lead to the violation of rights and privileges guaranteed by the United States
 48 Constitution or the Georgia Constitution to a party in the litigation.

49 (f) If a tribunal denies the protections provided by this Code section, it shall make written
 50 findings of fact and conclusions of law in support of its decision."

51 **SECTION 2.**

52 Part 1 of Article 2 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated,
 53 relating to general provisions relating to venue, is amended by revising Code Section
 54 9-10-31.1, relating to forums outside of this state, as follows:

55 "9-10-31.1.

56 (a) If a court of this state, on written motion of a party, finds that in the interest of justice
 57 and for the convenience of the parties and witnesses a claim or action would be more
 58 properly heard in a forum outside this state or in a different county of proper venue within
 59 this state, the court shall decline to adjudicate the matter under the doctrine of forum non
 60 conveniens. As to a claim or action that would be more properly heard in a forum outside
 61 this state, the court shall dismiss the claim or action. As to a claim or action that would be

62 more properly heard in a different county of proper venue within this state, the venue shall
 63 be transferred to the appropriate county. In determining whether to grant a motion to
 64 dismiss an action or to transfer venue under the doctrine of forum non conveniens, the
 65 court shall give consideration to the following factors:

- 66 (1) Relative ease of access to sources of proof;
 67 (2) Availability and cost of compulsory process for attendance of unwilling witnesses;
 68 (3) Possibility of viewing of the premises, if viewing would be appropriate to the action;
 69 (4) Unnecessary expense or trouble to the defendant not necessary to the plaintiff's own
 70 right to pursue his or her remedy;
 71 (5) Administrative difficulties for the forum courts;
 72 (6) Existence of local interests in deciding the case locally; ~~and~~
 73 (7) The provisions of Code Section 1-3-9; and
 74 ~~(7)(8)~~ (8) The traditional deference given to a plaintiff's choice of forum.

75 (b) A court may not dismiss a claim under this Code section until the defendant files with
 76 the court or with the clerk of the court a written stipulation that, with respect to a new
 77 action on the claim commenced by the plaintiff, all the defendants waive the right to assert
 78 a statute of limitations defense in all other states of the United States in which the claim
 79 was not barred by limitations at the time the claim was filed in this state as necessary to
 80 effect a tolling of the limitations periods in those states beginning on the date the claim was
 81 filed in this state and ending on the date the claim is dismissed."

82 **SECTION 3.**

83 This Act shall become effective on July 1, 2012, and shall apply to contracts executed on or
 84 after July 1, 2012.

85 **SECTION 4.**

86 All laws and parts of laws in conflict with this Act are repealed.