

House Bill 895

By: Representatives Hightower of the 68<sup>th</sup>, Weldon of the 3<sup>rd</sup>, Rogers of the 10<sup>th</sup>, Kelley of the 16<sup>th</sup>, Atwood of the 179<sup>th</sup>, and others

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) 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, 2014, and shall apply to contracts executed on or  
 84 after July 1, 2014.

85 **SECTION 4.**

86 All laws and parts of laws in conflict with this Act are repealed.