

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

457S0561

SENATE BILL NO. 201

Introduced by: The Committee on Commerce and Energy

1 FOR AN ACT ENTITLED, An Act to restrict the application of certain foreign laws, legal
2 codes, and system with respect to state legal proceedings.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. As used in this Act, the term foreign law, legal code, or system, means any law,
5 legal code, or system of a jurisdiction outside of any state or territory of the United States,
6 including international organizations and tribunals, and applied by that jurisdiction's courts,
7 administrative bodies, or other formal or informal tribunals.

8 Section 2. Any court, arbitration, tribunal, or administrative agency ruling or decision is void
9 and unenforceable if the court, arbitration, tribunal, or administrative agency bases its rulings
10 or decisions in the matter at issue in whole or in part on any law, legal code, or system that
11 would not grant the parties affected by the ruling or decision the same fundamental liberties,
12 rights, and privileges granted under the constitutions of the United States and the State of South
13 Dakota.

14 Section 3. Any contract or contractual provision, if capable of segregation, which provides
15 for the choice of a law, legal code, or system to govern some or all of the disputes between the



1 parties adjudicated by a court of law or by an arbitration panel arising from the contract
2 mutually agreed upon is void and unenforceable if the law, legal code, or system chosen
3 includes or incorporates any substantive or procedural law, as applied to the dispute at issue,
4 that would not grant the parties the same fundamental liberties, rights, and privileges granted
5 under the constitutions of the United States and the State of South Dakota.

6 Section 4. Any contract or contractual provision, if capable of segregation, which provides
7 for a jurisdiction for purposes of granting the courts or arbitration panels in personam
8 jurisdiction over the parties to adjudicate any disputes between parties arising from the contract
9 mutually agreed upon is void and unenforceable if the jurisdiction chosen includes any law,
10 legal code, or system, as applied to the dispute at issue, that would not grant the parties the same
11 fundamental liberties, rights, and privileges granted under the constitutions of the United States
12 and the State of South Dakota.

13 Section 5. If a resident of the state, subject to personal jurisdiction in the state, seeks to
14 maintain litigation, arbitration, agency, or similarly binding proceedings in this state and if the
15 courts of this state find that granting a claim of forum non conveniens or a related claim violates
16 or would likely violate the fundamental liberties, rights, and privileges granted under the
17 constitutions of the United States and the State of South Dakota of the nonclaimant in the
18 foreign forum with respect to the matter in dispute, then the claim shall be denied.