

SECOND REGULAR SESSION

# SENATE BILL NO. 676

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NIEVES.

Read 1st time January 17, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5282S.011

## AN ACT

To amend chapter 506, RSMo, by adding thereto one new section relating to the laws of other countries.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 506, RSMo, is amended by adding thereto one new section, to be known as section 506.600, to read as follows:

**506.600. 1. This section shall be known as the "Civil Liberties Defense Act". The Missouri general assembly finds that it shall be the public policy of this state to protect its citizens from the application of foreign laws when the application of a foreign law will result in the violation of a right guaranteed by the constitution of this state or of the United States, including, but not limited to, due process, freedom of religion, speech, or press, and any right of privacy.**

**2. The Missouri general assembly fully recognizes the right to contract freely under the laws of this state, and also recognizes that this right may be reasonably and rationally circumscribed pursuant to the state's interest to protect and promote rights and privileges granted under the United States or Missouri constitution, including, but not limited to, due process, freedom of religion, speech, or press, and any right of privacy.**

**3. As used in this section, the following terms mean:**

**(1) "Court", any court, board, administrative agency, or other adjudicative or enforcement authority of this state;**

**(2) "Foreign law, legal code, or system", any law, legal code, or system of a jurisdiction outside of any state or territory of the United States, including, but not limited to, international organizations and tribunals, and applied by that jurisdiction's courts, administrative**

22 **bodies, or other formal or informal tribunals;**

23 **(3) "Religious organization", any church, seminary, synagogue,**  
24 **temple, mosque, religious order, religious corporation, association, or**  
25 **society, whose identity is distinctive in terms of common religious**  
26 **creed, beliefs, doctrines, practices, or rituals, of any faith or**  
27 **denomination, including any organization qualifying as a church or**  
28 **religious organization under section 501(c)(3) or 501(d) of the United**  
29 **States Internal Revenue Code.**

30 **4. Any court, arbitration, tribunal, or administrative agency**  
31 **ruling or decision shall violate the public policy of this state and be**  
32 **void and unenforceable if the court, arbitration, tribunal, or**  
33 **administrative agency bases its rulings or decisions in the matter at**  
34 **issue in whole or in part on any foreign law, legal code, or system that**  
35 **would not grant the parties affected by the ruling or decision the same**  
36 **fundamental liberties, rights, and privileges granted under the United**  
37 **States and Missouri constitutions, including, but not limited to, due**  
38 **process, freedom of religion, speech, or press, and any right of privacy**  
39 **or marriage as specifically defined by the constitution of this state.**

40 **5. A contract or contractual provisions, if capable of segregation,**  
41 **which provides for the choice of a law, legal code, or system to govern**  
42 **some or all of the disputes between the parties adjudicated by a court**  
43 **of law or by an arbitration panel arising from the contract mutually**  
44 **agreed upon shall violate the public policy of this state and be void and**  
45 **unenforceable if the foreign law, legal code, or system chosen includes**  
46 **or incorporates any substantive or procedural law, as applied to the**  
47 **dispute at issue, that would not grant the parties the same fundamental**  
48 **liberties, rights, and privileges granted under the United States and**  
49 **Missouri constitutions, including, but not limited to, due process,**  
50 **freedom of religion, speech, or press, and any right of privacy as**  
51 **specifically defined by the constitution of this state.**

52 **6. (1) A contract or contractual provisions, if capable of**  
53 **segregation, which provides for a jurisdiction for purposes of granting**  
54 **the courts or arbitration panels in personam jurisdiction over the**  
55 **parties to adjudicate any disputes between parties arising from the**  
56 **contract mutually agreed upon shall violate the public policy of this**  
57 **state and be void and unenforceable if the jurisdiction chosen includes**  
58 **any foreign law, legal code, or system, as applied to the dispute at**

59 issue, that would not grant the parties the same fundamental liberties,  
60 rights, and privileges granted under the United States and Missouri  
61 constitutions, including, but not limited to, due process, freedom of  
62 religion, speech, or press, and any right of privacy as specifically  
63 defined by the constitution of this state;

64 (2) If a resident of this state, subject to personal jurisdiction in  
65 this state, seeks to maintain litigation, arbitration, agency, or similarly  
66 binding proceedings in this state and if the courts of this state find that  
67 granting a claim of forum non conveniens or a related claim violates or  
68 would likely violate the fundamental liberties, rights, and privileges  
69 granted under the United States and Missouri constitutions of the  
70 nonclaimant in the foreign forum with respect to the matter in dispute,  
71 then it is the public policy of this state that the claim shall be denied.

72 7. Without prejudice to any legal right, this act shall not apply  
73 to a corporation, partnership, limited liability company, business  
74 association, or other legal entity that contracts to subject itself to  
75 foreign law in a jurisdiction other than this state or the United States.

76 8. No court or arbitrator shall interpret this act to limit the right  
77 of any person to the free exercise of religion as guaranteed by the First  
78 Amendment to the United States constitution and by the constitution  
79 of this state. No court shall interpret this act to required or authorize  
80 any court to adjudicate, or prohibit any religious organization from  
81 adjudicating, ecclesiastical matters, including, but not limited to, the  
82 election, appointment, calling, dismissal, removal, or excommunication  
83 of a member, officer, official, priest, nun, monk, pastor, rabbi, imam, or  
84 member of the clergy, of the religious organization, or determination  
85 or interpretation of the doctrine of the religious organization, where  
86 adjudication by a court would violate the prohibition of the  
87 establishment clause of the First Amendment of the United States, or  
88 violate the constitution of this state.

89 9. This section shall not be interpreted by any court to conflict  
90 with any federal treaty or other international agreement to which the  
91 United States is a party to the extent that such treaty or international  
92 agreement preempts or is superior to state law on the matter at issue.