

1 S.265

2 Introduced by Senator Starr

3 Referred to Committee on

4 Date:

5 Subject: General rights; application of foreign law in State of Vermont

6 Statement of purpose of bill as introduced: This bill proposes to define the
7 circumstances under which foreign law may be applied to the interpretation of
8 Vermont contracts and Vermont judicial and administrative decisions.

9 An act relating to the application of foreign law in the State of Vermont

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. POLICY

12 (a) It shall be the public policy of this State to protect its citizens from the
13 application of foreign laws when the application of a foreign law will result in
14 the violation of a right guaranteed by the Vermont or the U.S. Constitution.

15 (b) The General Assembly recognizes the right to contract freely under the
16 laws of this State, and recognizes that this right may be reasonably and
17 rationally circumscribed pursuant to the State's interest in protecting and
18 promoting the rights and privileges granted under the Vermont and the
19 U.S. Constitutions.

1 Sec. 2. 1 V.S.A. § 274 is added to read:

2 § 274. APPLICATION OF FOREIGN LAW IN VERMONT

3 (a) As used in this section:

4 (1) “Foreign law, legal code, or system” means any law, legal code, or
5 system of a jurisdiction outside any state or territory of the United States,
6 including international organizations and tribunals, and applied by that
7 jurisdiction’s courts, administrative bodies, or other formal or informal
8 tribunals. “Foreign law, legal code, or system” shall not include the laws of
9 any Native American tribes.

10 (2) “Religious organization” means any church, seminary, synagogue,
11 temple, mosque, religious order, religious corporation, association, or society,
12 whose identity is distinctive in terms of common religious creed, beliefs,
13 doctrines, practices, or rituals, of any faith or denomination, including any
14 organization qualifying as a church or religious organization under section
15 501(c)(3) or 501(d) of the U.S. Internal Revenue Code.

16 (b) A court, arbitration panel, or administrative agency ruling or decision
17 shall violate the public policy of this State and be void and unenforceable if the
18 ruling or decision is based in whole or in part on any law, legal code, or system
19 that would not grant the parties affected by the ruling or decision the same
20 fundamental liberties, rights, and privileges granted under the Vermont and
21 U.S. Constitutions.

1 (c) A contract or severable contractual provision that provides for the
2 choice of a law, legal code, or system to govern some or all of the disputes
3 between the parties to the contract shall violate the public policy of this State
4 and be void and unenforceable if the law, legal code, or system chosen
5 includes or incorporates any substantive or procedural law that, when
6 applied to the dispute at issue, would not grant the parties the same
7 fundamental liberties, rights, and privileges granted under the Vermont and
8 U.S. Constitutions.

9 (d) A contract or severable contractual provision which provides for a
10 jurisdiction for purposes of granting in personam jurisdiction over the parties
11 to the contract shall violate the public policy of this State and be void and
12 unenforceable if the jurisdiction chosen includes any law, legal code, or system
13 that, when applied to the dispute at issue, would not grant the parties the same
14 fundamental liberties, rights, and privileges granted under the Vermont and
15 U.S. Constitutions.

16 (e) This section shall not apply to a corporation, partnership, limited
17 liability company, business association, or other legal entity that contracts to
18 subject itself to foreign law in a jurisdiction other than this State or the United
19 States.

1 (f) This section shall not be construed to:

2 (1) limit the right of any person to the free exercise of religion as

3 guaranteed by the Vermont and U.S. Constitutions; or

4 (2) require or authorize any court to adjudicate, or prohibit any religious

5 organization from adjudicating ecclesiastical matters, including the election,

6 appointment, calling, discipline, dismissal, removal, or excommunication of a

7 member, officer, official, priest, nun, monk, pastor, rabbi, imam, or member of

8 the clergy, of the religious organization, or determination or interpretation of

9 the doctrine of the religious organization, where adjudication by a court would

10 violate the prohibition against the establishment of religion under the Vermont

11 and U.S. Constitutions.

12 (g) This section shall not be construed to conflict with any federal treaty or

13 other international agreement to which the United States is a party to the extent

14 that the treaty or agreement preempts State law on the matter at issue.

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on passage.