

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 621

Short Title: Business Contracts/Choice of Law and Forum. (Public)

Sponsors: Senator Barringer (Primary Sponsor).

Referred to: Rules and Operations of the Senate

April 5, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO VALIDATE CHOICE OF NORTH CAROLINA LAW AND FORUM
3 PROVISIONS IN BUSINESS CONTRACTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The General Statutes are amended by adding a new Chapter to read:

6 **"Chapter 1G.**

7 **"North Carolina Choice of Law and Forum in Business Contracts Act.**

8 **"§ 1G-1. Short title.**

9 This Chapter may be cited as the North Carolina Choice of Law and Forum in Business
10 Contracts Act.

11 **"§ 1G-2. Definitions.**

12 The following definitions apply in this Chapter:

- 13 (1) Business contract. – A contract or undertaking, contingent or otherwise,
14 entered into primarily for business or commercial purposes. The term does
15 not include a consumer contract or an employment contract.
16 (2) Consumer contract. – A contract or undertaking, contingent or otherwise,
17 entered into by an individual primarily for the individual's personal, family,
18 or household purposes.
19 (3) Employment contract. – A contract or undertaking, contingent or otherwise,
20 between an individual and another party to provide labor or personal
21 services by that individual to the other party, whether the relationship is in
22 the nature of employer-employee or principal-independent contractor.

23 **"§ 1G-3. Choice of North Carolina law in business contracts.**

24 (a) Choice of Law. – The parties to a business contract may agree in the business
25 contract that North Carolina law shall govern their rights and duties in whole or in part,
26 whether or not any of the following statements are true:

- 27 (1) The parties, the business contract, or the transaction that is the subject of the
28 business contract bear a reasonable relation to this State.
29 (2) A provision of the business contract is contrary to the fundamental policy of
30 the jurisdiction whose law would apply in the absence of the parties' choice
31 of North Carolina law.

32 (b) Controlling Law. – To the extent this section conflicts with G.S. 25-1-301(c),
33 G.S. 25-1-301(c) controls.

34 **"§ 1G-4. Choice of North Carolina forum in business contracts.**



1 (a) Choice of Forum. – Notwithstanding any other provision of law, a party to a
2 business contract may bring an action in the courts of this State for a dispute arising from the
3 business contract if the business contract contains both of the following provisions:

4 (1) A provision where the parties agree that North Carolina law shall govern
5 their rights and duties in whole or in part, pursuant to G.S. 1G-3.

6 (2) A provision where the parties agree to litigate a dispute arising from the
7 business contract in the courts of this State.

8 (b) Personal Jurisdiction and Forum Non Conveniens. – A party that enters into a
9 business contract that satisfies the requirements of subsection (a) of this section consents to the
10 personal jurisdiction of the courts of this State in an action for a dispute arising from the
11 business contract. A court shall not stay or dismiss the action pursuant to G.S. 1-75.12 or the
12 doctrine of forum non conveniens.

13 (c) Choice of Venue. – Notwithstanding any other provision of law, the parties to a
14 business contract that satisfies the requirements of subsection (a) of this section may designate
15 in the business contract one or more counties in this State as the proper venue for a dispute
16 arising from the business contract. If the parties do not designate a county in the business
17 contract, a party may bring an action for a dispute arising from the business contract in any
18 county in this State.

19 (d) Change of Venue. – In an action that is brought in a county in this State permitted
20 by subsection (c) of this section, a court may change the place of trial to another county in this
21 State pursuant to G.S. 1-83(2) only. Nothing in this subsection allows a court to change the
22 place of trial to another state.

23 **"§ 1G-5. Effect of provisions.**

24 Nothing in this Chapter does any of the following:

25 (1) Validates, invalidates, or otherwise affects the enforcement of a choice of
26 law provision or a choice of forum provision in a contract that is not a
27 business contract.

28 (2) Confers subject matter jurisdiction upon a court that would otherwise lack
29 subject matter jurisdiction.

30 (3) Affects the designation of an action as a mandatory complex business case
31 pursuant to G.S. 7A-45.4."

32 **SECTION 2.** G.S. 25-1-301 reads as rewritten:

33 **"§ 25-1-301. Territorial applicability; parties' power to choose applicable law.**

34 (a) Except as otherwise provided in this section, when a transaction bears a reasonable
35 relation to this State and also to another state or nation the parties may agree that the law either
36 of this State or of ~~such~~the other state or nation shall govern their rights and duties. Except as
37 otherwise provided in subsection (c) of this section, the parties to a business contract as defined
38 in G.S. 1G-2(1) may agree in the business contract that North Carolina law shall govern their
39 rights and duties in whole or in part, pursuant to G.S. 1G-3.

40 (b) In the absence of an agreement effective under subsection (a) of this section, and
41 except as provided in subsection (c) of this section, this Chapter applies to transactions bearing
42 an appropriate relation to this State.

43 (c) If one of the following provisions of this Chapter specifies the applicable law, that
44 provision governs and a contrary agreement is effective only to the extent permitted by the ~~law~~
45 ~~so specified~~specified law:

- 46 (e) (1) G.S. 25-2-402;
47 (2) G.S. 25-2A-105 and G.S. 25-2A-106;
48 (3) G.S. 25-4-102;
49 (4) G.S. 25-4A-507;
50 (5) G.S. 25-5-116;
51 (6) G.S. 25-8-110;

1 (7) G.S. 25-9-301 through G.S. 25-9-307."

2 **SECTION 3.** This act is effective when it becomes law and applies to business

3 contracts entered into before, on, or after that date.