

By the Committee on Commerce and Tourism; and Senator Margolis

577-03870-11

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1 A bill to be entitled
2 An act relating to the jurisdiction of the courts;
3 amending s. 48.193, F.S.; including as an additional
4 basis for subjecting a person to the jurisdiction of
5 the courts of this state the basis for jurisdiction
6 provisions which state that a person submits to the
7 jurisdiction of the courts of this state by entering
8 into a contract that designates the law of this state
9 as the law governing the contract and that contains a
10 provision by which such person agrees to submit to the
11 jurisdiction of the courts of this state; amending s.
12 55.502, F.S.; revising the definition of the term
13 "foreign judgment" for purposes of the Florida
14 Enforcement of Foreign Judgments Act; amending s.
15 684.0019, F.S.; clarifying that an arbitral tribunal
16 receiving a request for an interim measure to preserve
17 evidence in a dispute governed by the Florida
18 International Commercial Arbitration Act need only
19 consider to the extent appropriate the potential harm
20 that may occur if the measure is not awarded or the
21 possibility that the requesting party will succeed on
22 the merits of the claim; amending s. 684.0026, F.S.;
23 correcting a cross-reference in the Florida
24 International Commercial Arbitration Act; amending s.
25 685.101, F.S.; deleting a restriction on the
26 jurisdiction of the courts of this state to
27 transactions bearing a substantial relation to this
28 state; revising application dates of provisions
29 relating to the jurisdiction of the courts; amending

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30 s. 685.102, F.S.; revising application dates of
31 provisions relating to the jurisdiction of the courts;
32 providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Subsection (1) of section 48.193, Florida
37 Statutes, is amended to read:

38 48.193 Acts subjecting person to jurisdiction of courts of
39 state.-

40 (1) Any person, whether or not a citizen or resident of
41 this state, who personally or through an agent does any of the
42 acts enumerated in this subsection thereby submits himself or
43 herself and, if he or she is a natural person, his or her
44 personal representative to the jurisdiction of the courts of
45 this state for any cause of action arising from ~~the doing of~~ any
46 of the following acts:

47 (a) Operating, conducting, engaging in, or carrying on a
48 business or business venture in this state or having an office
49 or agency in this state.

50 (b) Committing a tortious act within this state.

51 (c) Owning, using, possessing, or holding a mortgage or
52 other lien on any real property within this state.

53 (d) Contracting to insure any person, property, or risk
54 located within this state at the time of contracting.

55 (e) With respect to a proceeding for alimony, child
56 support, or division of property in connection with an action to
57 dissolve a marriage or with respect to an independent action for
58 support of dependents, maintaining a matrimonial domicile in

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59 this state at the time of the commencement of this action or, if
60 the defendant resided in this state preceding the commencement
61 of the action, whether cohabiting during that time or not. This
62 paragraph does not change the residency requirement for filing
63 an action for dissolution of marriage.

64 (f) Causing injury to persons or property within this state
65 arising out of an act or omission by the defendant outside this
66 state, if, at or about the time of the injury, either:

67 1. The defendant was engaged in solicitation or service
68 activities within this state; or

69 2. Products, materials, or things processed, serviced, or
70 manufactured by the defendant anywhere were used or consumed
71 within this state in the ordinary course of commerce, trade, or
72 use.

73 (g) Breaching a contract in this state by failing to
74 perform acts required by the contract to be performed in this
75 state.

76 (h) With respect to a proceeding for paternity, engaging in
77 the act of sexual intercourse within this state with respect to
78 which a child may have been conceived.

79 (i) Entering into a contract that complies with s. 685.102.

80 Section 2. Subsection (1) of section 55.502, Florida
81 Statutes, is amended to read:

82 55.502 Construction of act.—

83 (1) As used in ss. 55.501-55.509, the term "foreign
84 judgment" means any judgment, decree, or order of a court which
85 ~~of any other state or of the United States if such judgment,~~
86 ~~decree, or order~~ is entitled to full faith and credit in this
87 state.

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88 Section 3. Section 684.0019, Florida Statutes, is amended
89 to read:

90 684.0019 Conditions for granting interim measures.—

91 (1) The party requesting an interim measure under s.
92 684.0018 must satisfy the arbitral tribunal that:

93 (a) Harm not adequately reparable by an award of damages is
94 likely to result if the measure is not ordered, and such harm
95 substantially outweighs the harm that is likely to result to the
96 party against whom the measure is directed if the measure is
97 granted; and

98 (b) A reasonable possibility exists that the requesting
99 party will succeed on the merits of the claim. The determination
100 on this possibility does not affect the discretion of the
101 arbitral tribunal in making any subsequent determination.

102 (2) With regard to a request for an interim measure under
103 s. 684.0018(4) ~~s. 684.0018~~, the requirements in subsection (1)
104 apply only to the extent the arbitral tribunal considers
105 appropriate.

106 Section 4. Section 684.0026, Florida Statutes, is amended
107 to read:

108 684.0026 Recognition and enforcement.—

109 (1) An interim measure issued by an arbitral tribunal shall
110 be recognized as binding and, unless otherwise provided by the
111 arbitral tribunal, enforced upon application to the competent
112 court, irrespective of the country in which it was issued,
113 subject to s. 684.0027 ~~s. 684.0019(1)~~.

114 (2) The party who is seeking or has obtained recognition or
115 enforcement of an interim measure shall promptly inform the
116 court of the termination, suspension, or modification of the

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117 interim measure.

118 (3) The court where recognition or enforcement is sought
119 may, if it considers it proper, order the requesting party to
120 provide appropriate security if the arbitral tribunal has not
121 already made a determination with respect to security or if such
122 a decision is necessary to protect the rights of third parties.

123 Section 5. Section 685.101, Florida Statutes, is amended to
124 read:

125 685.101 Choice of law.—

126 (1) The parties to any contract, agreement, or undertaking,
127 contingent or otherwise, in consideration of or relating to any
128 obligation arising out of a transaction involving in the
129 aggregate at least ~~not less than~~ \$250,000, the equivalent
130 thereof in any foreign currency, or services or tangible or
131 intangible property, or both, of equivalent value, including a
132 transaction otherwise covered by s. 671.105(1), may, to the
133 extent permitted under the United States Constitution, agree
134 that the law of this state will govern such contract, agreement,
135 or undertaking, the effect thereof and their rights and duties
136 thereunder, in whole or in part, whether or not such contract,
137 agreement, or undertaking bears any relation to this state.

138 (2) This section does not apply to any contract, agreement,
139 or undertaking:

140 ~~(a) Regarding any transaction which does not bear a~~
141 ~~substantial or reasonable relation to this state in which every~~
142 ~~party is either or a combination of:~~

143 ~~1. A resident and citizen of the United States, but not of~~
144 ~~this state; or~~

145 ~~2. Incorporated or organized under the laws of another~~

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146 ~~state and does not maintain a place of business in this state;~~

147 ~~(a) (b)~~ For labor or employment;

148 ~~(b) (c)~~ Relating to any transaction for personal, family, or
149 household purposes, unless such contract, agreement, or
150 undertaking concerns a trust at least one trustee of which
151 resides or transacts business as a trustee in this state, in
152 which case this section applies;

153 ~~(c) (d)~~ To the extent provided to the contrary in s.
154 671.105(2); or

155 ~~(d) (e)~~ To the extent such contract, agreement, or
156 undertaking is otherwise covered or affected by s. 655.55.

157 (3) This section does not limit or deny the enforcement of
158 any provision respecting choice of law in any other contract,
159 agreement, or undertaking.

160 (4) This section applies to:

161 ~~(a)~~ contracts entered into on or after July 1, 2011 ~~June~~
162 ~~27, 1989;~~ and

163 ~~(b) Contracts entered into prior to June 27, 1989, if an~~
164 ~~action or proceeding relating to such contract is commenced on~~
165 ~~or after June 27, 1989.~~

166 Section 6. Section 685.102, Florida Statutes, is amended to
167 read:

168 685.102 Jurisdiction.—

169 (1) Notwithstanding any law that limits the right of a
170 person to maintain an action or proceeding, any person may, to
171 the extent permitted under the United States Constitution,
172 maintain in this state an action or proceeding against any
173 person or other entity residing or located outside this state,
174 if the action or proceeding arises out of or relates to any

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175 contract, agreement, or undertaking for which a choice of the
176 law of this state, in whole or in part, has been made consistent
177 with ~~pursuant to~~ s. 685.101 and which contains a provision by
178 which such person or other entity residing or located outside
179 this state agrees to submit to the jurisdiction of the courts of
180 this state.

181 (2) This section does not affect the jurisdiction of the
182 courts of this state over any action or proceeding arising out
183 of or relating to any other contract, agreement, or undertaking.

184 (3) This section applies to:

185 ~~(a)~~ contracts entered into on or after July 1, 2011 ~~June~~
186 ~~27, 1989;~~ and

187 ~~(b) Contracts entered into prior to June 27, 1989, if an~~
188 ~~action or proceeding relating to such contract is commenced on~~
189 ~~or after June 27, 1989.~~

190 Section 7. This act shall take effect July 1, 2011.