

By Senator Diaz de la Portilla

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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 provisions which state that a
6 person submits to the jurisdiction of the courts of
7 this state by entering into a contract that designates
8 the law of this state as the law governing the
9 contract and that contains a provision by which such
10 person agrees to submit to the jurisdiction of the
11 courts of this state; amending s. 55.502, F.S.;
12 revising the definition of the term "foreign judgment"
13 for purposes of the Florida Enforcement of Foreign
14 Judgments Act; amending s. 684.0019, F.S.; clarifying
15 that an arbitral tribunal receiving a request for an
16 interim measure to preserve evidence in a dispute
17 governed by the Florida International Commercial
18 Arbitration Act need consider only to the extent
19 appropriate the potential harm that may occur if the
20 measure is not awarded or the possibility that the
21 requesting party will succeed on the merits of the
22 claim; amending s. 684.0026, F.S.; correcting a cross-
23 reference in the Florida International Commercial
24 Arbitration Act; amending s. 685.101, F.S.; deleting a
25 restriction on the jurisdiction of the courts of this
26 state to transactions bearing a substantial relation
27 to this state; revising application dates of
28 provisions relating to the jurisdiction of the courts;
29 amending s. 685.102, F.S.; revising application dates

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30 of provisions relating to the jurisdiction of the
31 courts; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Subsection (1) of section 48.193, Florida
36 Statutes, is amended to read:

37 48.193 Acts subjecting person to jurisdiction of courts of
38 state.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

81 55.502 Construction of act.—

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

87 Section 3. Section 684.0019, Florida Statutes, is amended

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88 to read:

89 684.0019 Conditions for granting interim measures.—

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

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

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

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

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

107 684.0026 Recognition and enforcement.—

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

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

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

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

124 685.101 Choice of law.—

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

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

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

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

144 ~~2. Incorporated or organized under the laws of another~~
145 ~~state and does not maintain a place of business in this state;~~

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146 ~~(a)~~ For labor or employment;

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

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

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

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

159 (4) This section applies to:

160 ~~(a)~~ contracts entered into on or after July 1, 2012 ~~June~~
161 ~~27, 1989;~~ and

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

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

167 685.102 Jurisdiction.—

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

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

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

183 (3) This section applies to:

184 ~~(a)~~ contracts entered into on or after July 1, 2012 ~~June~~
185 ~~27, 1989;~~ and

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

189 Section 7. This act shall take effect July 1, 2012.