

By Senator Diaz de la Portilla

40-00461A-13

2013186__

1 A bill to be entitled
2 An act relating to the jurisdiction of the courts;
3 amending s. 48.193, F.S.; providing that a person
4 submits to the jurisdiction of the courts of this
5 state by entering into a contract that specifies that
6 the law of this state governs the contract and that
7 the person agrees to submit to the jurisdiction of the
8 courts of this state; amending s. 55.502, F.S.;
9 revising the definition of the term "foreign judgment"
10 for purposes of the Florida Enforcement of Foreign
11 Judgments Act; amending s. 684.0002, F.S.; clarifying
12 the circumstances under which an arbitration is
13 international; amending s. 684.0003, F.S.; correcting
14 a cross-reference; amending s. 684.0019, F.S.;
15 limiting the application of certain provisions to
16 instances in which an arbitral tribunal orders a party
17 to preserve evidence that may be relevant and material
18 to the resolution of a dispute; amending s. 684.0026,
19 F.S.; correcting a cross-reference in the Florida
20 International Commercial Arbitration Act; creating s.
21 684.0049, F.S.; providing that the initiation of
22 arbitration in this state, or the making of a written
23 agreement to arbitrate which provides for arbitration
24 in this state, constitutes a consent to exercise in
25 personam jurisdiction by the courts of this state;
26 amending s. 685.101, F.S.; revising the circumstances
27 under which the parties to a contract, agreement, or
28 undertaking may agree that the law of this state
29 governs the contract, agreement, or undertaking;

40-00461A-13

2013186__

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

35

36 Be It Enacted by the Legislature of the State of Florida:

37

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

40 48.193 Acts subjecting person to jurisdiction of courts of
41 state.—

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

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

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

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

55 (d) Contracting to insure a ~~any~~ person, property, or risk
56 located within this state at the time of contracting.

57 (e) With respect to a proceeding for alimony, child
58 support, or division of property in connection with an action to

40-00461A-13

2013186__

59 dissolve a marriage or with respect to an independent action for
60 support of dependents, maintaining a matrimonial domicile in
61 this state at the time of the commencement of this action or, if
62 the defendant resided in this state preceding the commencement
63 of the action, whether cohabiting during that time or not. This
64 paragraph does not change the residency requirement for filing
65 an action for dissolution of marriage.

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

69 1. The defendant was engaged in solicitation or service
70 activities within this state; or

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

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

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

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

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

84 55.502 Construction of act.—

85 (1) As used in ss. 55.501-55.509, the term "foreign
86 judgment" means a any judgment, decree, or order of a court that
87 ~~of any other state or of the United States if such judgment,~~

40-00461A-13

2013186__

88 ~~decree, or order~~ is entitled to full faith and credit in this
89 state.

90 Section 3. Subsection (3) of section 684.0002, Florida
91 Statutes, is amended to read:

92 684.0002 Scope of application.—

93 (3) An arbitration is international if:

94 (a) The parties to an arbitration agreement have, at the
95 time of the conclusion of that agreement, their places of
96 business in different countries; or

97 (b) One of the following places is situated outside the
98 country in which the parties have their places of business:

99 1. The place of arbitration if determined in, or pursuant
100 to, the arbitration agreement; or

101 2. Any place where a substantial part of the obligations of
102 the commercial relationship are to be performed or the place
103 with which the subject matter of the dispute is most closely
104 connected; or

105 (c) The parties have expressly agreed that the subject
106 matter of the arbitration agreement relates to more than one
107 country.

108 Section 4. Subsection (2) of section 684.0003, Florida
109 Statutes, is amended to read:

110 684.0003 Definitions and rules of interpretation.—

111 (2) A provision of this chapter, except s. 684.0039 ~~s.~~
112 ~~684.0038~~, which leaves the parties free to determine a certain
113 issue, includes the right of the parties to authorize a third
114 party, including an institution, to make that determination.

115 Section 5. Section 684.0019, Florida Statutes, is amended
116 to read:

40-00461A-13

2013186

117 684.0019 Conditions for granting interim measures.—

118 (1) The party requesting an interim measure under s.
119 684.0018 shall ~~must~~ satisfy the arbitral tribunal that:

120 (a) Harm not adequately reparable by an award of damages is
121 likely to result if the measure is not ordered, and such harm
122 substantially outweighs the harm that is likely to result to the
123 party against whom the measure is directed if the measure is
124 granted; and

125 (b) A reasonable possibility exists that the requesting
126 party will succeed on the merits of the claim. The determination
127 on this possibility does not affect the discretion of the
128 arbitral tribunal in making any subsequent determination.

129 (2) With regard to a request for an interim measure under
130 s. 684.0018(4) ~~s. 684.0018~~, the requirements in subsection (1)
131 apply only to the extent the arbitral tribunal considers
132 appropriate.

133 Section 6. Section 684.0026, Florida Statutes, is amended
134 to read:

135 684.0026 Recognition and enforcement.—

136 (1) An interim measure issued by an arbitral tribunal must
137 ~~shall~~ be recognized as binding and, unless otherwise provided by
138 the arbitral tribunal, enforced upon application to the
139 competent court, irrespective of the country in which it was
140 issued, subject to s. 684.0027 ~~s. 684.0019(1)~~.

141 (2) The party who is seeking or has obtained recognition or
142 enforcement of an interim measure shall promptly inform the
143 court of the termination, suspension, or modification of the
144 interim measure.

145 (3) The court where recognition or enforcement is sought

40-00461A-13

2013186

146 may, if it considers it proper, order the requesting party to
147 provide appropriate security if the arbitral tribunal has not
148 already made a determination with respect to security or if such
149 a decision is necessary to protect the rights of third parties.

150 Section 7. Section 684.0049, Florida Statutes, is created
151 to read:

152 684.0049 Consent to jurisdiction.—The initiation of
153 arbitration in this state, or the making of a written contract,
154 agreement, or undertaking to arbitrate which provides for
155 arbitration in this state, constitutes a consent to exercise in
156 personam jurisdiction by the courts of this state in any action
157 arising out of or in connection with the arbitration and any
158 resulting order or award.

159 Section 8. Section 685.101, Florida Statutes, is amended to
160 read:

161 685.101 Choice of law.—

162 (1) The parties to any contract, agreement, or undertaking,
163 contingent or otherwise, in consideration of or relating to any
164 obligation arising out of a transaction involving in the
165 aggregate at least ~~not less than~~ \$250,000, the equivalent
166 thereof in any foreign currency, or services or tangible or
167 intangible property, or both, of equivalent value, including a
168 transaction otherwise covered by s. 671.105(1), may, to the
169 extent permitted under the United States Constitution, agree
170 that the law of this state will govern such contract, agreement,
171 or undertaking, the effect thereof and their rights and duties
172 thereunder, in whole or in part, whether or not such contract,
173 agreement, or undertaking bears any relation to this state.

174 (2) This section does not apply to any contract, agreement,

40-00461A-13

2013186__

175 or undertaking:

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

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

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

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

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

189 (c) ~~(d)~~ To the extent provided to the contrary in s.
190 671.105(2); or

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

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

196 (4) This section applies to:

197 ~~(a) contracts entered into on or after July 1, 2013 ~~June~~~~
198 ~~27, 1989; and~~

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

202 Section 9. Section 685.102, Florida Statutes, is amended to
203 read:

40-00461A-13

2013186__

204 685.102 Jurisdiction.—

205 (1) Notwithstanding any law that limits the right of a
206 person to maintain an action or proceeding, a ~~any~~ person may, to
207 the extent permitted under the United States Constitution,
208 maintain in this state an action or proceeding against any
209 person or other entity residing or located outside this state,
210 if the action or proceeding arises out of or relates to any
211 contract, agreement, or undertaking for which a choice of the
212 law of this state, in whole or in part, has been made consistent
213 with ~~pursuant to~~ s. 685.101 and which contains a provision by
214 which such person or other entity residing or located outside
215 this state agrees to submit to the jurisdiction of the courts of
216 this state.

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

220 (3) This section applies to:

221 ~~(a)~~ contracts entered into on or after July 1, 2013 ~~June~~
222 ~~27, 1989;~~ and

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

226 Section 10. This act shall take effect July 1, 2013.