

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;
 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.

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

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.

HB 775

2013

57 (e) With respect to a proceeding for alimony, child
58 support, or division of property in connection with an action to
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
67 state arising out of an act or omission by the defendant outside
68 this 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
79 in the act of sexual intercourse within this state with respect
80 to which a child may have been conceived.

81 (i) Entering into a contract that complies with s.
82 685.102.

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

85 | 55.502 Construction of act.—

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

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

93 | 684.0002 Scope of application.—

94 | (3) An arbitration is international if:

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

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

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

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

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

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

111 | 684.0003 Definitions and rules of interpretation.—

112 | (2) A provision of this chapter, except s. 684.0039 ~~s.~~

HB 775

2013

113 ~~684.0038~~, which leaves the parties free to determine a certain
114 issue, includes the right of the parties to authorize a third
115 party, including an institution, to make that determination.

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

118 684.0019 Conditions for granting interim measures.—

119 (1) The party requesting an interim measure under s.
120 684.0018 ~~shall~~ ~~must~~ satisfy the arbitral tribunal that:

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

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

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

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

136 684.0026 Recognition and enforcement.—

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

141 | issued, subject to s. 684.0027 ~~s. 684.0019(1)~~.

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

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

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

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

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

162 | 685.101 Choice of law.—

163 | (1) The parties to any contract, agreement, or
164 | undertaking, contingent or otherwise, in consideration of or
165 | relating to any obligation arising out of a transaction
166 | involving in the aggregate at least ~~not less than~~ \$250,000, the
167 | equivalent thereof in any foreign currency, or services or
168 | tangible or intangible property, or both, of equivalent value,

HB 775

2013

169 including a transaction otherwise covered by s. 671.105(1), may,
170 to the extent permitted under the United States Constitution,
171 agree that the law of this state will govern such contract,
172 agreement, or undertaking, the effect thereof and their rights
173 and duties thereunder, in whole or in part, whether or not such
174 contract, agreement, or undertaking bears any relation to this
175 state.

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

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

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

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

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

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

191 (c) ~~(d)~~ To the extent provided to the contrary in s.
192 671.105(2); or

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

195 (3) This section does not limit or deny the enforcement of
196 any provision respecting choice of law in any other contract,

HB 775

2013

197 agreement, or undertaking.

198 (4) This section applies to:

199 ~~(a)~~ contracts entered into on or after July 1, 2013 ~~June~~
 200 ~~27, 1989;~~ and

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

204 Section 9. Section 685.102, Florida Statutes, is amended
 205 to read:

206 685.102 Jurisdiction.—

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

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

222 (3) This section applies to:

223 ~~(a)~~ contracts entered into on or after July 1, 2013 ~~June~~
 224 ~~27, 1989;~~ and

HB 775

2013

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

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