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HB 917, Engrossed 1

2012 Legislature

1  
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. 684.0002, F.S.; clarifying  
15 the meaning of a provision relating to international  
16 arbitration; amending s. 684.0003, F.S.; correcting a  
17 cross-reference in the Florida International  
18 Commercial Arbitration Act; amending s. 684.0019,  
19 F.S.; clarifying that an arbitral tribunal receiving a  
20 request for an interim measure to preserve evidence in  
21 a dispute governed by the Florida International  
22 Commercial Arbitration Act need consider only to the  
23 extent appropriate the potential harm that may occur  
24 if the measure is not awarded or the possibility that  
25 the requesting party will succeed on the merits of the  
26 claim; amending s. 684.0026, F.S.; correcting a cross-  
27 reference in the Florida International Commercial  
28 Arbitration Act; amending s. 685.101, F.S.; deleting a

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29 restriction on the jurisdiction of the courts of this  
30 state to transactions bearing a substantial relation  
31 to this state; revising application dates of  
32 provisions relating to the jurisdiction of the courts;  
33 amending s. 685.102, F.S.; revising application dates  
34 of provisions relating to the jurisdiction of the  
35 courts; providing an effective date.

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

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

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

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

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

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

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

56 (d) Contracting to insure any person, property, or risk

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57 | located within this state at the time of contracting.

58 |       (e) With respect to a proceeding for alimony, child  
59 | support, or division of property in connection with an action to  
60 | dissolve a marriage or with respect to an independent action for  
61 | support of dependents, maintaining a matrimonial domicile in  
62 | this state at the time of the commencement of this action or, if  
63 | the defendant resided in this state preceding the commencement  
64 | of the action, whether cohabiting during that time or not. This  
65 | paragraph does not change the residency requirement for filing  
66 | an action for dissolution of marriage.

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

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

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

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

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

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

83 | 685.102.

84 |       Section 2. Subsection (1) of section 55.502, Florida

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85 Statutes, is amended to read:

86 55.502 Construction of act.—

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

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

94 684.0002 Scope of application.—

95 (3) An arbitration is international if:

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

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

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

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

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

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

112 684.0003 Definitions and rules of interpretation.—

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

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

119 684.0019 Conditions for granting interim measures.—

120 (1) The party requesting an interim measure under s.  
 121 684.0018 must satisfy the arbitral tribunal that:

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

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

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

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

137 684.0026 Recognition and enforcement.—

138 (1) An interim measure issued by an arbitral tribunal  
 139 shall be recognized as binding and, unless otherwise provided by  
 140 the arbitral tribunal, enforced upon application to the

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141 competent court, irrespective of the country in which it was  
 142 issued, subject to s. 684.0027 ~~s. 684.0019(1)~~.

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

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

152 Section 7. Section 685.101, Florida Statutes, is amended  
 153 to read:

154 685.101 Choice of law.—

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

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

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169 agreement, or undertaking:

170 ~~(a) Regarding any transaction which does not bear a~~

171 ~~substantial or reasonable relation to this state in which every~~

172 ~~party is either or a combination of:~~

173 1. ~~A resident and citizen of the United States, but not of~~

174 ~~this state; or~~

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

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

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

178 (b)~~(e)~~ Relating to any transaction for personal, family,

179 or household purposes, unless such contract, agreement, or

180 undertaking concerns a trust at least one trustee of which

181 resides or transacts business as a trustee in this state, in

182 which case this section applies;

183 (c)~~(d)~~ To the extent provided to the contrary in s.

184 671.105(2); or

185 (d)~~(e)~~ To the extent such contract, agreement, or

186 undertaking is otherwise covered or affected by s. 655.55.

187 (3) This section does not limit or deny the enforcement of

188 any provision respecting choice of law in any other contract,

189 agreement, or undertaking.

190 (4) This section applies to:

191 ~~(a) contracts entered into on or after July 1, 2012 ~~June~~~~

192 ~~27, 1989; and~~

193 ~~(b) Contracts entered into prior to June 27, 1989, if an~~

194 ~~action or proceeding relating to such contract is commenced on~~

195 ~~or after June 27, 1989.~~

196 Section 8. Section 685.102, Florida Statutes, is amended

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197 to read:  
 198 685.102 Jurisdiction.—  
 199 (1) Notwithstanding any law that limits the right of a  
 200 person to maintain an action or proceeding, any person may, to  
 201 the extent permitted under the United States Constitution,  
 202 maintain in this state an action or proceeding against any  
 203 person or other entity residing or located outside this state,  
 204 if the action or proceeding arises out of or relates to any  
 205 contract, agreement, or undertaking for which a choice of the  
 206 law of this state, in whole or in part, has been made consistent  
 207 with ~~pursuant to~~ s. 685.101 and which contains a provision by  
 208 which such person or other entity residing or located outside  
 209 this state agrees to submit to the jurisdiction of the courts of  
 210 this state.  
 211 (2) This section does not affect the jurisdiction of the  
 212 courts of this state over any action or proceeding arising out  
 213 of or relating to any other contract, agreement, or undertaking.  
 214 (3) This section applies to:  
 215 ~~(a)~~ contracts entered into on or after July 1, 2012 ~~June~~  
 216 ~~27, 1989;~~ and  
 217 ~~(b)~~ ~~Contracts entered into prior to June 27, 1989, if an~~  
 218 ~~action or proceeding relating to such contract is commenced on~~  
 219 ~~or after June 27, 1989.~~  
 220 Section 9. This act shall take effect July 1, 2012.