

PCS for HB 775

ORIGINAL

2013

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 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 6

PCS for HB 775

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

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

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

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

(b) Committing a tortious act within this state.

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

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

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

57 | an action for dissolution of marriage.

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

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

63 | 2. Products, materials, or things processed, serviced, or
 64 | manufactured by the defendant anywhere were used or consumed
 65 | within this state in the ordinary course of commerce, trade, or
 66 | use.

67 | (g) Breaching a contract in this state by failing to
 68 | perform acts required by the contract to be performed in this
 69 | state.

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

73 | (i) Entering into a contract that complies with s.
 74 | 685.102.

75 | Section 2. Subsection (1) of section 55.502, Florida
 76 | Statutes, is amended to read:

77 | 55.502 Construction of act.—

78 | (1) As used in ss. 55.501-55.509, the term "foreign
 79 | judgment" means a ~~any~~ judgment, decree, or order of a court of
 80 | any other state, territory or commonwealth of the United States,
 81 | or of the United States, if such judgment, decree, or order is
 82 | entitled to full faith and credit in this state.

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

85 | 684.0002 Scope of application.—

86 | (3) An arbitration is international if:

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

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

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

94 | 2. Any place where a substantial part of the obligations
95 | of the commercial relationship are to be performed or the place
96 | with which the subject matter of the dispute is most closely
97 | connected; or

98 | (c) The parties have expressly agreed that the subject
99 | matter of the arbitration agreement relates to more than one
100 | country.

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

103 | 684.0003 Definitions and rules of interpretation.—

104 | (2) A provision of this chapter, except s. 684.0039 ~~s.~~
105 | ~~684.0038~~, which leaves the parties free to determine a certain
106 | issue, includes the right of the parties to authorize a third
107 | party, including an institution, to make that determination.

108 | Section 5. Section 684.0019, Florida Statutes, is amended
109 | to read:

110 | 684.0019 Conditions for granting interim measures.—

111 | (1) The party requesting an interim measure under s.
112 | 684.0018 shall ~~must~~ satisfy the arbitral tribunal that:

113 (a) Harm not adequately reparable by an award of damages
 114 is likely to result if the measure is not ordered, and such harm
 115 substantially outweighs the harm that is likely to result to the
 116 party against whom the measure is directed if the measure is
 117 granted; and

118 (b) A reasonable possibility exists that the requesting
 119 party will succeed on the merits of the claim. The determination
 120 on this possibility does not affect the discretion of the
 121 arbitral tribunal in making any subsequent determination.

122 (2) With regard to a request for an interim measure under
 123 s. 684.0018(4) ~~s. 684.0018~~, the requirements in subsection (1)
 124 apply only to the extent the arbitral tribunal considers
 125 appropriate.

126 Section 6. Section 684.0026, Florida Statutes, is amended
 127 to read:

128 684.0026 Recognition and enforcement.—

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

134 (2) The party who is seeking or has obtained recognition
 135 or enforcement of an interim measure shall promptly inform the
 136 court of the termination, suspension, or modification of the
 137 interim measure.

138 (3) The court where recognition or enforcement is sought
 139 may, if it considers it proper, order the requesting party to
 140 provide appropriate security if the arbitral tribunal has not

PCS for HB 775

ORIGINAL

2013

141 already made a determination with respect to security or if such
142 a decision is necessary to protect the rights of third parties.

143 Section 7. Section 684.0049, Florida Statutes, is created
144 to read:

145 684.0049 Consent to jurisdiction.—The initiation of
146 arbitration in this state, or the making of a written contract,
147 agreement, or undertaking to arbitrate which provides for
148 arbitration in this state, constitutes a consent to exercise in
149 personam jurisdiction by the courts of this state in any action
150 arising out of or in connection with the arbitration and any
151 resulting order or award.

152 Section 8. This act shall take effect July 1, 2013.