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## **Summary of Proposed Legislation Submitted on Behalf of the Florida Bar International Law Section Addressing Legal Actions (SB 486)**

**By: Eduardo Palmer, Chair, Legislative Committee,  
The Florida Bar International Law Section**

This proposed legislation submitted by the International Law Section of the Florida Bar is part of our Section's continuing effort to bolster Florida's economy by adding jobs in the business and legal services sectors. The bill will enhance the business climate in Florida by clarifying and streamlining existing legislation related to international law matters in order to increase Florida's attractiveness as a business friendly state. The proposed legislation does not create or expand any substantive rights or obligations. Instead, this bill merely seeks to simplify existing language or correct inadvertent errors found in current legislation. Building on our success last year in passing the Florida International Commercial Arbitration Act, F.S. Ch. 684, the legislation seeks to enhance Florida's reputation as a desirable destination to conduct international business and as a world-wide leader in the area of international law. This proposal addresses technical requirements for legal actions and most of the provisions were previously submitted as HB 1537 during the 2006 session of the Florida Legislature and as SB 1878 during the 2011 session. This bill contains minor revisions to five (5) separate Florida Statutes: Sections 48.193, 55.502, 684.0019 & 684.0026, 685.101, and 685.102. Although there is no known opposition to this legislation as currently drafted and it has previously passed several committees, the bill was not enacted because of the inability to have it heard in the assigned committees due to other legislative priorities.

Many of the revisions are minor "glitch-fixes." These changes enhance the business climate in Florida because they clarify existing ambiguities, redundancies, and clerical errors in the legislation at issue and thus help to avoid needless litigation over said provisions and provide a more streamlined and readily understandable legal framework for businesses to operate. Accordingly, we anticipate that this legislation will have wide-spread support from the business community in Florida as was the case last year with the Florida International Commercial Arbitration Act. In fact, some of the largest and most powerful members of the business community in Florida - including Associated Industries of Florida, the Florida Chamber of Commerce, and the Florida International Bankers Association - have already announced their support for this legislation. Senator Miguel Diaz de la Portilla has agreed to serve as the lead sponsor in the Senate and we are currently seeking a sponsor in the House of Representatives. The essence of the proposed revisions is explained below as to each existing statute.

### **Section 48.193**

1. This a long-arm statute that lists the specific circumstances under which a Florida court may assert personal jurisdiction over foreign defendant.



2. The current version of the statute lists eight (8) separate circumstances under which specific jurisdiction may be asserted. It appears to be exhaustive, but omits the jurisdiction already created by Chapter 685.

3. The proposed legislation adds another circumstance (subsection (i)) which states that any defendant who enters into a contract that complies with Section 685.102, Florida Statutes, is subject to specific jurisdiction.

4. This change, however, *merely confirms what is the current law*. Section 685.102, Florida Statutes, currently permits an action against a foreign defendant who enters into a contract and satisfies the other requirements of Sections 685.101 and 685.102.

5. Again, by adding subsection (i) to Section 48.193, the new bill simply points out that Florida law already permits specific personal jurisdiction over foreign defendants who enter into contracts pursuant to Section 685.102, Florida Statutes.

#### **Section 55.502**

1. This statute is part of the Florida Enforcement of Foreign Judgments Act which is based on the Uniform Foreign Judgments Act.

2. The current version of the statute permits Florida to recognize judgments issued by a United States federal court or another state court. It does *not* clearly apply or refer to judgments from Puerto Rico and other territories or possessions of the United States.

3. The new bill seeks to make clear that judgments from Puerto Rico and other territories or possessions of the United States are entitled to enforcement in the State of Florida and brings the Florida statute into conformity with the Uniform Act.

#### **Sections 684.0019 & 684.0026**

1. This statute is the Florida International Commercial Arbitration Act which was enacted last year at the behest of the International Law Section of the Florida Bar.

2. This statute is patterned after the UNCITRAL Model Law on Commercial Arbitration (“Model Law”) and the objective was to track the actual language of the Model Law as closely as possible.

3. The proposed amendment to Section 684.0019(2) corrects an inadvertent clerical error in that the citation in said provision to Section

684.0018 of the same law should have been to Section 684.0018(4) as provided for in the Model Law.

4. The proposed amendment to Section 684.0026(1) also corrects an inadvertent clerical error in that the citation in said provision to Section 684.0019(1) of the same law should have been to Section 684.0027 as provided for in the Model Law.

### **Section 685.101**

1. This statute is a choice of law provision that allows the parties to a contract involving at least \$250,000 in value to agree that Florida law will govern the contract, even if the contract has no relation to Florida.

2. The statute, as currently written, is confusing and poorly worded. The confusing language may be a reason that this statute is rarely used. Making it clearer would encourage its use by more businesses, which would have many beneficial consequences, including, but not limited to, confirming that the State of Florida is an international center for business like the State of New York, which has a similar statute. Any minimal concerns about a possible impact that such additional cases could have on the court system are more than outweighed by the positive economic impact (such as increased employment and utilization of Florida businesses by foreign parties) that would be generated. Moreover, any additional costs to the court system would not only be offset by the positive economic impact of additional business in Florida, but could also be easily addressed through the use of a scaled filing fee payable by anyone bringing such an action.

3. The proposed legislation seeks to clear up the confusion by eliminating, in many cases, the redundant and confusing terminology. For example, the language detailing the requirements for jurisdiction which would be deleted is confusing and unnecessary because the statute already provides that jurisdiction may only be exercised as permitted by the United States Constitution and that standard is clearly set forth in current case law.

### **Section 685.102**

1. This statute currently confers personal jurisdiction in Florida over those persons who: (i) pursuant to Section 685.101, elect to have Florida law govern their contract; and (ii) specifically agree to submit to the jurisdiction of a Florida court.

2. The new bill simply makes the statute clearer and easier to read. It does not create or expand any substantive rights.