1988

Session Law 88-180

Florida Senate & House of Representatives

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1988 SUPPLEMENT
TO
FLORIDA STATUTES 1987

Regular Session, April 5 - June 7, 1988
and Special Sessions
December 8 - 10, 1987, February 2 - 4, 1988, and
June 8, 1988

Prepared by
DIVISION OF STATUTORY REVISION
of the
JOINT LEGISLATIVE MANAGEMENT COMMITTEE

Published by the
STATE OF FLORIDA
TALLAHASSEE
bers of the credit union and the officers authorized to assess taxes under state authority, during business hours of each business day. A current list of members shall be made available to the department’s examiners for their inspection and, upon the request of the department, shall be transmitted to the department. Neither the department nor any person shall disclose or make public any such list or any part thereof, except that this prohibition does not apply to the names of officers, directors, committee members, and employees of a credit union.

(4) Every bank, industrial savings bank, trust company, and stock association shall cause to be kept at all times, in the principal office where its business is transacted, full and complete records of the names and residences of all the shareholders of the bank, industrial savings bank, trust company, or stock association and the number of shares held by each. Such records shall be subject to the inspection of all the shareholders of the bank, industrial savings bank, trust company, or stock association, and the officers authorized to assess taxes under state authority, during business hours of each banking day. A current list of shareholders shall be made available to the department’s examiners for their inspection and, upon the request of the department, shall be submitted to the department, but the department shall not disclose or make public such list or any part thereof.

(5) Materials supplied to the department or to employees of any financial institution by other governmental agencies, federal or state, or the Florida Credit Union Guaranty Corporation, Inc., shall remain the property of the submitting agency or the corporation and shall be made public only with the consent of such agency or the corporation or pursuant to appropriate court or legislative subpoena, as provided by law.

(6) Reports of examinations, investigations, and related information made by the department, or photographic copies thereof, shall be retained by the department for a period of at least 10 years.

(7) A copy of any document on file with the department which is certified by the department as being a true copy may be introduced in evidence as if it were the original. The department shall establish a schedule of fees for preparing copies of documents.

(8) Any person who willfully discloses, information made confidential by this section is guilty of a felony of the third degree, punishable as provided in §§ 775.082, 775.083, or § 775.084.

1655.061 Competitive equality with federally organized or chartered financial institutions. — Subject to the prior approval of the department pursuant to rule or order of general application, state financial institutions subject to this chapter and the financial institutions codes may make any loan or investment or exercise any power which they could make or exercise if incorporated or operating in this state as a federally chartered or regulated financial institution of the same type and shall be entitled to all privileges and protections granted federally chartered or regulated financial institutions of the same type under federal statutes and regulations. The provisions of this section shall take priority over, and be given effect over, any other general or specific provisions of the financial institutions codes to the contrary. In issuing an order or rule under this section, the department shall consider the importance of maintaining a competitive dual system of financial institutions and whether such an order or rule is in the public interest.

1655.421 Annual statement of financial activities in relation to Northern Ireland. — Every financial institution which is engaged in the business of making loans, extending credit, or advancing funds shall, on or before January 1 of each year, file an annual statement with the Department of Banking and Finance, to be known as the annual statement on financial activities in relation to Northern Ireland. Such statement shall include a detailed disclosure indicating the nature and extent of its financial or banking activities with the government of Northern Ireland, or national corporations of Northern Ireland, or agencies or instrumentalities thereof. Such statement shall be in the form and contain such information as the department shall from time to time prescribe. Such reports shall be sworn to by a representative of such financial institution, subject to the penalties of perjury. Copies of such reports shall be made available for public inspection and copying during regular business hours of the department. In addition, a copy of each report shall be transmitted to the State Board of Administration within 5 days of the filing thereof.

1655.061 Competitive equality with federally organized or chartered financial institutions. — Subject to the prior approval of the department pursuant to rule or order of general application, state financial institutions subject to this chapter and the financial institutions codes may make any loan or investment or exercise any power which they could make or exercise if incorporated or operating in this state as a federally chartered or regulated financial institution of the same type and shall be entitled to all privileges and protections granted federal-

655.55 Law applicable to deposits in and contracts relating to extensions of credit by financial institutions located in Florida. —

(1) The law of this state, excluding its law regarding comity and conflict of laws, shall govern all aspects, including without limitation the validity and effect, of any deposit account in a branch or office in this state of a financial institution, including a deposit account otherwise covered by ss 671.105(1), regardless of the citizenship, residence, location, or domicile of any other party.
to the contract or agreement governing such deposit account, and regardless of any provision of any law of the jurisdiction of the residence, location, or domicile of such other party, whether or not such deposit account bears any other relation to this state, except that this section does not apply to any such deposit account.(a) To the extent provided to the contrary in s 671 105(2), or
(b) To the extent that all parties to the contract or agreement governing such deposit account have agreed in writing that the law of another jurisdiction will govern it.
(2) The law of this state, excluding its law regarding comity and conflict of laws, shall govern all aspects, including without limitation the validity and effect, of any contract relating to an extension of credit made by a branch or office of a financial institution, including a contract otherwise covered by s 671 105(1), if the contract expressly provides that it shall be governed by the law of this state, regardless of the citizenship, residence, location, or domicile of any other party to such contract and regardless of any provision of any law of the jurisdiction of the residence, location, or domicile of such other party, whether or not such contract bears any other relation to this state, except that this section does not apply to any such contract to the extent provided to the contrary in s 671 105(2).
(3) As used in this section
(a) "Financial institution" means any of the following
1. A bank, trust company, industrial savings bank, credit union, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of this state
2. An international bank agency, representative office, or international administrative office operating pursuant to the laws of this state or any branch or other office of an international banking corporation operating pursuant to the laws of this state
3. A trust company, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of any other state
4. A national banking association organized and existing pursuant to the provisions of the National Bank Act, 12 U S C ss 21 et seq
5. A federal association organized and existing pursuant to the provisions of the Home Owners’ Loan Act of 1933, 12 U S C ss 1461 et seq
6. A federal credit union organized and existing pursuant to the provisions of the Federal Credit Union Act, 12 U S C ss 1751 et seq
7. A federal agency operating pursuant to the provisions of the International Banking Act of 1978, 12 U S C ss 3101 et seq
8. An Agreement corporation operating pursuant to s 25 of the Federal Reserve Act, 12 U S C ss 601 et seq
9. An Edge Act corporation organized pursuant to the provisions of s 25(a) of the Federal Reserve Act, 12 U S C ss 611 et seq
(b) "Deposit account" means any deposit or account in one or more names including, without limitation, any certificate of deposit, time deposit, credit balance, checking account, interest-bearing account, non-interest-bearing account, individual retirement account (IRA), money market account, NOW account, transaction account, savings account, passbook account, joint account, convenience account, escrow account, trust account, custodial account, fiduciary account, deposit in trust, or Totten trust account.
(c) "Contract relating to extension of credit" means any contract or agreement relating to any extension of credit, including, without limitation, any loan agreement, letter of credit, promissory note, letter of intent, loan commitment, credit facility agreement, confirmation or advice of letter of credit, letter of credit application or reimbursement agreement, overdraft agreement, revolving credit agreement, construction loan agreement, floor plan agreement, acceptance, pledge agreement, hypothecation agreement, assignment, mortgage, security agreement, power of attorney, subordination agreement, assumption agreement, loan modification agreement, guaranty, surety agreement, indemnity agreement, or workout agreement.
(4) Notwithstanding any law that limits or affects the right of a person to maintain an action or proceeding, any person may, to the extent permitted under the United States Constitution, maintain an action or proceeding in this state against any person or other entity residing or located outside this state if the action or proceeding arises out of a deposit account or contract relating to an extension of credit which, pursuant to subsection (1) or subsection (2), is governed in whole or in part by the law of this state.
(5) This section does not affect the law governing any transactions other than deposit accounts or contracts relating to extensions of credit specified herein, nor does this section affect the jurisdiction of the courts of this state over any dispute arising under any transactions other than deposit accounts or contracts relating to extensions of credit specified herein.
(6) This section applies to deposit accounts and contracts relating to extensions of credit entered into before, on, or after July 1, 1988. However, this section shall not apply to any deposit accounts existing on July 1, 1988, if either party to the contract or agreement governing the deposit account provides the other party with a written objection to the application of this section within 6 months of July 1, 1988.

CHAPTER 658
BANKING CODE:
BANKS AND TRUST COMPANIES

658.50 Bank loans; credit cards

658.50 Bank loans; credit cards.—
(1) Any bank shall have the power to make loans or extensions of credit to any person on a credit card or overdraft financing arrangement and to charge, in any billing cycle, interest on the outstanding amount at a rate not exceeding the equivalent of 18 percent per annum, simple interest.
On motion by Rep. Saunders, the rules were waived by two-thirds vote and HB 428, as amended, was read the third time by title. On passage, the vote was

Yea—89

The Chair  Friedman  Lawson  Rehm
Abras  Frase  Lewis  Rochlin
Arnold  Gardner  Liberti  Rudder
Ascheri  Glickman  Lippman  Rush
Bauman  Gonzalez  Locke  Sample
Bananin  Quevedo  Logan  Sanders
Bankhead  Goode  Lombard  Sansom
Bass  Gordon  Long  Saunders
Bell  Grindle  Mackenzie  Silver
Bloom  Hargrett  Mackey  Simon
Bronson  Harris  Martin  Stark
Brown  Hawkins  Martinez  Stone
Burke  Hodges  McEwan  Thomas
Canady  Holland  Meffert  Tilton
Carlton  Irvine  Messersmith  Tobin
Clark  Jennings  Mitchell  Trammell
Cosgrove  Johnson, B L  Nergard  Trammell
Crosby  Johnson, R C  Ostrau  Wallace
Crorey  Jones, C F  Patchett  Wetherell
Davis  Jones, D L  Peeples  Wine
Deutsch  Kelly  Press  Woodruff
Diaz-Balart  King  Reaves  Woodruff
Drage  Langton  Redick

d—20

Burnsed  Figg  Harden  Morse
Carpenter  Frankel  Healey  Northam
Casas  Guber  Hill  Renke
Clements  Gutman  Jamerson  Simon
Dunbar  Hanson  Metcalf  Upchurch

Votes after roll call.

Yea—Holsendorf
Yea to Nays—Brown, Canady, Woodruff

The bill passed, as amended, and was immediately certified to the Senate after engrossment.

REPRESENTATIVE HODGES IN THE CHAIR

CS/HB 1096 was taken up. On motion by Rep. Burke, CS/SB 559, a similar or companion measure, was substituted for CS/HB 1096. Under the rule, the House bill was laid on the table and—

CS for SB 559—A bill to be entitled An act relating to enforcement of contracts of financial institutions; providing that contracts of financial institutions located in this state are governed by the law of this state, providing that the courts of this state have jurisdiction over disputes under such contracts; providing that the act does not affect the law governing other contracts or the jurisdiction of the courts of this state over disputes under other contracts, providing for applicability of the act; amending s. 48.193, F.S.; providing that contractual choice of law or choice of forum provisions subject persons to jurisdiction of state courts; providing an effective date.

—was read the second time by title.

Representative Burke offered the following amendment:

Amendment 1—On pages 1-4, strike everything after the enacting clause and insert: Section 1. Law applicable to deposits in and contracts relating to extensions of credit by financial institutions located in Florida—

(1) The law of this state, excluding its law regarding comity and conflict of laws, shall govern all aspects, including without limitation the validity and effect, of any deposit account in a branch or office in this state of a financial institution, including a deposit account otherwise covered by s 671.105(1), Florida Statutes, regardless of the citizenship, residence, location or domicile of any other party to the contract or agreement governing such deposit account, and regardless of any provision of any law of the jurisdiction of the residence, location or domicile of such other party, whether or not such deposit account bears any other relationship to this state, except that this section does not apply to any such deposit account

(a) To the extent provided to the contrary in s. 671.105(2), Florida Statutes, or

(b) To the extent that all parties to the contract or agreement governing such deposit account have agreed in writing that the law of another jurisdiction will govern it

(2) The law of this state, excluding its law regarding comity and conflict of laws, shall govern all aspects, including without limitation the validity and effect, of any contract relating to an extension of credit made by a branch or office in this state of a financial institution, including a contract otherwise covered by s 671.105(1), Florida Statutes, if the contract expressly provides that it shall be governed by the law of this state, regardless of the citizenship, residence, location or domicile of any other party to such contract and regardless of any provision of any law of the jurisdiction of the residence, location or domicile of such other party, whether or not such contract bears any other relationship to this state, except that this section does not apply to any such contract to the extent provided to the contrary in s. 671.105(2), Florida Statutes

(3) As used in this section.

(a) "Financial institution" means any of the following:

1 A bank, trust company, industrial savings bank, credit union, savings association, savings and loan association, savings bank or building and loan association organized and existing under the laws of this state

2 An international bank, trust company, savings association, savings and loan association organized and existing pursuant to the laws of the state of domicile of such other party, whether or not such deposit account bears any other relationship to this state, except that this section does not apply to any such deposit account bears any other relationship to this state, except that this section does not apply to any such contract to the extent provided to the contrary in s. 671.105(2), Florida Statutes

(b) "Deposit account" means any deposit or account in one or more names including, without limitation, any certificate of deposit, time deposit, credit balance, checking account, interest-bearing account, non-interest-bearing account, individual retirement account (IRA), money market account, NOW account, transaction account, savings account, passbook account, joint account, confidence account, escrow account, trust account, custodial account, fiduciary account, deposit in trust or Totten trust account

(c) "Contract relating to extension of credit" means any contract or agreement relating to any extension of credit, including, without limitation, any loan agreement, letter of credit, promissory note, letter of intent, loan commitment, letter of credit, credit facility agreement, confirmation or advice of letter of credit, letter of credit application or
reimbursement agreement, overdraft agreement, revolving credit agreement, construction loan agreement, floor plan agreement, acceptance, pledge agreement, hypothecation agreement, assignment, mortgage, security agreement, power of attorney, subordination agreement, assumption agreement, loan modification agreement, guaranty, surety agreement, indemnity agreement or workout agreement

(4) Notwithstanding any law that limits or affects the right of a person to maintain an action or proceeding, any person may, to the extent permitted under the United States Constitution, maintain an action or proceeding in this state against any person or other entity residing or located outside this state if the action or proceeding arises out of a deposit account or contract relating to an extension of credit which, pursuant to subsection (1) or subsection (2), is governed in whole or in part by the law of this state

(5) This section does not affect the law governing any transactions other than deposit accounts or contracts relating to extensions of credit specified herein, nor does this section affect the jurisdiction of the courts of this state over any dispute arising under any other transaction or other than deposit accounts or contracts relating to extensions of credit specified herein

(6) This section applies to deposit accounts and contracts relating to extensions of credit entered into before, on or after the date on which this section takes effect. However, this section shall not apply to any deposit accounts existing on the effective date of this section if either party to the contract or agreement governing the deposit account provides the other party with a written objection to the application of this section within 6 months of the effective date of this section.

Section 2 This act shall take effect upon becoming a law

Rep. Burke moved the adoption of the amendment, which was adopted.

Representative Burke offered the following title amendment:

Amendment 2—On page 1, strike the entire title and insert: An act relating to financial institutions; providing that deposits in any branch or office in this state of a financial institution are governed by the law of this state; providing that contracts relating to an extension of credit by a branch or office in this state of a financial institution are governed by the law of this state if the contract so provides; providing exceptions, providing definitions, specifying jurisdiction of the courts of this state with respect thereto, providing applicability, providing an effective date.

Rep. Burke moved the adoption of the amendment, which was adopted without objection.

On motion by Rep. Burke, the rules were waived by two-thirds vote and CS/SB 559, as amended, was read the third time by title. On passage, the vote was

Yea—105
Nay—None

Votes after roll call.

Yea—Brown, Sample, Silver, Jamerson

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Silver, the rules were waived and the House reverted to the order of Bills and Joint Resolutions on Third Reading for the purpose of taking up CS/SB/HB 381.

CS/SB/HB 381 was taken up. On further motions by Rep. Silver, the rules were waived by two-thirds vote and—

CS for SB 24—A bill to be entitled An act relating to objections to ad valorem tax assessments; amending s. 194.011, F.S.; deleting the requirement that condominium or cooperative associations obtain the written consent of certain association members before filing a joint petition with the property appraisal adjustment board, requiring such associations to provide certain notice; amending s. 194.181, F.S.; including certain condominium or cooperative associations as parties to a law suit, amending s. 197.343, F.S., requiring duplicate tax notices to be sent to certain condominium associations under certain circumstances, authorizing tax collectors to charge certain fees; providing an effective date

—A similar or companion measure, was substituted for CS/SB/HB 381 and read the second time by title. Under the rules, the House bill was laid on the table.

Representatives Silver, Bloom, Simon, Dunbar and Carlson offered the following amendment:

Amendment 1—On page 1, line 20, strike everything after the enacting clause and insert: Section 1. Paragraph (e) of subsection (3) of section 194.011, Florida Statutes, is amended and a new paragraph (f) is added to said section to read.

194.011 Assessment notice; objections to assessments.—

(3) A petition to the property appraisal adjustment board shall describe the property by parcel number and shall be filed as follows.

(e) A condominium association, or cooperative association, or homeowners' association as defined in s. 723.075, with approval of its board of administration or directors, may file with the property appraisal adjustment board a single joint petition on behalf of any association members who give written consent to such a joint petition and who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit owners with notice of its intent to petition the property appraisal adjustment board and shall provide at least 30 days for a unit owner to elect, in writing, that his unit not be included in the petition.

(f) An owner of contiguous, undeveloped parcels may file with the property appraisal adjustment board, a single joint petition if the property appraiser determines such parcels are substantially similar in nature.

Section 2 Subsection (1) of section 194.013, Florida Statutes, is amended to read:

194.013 Filing fees for petitions, disposition, waiver—

(1) If so required by resolution of the property appraisal adjustment board, a petition filed pursuant to s. 194.011 shall be accompanied by a filing fee to be paid to the clerk of the property appraisal adjustment
CHAPTER 88-179

Section 3. (1) Sections 4, 5, and 6 of chapter 84-294, Laws of Florida, are hereby repealed.

(2) Chapter 84-232, Laws of Florida, as amended by this act, is repealed on July 1, 1993.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor July 1, 1988.

Filed in Office Secretary of State July 1, 1988.

CHAPTER 88-180

Committee Substitute for Senate Bill No. 559

An act relating to financial institutions; providing that deposits in any branch or office in this state of a financial institution are governed by the law of this state; providing that contracts relating to an extension of credit by a branch or office in this state of a financial institution are governed by the law of this state if the contract so provides; providing exceptions; providing definitions; specifying jurisdiction of the courts of this state with respect thereto; providing applicability; providing an effective date.

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

Section 1. Law applicable to deposits in and contracts relating to extensions of credit by financial institutions located in Florida.--

(1) The law of this state, excluding its law regarding comity and conflict of laws, shall govern all aspects, including without limitation the validity and effect, of any deposit account in a branch or office in this state of a financial institution, including a deposit account otherwise covered by s. 671.105(1), Florida Statutes, regardless of the citizenship, residence, location or domicile of any other party to the contract or agreement governing such deposit account, and regardless of any provision of any law of the jurisdiction of the residence, location or domicile of such other party, whether or not such deposit account bears any other relation to this state, except that this section does not apply to any such deposit account:

(a) To the extent provided to the contrary in s. 671.105(2), Florida Statutes; or

(b) To the extent that all parties to the contract or agreement governing such deposit account have agreed in writing that the law of another jurisdiction will govern it.

(2) The law of this state, excluding its law regarding comity and conflict of laws, shall govern all aspects, including without limitation the validity and effect, of any contract relating to an extension of credit made by a branch or office in this state of a financial institution, including a contract otherwise covered by s. 671.105(1), Florida Statutes, if the contract expressly provides that
it shall be governed by the law of this state, regardless of the
citizenship, residence, location or domicile of any other party to
such contract and regardless of any provision of any law of the
jurisdiction of the residence, location or domicile of such other
party, whether or not such contract bears any other relation to this
state, except that this section does not apply to any such contract
to the extent provided to the contrary in s. 671.105(2), Florida
Statutes.

(3) As used in this section:

(a) "Financial institution" means any of the following:

1. A bank, trust company, industrial savings bank, credit union,
savings association, savings and loan association, savings bank or
building and loan association organized and existing under the laws
of this state.

2. An international bank agency, representative office or
international administrative office operating pursuant to the laws of
this state or any branch or other office of an international banking
corporation operating pursuant to the laws of this state.

3. A trust company, savings association, savings and loan
association, savings bank or building and loan association organized
and existing under the laws of any other state.

4. A national banking association organized and existing pursuant
to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq.

5. A federal association organized and existing pursuant to the
provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461
et seq.

6. A federal credit union organized and existing pursuant to the
provisions of the Federal Credit Union Act, 12 U.S.C. ss. 1751 et
seq.

7. A federal agency operating pursuant to the provisions of the

8. An Agreement corporation operating pursuant to s. 25 of the

9. An Edge Act corporation organized pursuant to the provisions
of s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

(b) "Deposit account" means any deposit or account in one or more
names including, without limitation, any certificate of deposit, time
deposit, credit balance, checking account, interest-bearing account,
non-interest-bearing account, individual retirement account (IRA),
money market account, NOW account, transaction account, savings
account, passbook account, joint account, convenience account, escrow
account, trust account, custodial account, fiduciary account, deposit
in trust or Totten trust account.

(c) "Contract relating to extension of credit" means any contract
or agreement relating to any extension of credit, including, without
limitation, any loan agreement, letter of credit, promissory note,
letter of intent, loan commitment, letter of credit, credit facility
agreement, confirmation or advice of letter of credit, letter of
credit application or reimbursement agreement, overdraft agreement, revolving credit agreement, construction loan agreement, floor plan agreement, acceptance, pledge agreement, hypothecation agreement, assignment, mortgage, security agreement, power of attorney, subordination agreement, assumption agreement, loan modification agreement, guaranty, surety agreement, indemnity agreement or workout agreement.

(4) Notwithstanding any law that limits or affects the right of a person to maintain an action or proceeding, any person may, to the extent permitted under the United States Constitution, maintain an action or proceeding in this state against any person or other entity residing or located outside this state if the action or proceeding arises out of a deposit account or contract relating to an extension of credit which, pursuant to subsection (1) or subsection (2), is governed in whole or in part by the law of this state.

(5) This section does not affect the law governing any transactions other than deposit accounts or contracts relating to extensions of credit specified herein, nor does this section affect the jurisdiction of the courts of this state over any dispute arising under any transactions other than deposit accounts or contracts relating to extensions of credit specified herein.

(6) This section applies to deposit accounts and contracts relating to extensions of credit entered into before, on or after the date on which this section takes effect. However, this section shall not apply to any deposit accounts existing on the effective date of this section if either party to the contract or agreement governing the deposit account provides the other party with a written objection to the application of this section within 6 months of the effective date of this section.

Section 2. This act shall take effect upon becoming a law.

Approved by the Governor July 1, 1988.

Filed in Office Secretary of State July 1, 1988.

CHAPTER 88-181

Committee Substitute for Senate Bill No. 567

An act relating to displaced homemakers; amending s. 410.30, F.S.; requiring the Department of Health and Rehabilitative Services to contract with and make grants to entities that provide programs for displaced homemakers; revising the definition of the term "displaced homemaker"; deleting certain duties of the department; providing for statewide availability of displaced homemaker service programs; providing criteria for contract and grant awards to entities providing displaced homemaker service programs; requiring a state plan and an annual report by the department; establishing the Displaced Homemaker Trust Fund to be used by the department to fund displaced homemaker service programs; amending s. 28.101, F.S.; providing an additional fee upon filing a petition for dissolution of marriage; providing that such fee be deposited in the Displaced
### COMMITTEE RECORDS

<table>
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### Senate/House Journals

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### Committee/Floor Tapes

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### Other Documentation

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I. SUMMARY:

A. Present Situation:

With regard to the validity, construction, effect, and enforcement of contracts, the law of the place of making, the place of performance, the place of intent and the place with the most significant contacts, has been cited as controlling. 10 Fla. Jur. 2d Conflict of Laws, s.11. However, where the parties to a contract intend for the law of a certain jurisdiction to apply, and so express this intention in their contract, then that law applies in the absence of fraud. 10 Fla. Jur. 2d Conflict of Laws, s.12 and cases cited therein. Such expressions of intent are commonly referred to as "choice of law" clauses.

Section 671.105, F.S., (Uniform Commercial Code) provides that when a transaction bears a reasonable relationship to this state and also to another state or nation, the parties may agree that either the law of this state or of such other state or nation shall govern their rights and duties. Section 671.105(2), F.S., provides exceptions for contracts involving rights of a seller's creditor, bank deposits and collections, bulk transfers, investment securities, and perfection of security interests. However, a contrary agreement may be effective to the extent provided by law.

Section 671.105, F.S., appears to be the only specific statutory provision allowing for contractual choice of law.

Forum pertains to jurisdiction. Section 48.193, F.S., commonly referred to as the long arm statute, prescribes the acts necessary for a person to submit himself to the jurisdiction of the courts of this state (forum). There are no statutory provisions which allow a person to submit to personal jurisdiction by contract. However, courts do recognize such contracts. See eg. Manrique v. Fabbri, 493 So.2d 437 (Fla. 1986).

B. Effect of Proposed Changes:

Senate Bill 559 provides that the parties to any contract involving in the aggregate not less than $250,000, may agree that Florida Law will govern their rights and duties, in whole or in part, whether or not such contract bears any relation to this state.

As to choice of forum, the bill provides that any person may maintain an action in Florida against a foreign corporation, nonresident or foreign state, if the action arises out of any contract in which the parties have selected Florida Law as controlling. However, the contract would have to involve at least $1,000,000 before it could include a forum selection clause providing that the foreign corporation, nonresident, or
foreign state agrees to submit to the jurisdiction of the courts of this state.

As to both choice of law and choice of forum, the bill would apply to contracts entered into before and after the effective date of the act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:
Indeterminate.

B. Government:
None.

III. COMMENTS:

Whether the courts of a given state are the proper forum for a cause of action necessarily focuses, for purposes of due process, on a defendant's purposeful connection to the forum and whether the sovereign has the prerogative to assert jurisdiction. Burger King Corporation v. Rudzewicz, 105 S. Ct. 2174, 2182 (1985). As to out of state defendants, the central issue in any determination of proper forum is whether a defendant has established meaningful contacts, ties or relations with the forum such that the forum's exercise of jurisdiction would not offend traditional conceptions of fair play and substantial justice. Burger King citing International Shoe v. Washington, 326 U.S. 310, 320, 66 S. Ct. 154, 154, 90 L. Ed. 95 (1945).

Thus, with regard to choice of forum clauses in contracts, the question necessarily becomes whether and to what extent a contract can constitute the necessary minimal connections to the forum for purposes of due process. Burger King at 2185.

The United States Supreme Court has held that choice of forum clauses are prima facie valid and should be enforced unless the resisting party can clearly show that enforcement would be unreasonable and unjust, or that the clause was invalid for such reasons as fraud or overreaching. The Bremen v. Zapata Off-Shore Co. 407 U.S. 1, 92 S. Ct. 1907, 32 L. Ed. 2d 513 (1972). Citing Bremen this view was reiterated in Burger King wherein the court noted that because personal jurisdiction is a waivable right, persons may give express or implied consent to the personal jurisdiction of the court. Burger King at 2182. However, the court was careful to point out that a contract standing alone clearly cannot automatically establish sufficient minimum contacts with a forum. Id at 2185. Thus, it appears that personal jurisdiction is a right waivable by a forum selection clause. However, in the absence of such a clause traditional minimum contact requirements must be met. Burger King at 2186.

In C.R. McRae v. J.D./M.D., Inc., 511 So. 2d 540 (Fla. 1987) the Florida Supreme Court held that a contractual choice of forum clause designating Florida as the forum cannot serve as the sole basis for asserting in personam jurisdiction over an objecting nonresident defendant unless there is a independent basis for a Florida Court to assert such jurisdiction. McRae at 544. Here, the court was referring to Florida's long arm statute, s. 48.193, F.S., and noted that the Legislature has set forth in the long arm statute Florida's policy concerning when Florida courts can exercise personal jurisdiction over a nonresident defendant. Conspicuously absent from this statute is any provision for submission to in personam jurisdiction by contractual agreement. McRae at 543.

Thus, it is unclear whether the Florida Supreme Court's decision in McRae is consonant with the U.S. Supreme Court's decisions in Bremen and Burger King.
In Burger King the court relied in part on Florida’s Long Arm Statute, s. 48.193, F.S., noting that Florida’s long arm statute extends to anyone who breaches a contract in Florida by failing to perform acts required by the contract to be performed in Florida. s. 48.193(1)(g), F.S. Burger King at 2177.

Similarly, the Florida Supreme Court in McCrae suggested that a choice of forum clause could only be upheld if s. 48.193, F.S., so provided.

Thus, although the SB 559 statutorily provides for choice of forum, it may be necessary to amend s. 48.193, F.S.

Subsection (4) of section 1 and subsection (3) of section 2 would, depending on the facts, constitute an unconstitutional impairment of a contract. Art. I, s. 10, Fla. Const.

Staff is not aware nor have we been informed of any reason why a contract must be worth $1,000,000 to enable the parties to choose their forum but only $250,000 to select their choice of law.

Moreover, in light of Bremen and Burger King and, in the absence of fraud, duress, or reasons of public policy, the parties should be able to freely enter into any contract, regardless of its value.

IV. AMENDMENTS:

None.
I. SUMMARY:

A. PRESENT SITUATION:

Generally, a contract is governed by the law of the state or country in which the contract was made. However, the parties may agree to apply the law of another state or country where the other state or country has an interest in the contract (e.g. where the contract is to be performed in the other state).

A Florida court may exercise jurisdiction over any case in which the defendant is a resident of Florida, is engaged in substantial activity or conducts a business or maintains an office within Florida, or has breached a contract by failing to perform an act required under the contract to be performed in Florida.

B. EFFECT OF PROPOSED CHANGES:

This legislation would permit persons not resident in this state to agree in a contract to have their disputes settled under Florida law, in Florida courts, where under present law they are not subject to Florida law or jurisdiction. The selection of Florida law may be made in any contract which involves the sum of $250,000 or more; the selection of the Florida forum could be made in relation to any contract involving $1,000,000 or more.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 of the bill provides authority for persons to provide within a contract that disputes will be settled in accordance with Florida law, where the dispute arises from an obligation involving $250,000 or more. This authority would not apply to a labor or employment contract, to contracts involving a transaction for personal, family or household purposes, or specified UCC-governed contracts. The provision of this authority is not intended to limit any other authority persons might have to agree to the application of Florida law. The
provision would be applied to existing contracts where the action on the contract is commenced after the effective date of the act.

Section 2 provides parties with the authority to provide in a contract in which Florida law has been selected as the governing law an agreement to submit any dispute to Florida courts. In essence, this provision would increase the jurisdiction of Florida courts to hear contract matters. The authority would be limited to disputes arising from an obligation involving $1,000,000 or more. The provisions of section 2 are also not intended to limit the jurisdiction of Florida courts which may otherwise be exercised under present law, and may be applied to existing contracts where the action on the contract is commenced after the effective date of the act.

Section 3 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

Indeterminate. If this legislation results in a significant increase in the case loads of the circuit courts, additional judicial manpower may be required.

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

Indeterminate

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None
C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
   None

2. Direct Private Sector Benefits:
   This legislation may permit parties, particularly in international contracts, to provide for the application of more definitive or favorable laws when contracting, thus avoiding contracted litigation of disputes. It would also encourage the settlement of disputes in Florida which would be of particular financial advantage to those practicing international law in this state.

3. Effects on Competition, Private Enterprise, and Employment Markets:
   This legislation should enhance employment opportunities for those wishing to practice international law.

D. FISCAL COMMENTS:
   None

III. LONG RANGE CONSEQUENCES:
   None

IV. COMMENTS:
   While this legislation provides for retroactive application in regard to existing contracts, it does so only where the parties have agreed in the contract to the application of Florida law. Accordingly, it would appear that the provisions are in aid of existing contracts, rather than an impairment of those contracts.

V. AMENDMENTS:

VI. SIGNATURES:
   COMMITTEE ON JUDICIARY:
   Prepared by: Thomas R. Tedcastle
   Staff Director: Richard Hixson

   FINANCE & TAXATION:
   Prepared by:  
   Staff Director:  

Senate Amendment

On page ...3...., between lines ...7-8....,

Bill No. Draft No. With Changes? No

Section 3. Paragraph (d) of subsection (1) of Section 48.193, F.S., is amended to read:

(d) Contracting to insure any person, property, or risks located within this state at the time of contracting or entering into a contract which specifies this state as the parties choice of forum or choice of law provided such contract is freely negotiated, not the product of fraud or duress and not otherwise contrary to the laws of this state.

(Renumber subsequent sections.)

CODING: Words struck are deletions; words underlined are additions.

* Amendment No. __, taken up by committee: Adopted *
  * Offered by _______________ _______________ Failed - *

(Amendment No. ___ Adopted ___ Failed ___ Date __/__/__)
The Committee on...Judiciary-Civil....recommended the following amendment which was moved by Senator.............and adopted: and failed:

Senate Amendment

On page 1, line 18, strike everything after the enacting clause

If amendment is text from another bill insert:

Bill No. Draft No. No. With Changes? Yes

and insert:

Section 1. Contracts of financial institutions.--

(1) The law of this state, excluding its law regarding comity and conflict of laws, shall govern any contract, agreement, or undertaking, contingent or otherwise, including an agreement otherwise covered by subsection (1) of section 671.105, Florida Statutes, if at least one party to such contract, agreement, or undertaking is a financial institution, as defined in subsection (2) hereof, whether or not such contract, agreement, or undertaking bears any other relation to this state, except that this section does not apply to any contract, agreement, or undertaking:

(a) For labor or employment;

(b) To the extent provided to the contrary in subsection (2) of section 671.105, Florida Statutes; or

(c) To the extent that all parties to such contract, agreement, or undertaking have agreed in writing that the law of another jurisdiction will govern it.

(2) As used in this section, "financial institution" means any of the following:

CODING: Words struck out are deletions; words underlined are additions.
(a) A bank, trust company, industrial savings bank, credit union, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of this state;

(b) An international bank agency, representative office, or international administrative office operating pursuant to the laws of this state;

(c) Any branch or office, located in this state, of a trust company, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of any other state and having any branch or office in this state;

(d) Any branch or office, located in this state, of a national banking association organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq., and having any branch or office in this state;

(e) Any branch or office, located in this state, of a federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq., and having any branch or office in this state;

(f) Any branch or office, located in this state, of a federal credit union organized and existing pursuant to the provisions of the Federal Credit Union Act, 12 U.S.C. ss. 1751 et seq., and having any branch or office in this state;

(g) A federal agency operating pursuant to the provisions of the International Banking Act of 1978, 12 U.S.C. ss. 3101 et seq., and located in this state;

(h) Any office, located in this state, of an Agreement corporation operating pursuant to section 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq.; or
(i) Any branch or office, located in this state, of an
Edge Act corporation organized pursuant to the provisions of
section 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et
seq., and having any branch or office in this state.

(3) Notwithstanding any law that limits or affects the
right of a person to maintain an action or proceeding, any
person may, to the extent permitted under the United States
Constitution, maintain an action or proceeding against any
person or other entity residing or located outside this state
if the action or proceeding arises out of or relates to any
contract, agreement, or undertaking which, pursuant to
subsection (1), is governed in whole or in part by the law of
this state.

(4) This section does not affect the law governing any
other contract, agreement, or undertaking or the jurisdiction
of the courts of this state over any dispute arising under any
other contract, agreement, or undertaking.

(5) This section applies to contracts entered into
after the date on which this section takes effect and, in
connection with any action or proceeding commenced after the
date on which this section takes effect, applies to contracts
entered into on or before the date on which this section takes
effect.

Section 2. This act shall take effect upon becoming a
law.
The Committee on...Judiciary-Civil....recommended the following amendment which was moved by Senator.............and adopted:

Senate Amendment

In title, on page 1, lines 1-14, strike everything before the enacting clause

A bill to be entitled

An act relating to enforcement of contracts of financial institutions; providing that contracts of financial institutions located in this state are governed by the law of this state; providing that the courts of this state have jurisdiction over disputes under such contracts; providing that the act does not affect the law governing other contracts or the jurisdiction of the courts of this state over disputes under other contracts; providing for applicability of the act; providing an effective date.

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

* Amendment No. __, taken up by committee: Adopted ✗ *
* Offered by __, __, __, __: Failed ✗ *

(Assignment No. __, Adopted __, Failed __, Date __/__/__)
The Committee on...Judiciary-Civil...recommended the following amendment which was moved by Senator............ and adopted:

Senate Amendment

In title, on page 1, lines 1-14, strike everything before the enacting clause

If amendment is text from another bill insert:

Bill No. _______ Draft No. _______ With Changes? Yes

and insert:

A bill to be

An act relating to enforcement of contracts of financial institutions; this state are governed state; providing that the courts of this state have jurisdiction over disputes under such contracts; providing that the act does not affect the law governing other contracts or the jurisdiction of the courts of this state over disputes under other contracts; providing for applicability of the act; providing an effective date.
The Committee on...Judiciary-Civil....recommended the following amendment which was moved by Senator............and adopted: and failed:

Senate Amendment

On page 1, line 18, strike everything after the enacting clause

If amendment is text from another bill insert:

Bill No. Draft No. With Changes? Yes No

and insert:

Section 1. Contracts of financial institutions.--

(1) The law of this state, excluding its law regarding comity and conflict of laws, shall govern any contract, agreement, or undertaking, contingent or otherwise, including an agreement otherwise covered by subsection (1) of section 671.105, Florida Statutes, if at least one party to such contract, agreement, or undertaking is a financial institution, as defined in subsection (2) hereof, whether or not such contract, agreement, or undertaking bears any other relation to this state, except that this section does not apply to any contract, agreement, or undertaking:

(a) For labor or employment;

(b) To the extent provided to the contrary in subsection (2) of section 671.105, Florida Statutes; or

(c) To the extent that all parties to such contract, agreement, or undertaking have agreed in writing that the law of another jurisdiction will govern it.

(2) As used in this section, "financial institution" means any of the following:

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

* Amendment No. __, taken up by committee: Adopted *
* Offered by _________________________________ Failed *

(Amendment No. ___ Adopted ___ Failed ___ Date__/__/_)
(a) A bank, trust company, industrial savings bank, credit union, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of this state;

(b) An international bank agency, representative office, or international administrative office operating pursuant to the laws of this state;

(c) Any branch or office, located in this state, of a trust company, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of any other state and having any branch or office in this state;

(d) Any branch or office, located in this state, of a national banking association organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq., and having any branch or office in this state;

(e) Any branch or office, located in this state, of a federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq., and having any branch or office in this state;

(f) Any branch or office, located in this state, of a federal credit union organized and existing pursuant to the provisions of the Federal Credit Union Act, 12 U.S.C. ss. 1751 et seq., and having any branch or office in this state;

(g) A federal agency operating pursuant to the provisions of the International Banking Act of 1978, 12 U.S.C. ss. 3101 et seq., and located in this state;

(h) Any office, located in this state, of an Agreement corporation operating pursuant to section 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq.; or
(i) Any branch or office, located in this state, of an
Edge Act corporation organized pursuant to the provisions of
section 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et
seq., and having any branch or office in this state.

(3) Notwithstanding any law that limits or affects the
right of a person to maintain an action or proceeding, any
person may, to the extent permitted under the United States
Constitution, maintain an action or proceeding against any
person or other entity residing or located outside this state
if the action or proceeding arises out of or relates to any
contract, agreement, or undertaking which, pursuant to
subsection (1), is governed in whole or in part by the law of
this state.

(4) This section does not affect the law governing any
other contract, agreement, or undertaking or the jurisdiction
of the courts of this state over any dispute arising under any
other contract, agreement, or undertaking.

(5) This section applies to contracts entered into
after the date on which this section takes effect and, in
connection with any action or proceeding commenced after the
date on which this section takes effect, applies to contracts
entered into on or before the date on which this section takes
effect.

Section 2. This act shall take effect upon becoming a
law.
SENATE COMMITTEE AMENDMENT
SB 1227
HB _

The Committee on......................recommended the following amendment which was moved by Senator...............and adopted:

and failed:

Senate Amendment

On page 2, line 19, strike all of line 19

The attached amendment goes in the body

If amendment is text from another bill insert:

Bill No. Draft No. With Changes? Yes

and insert:

person who is not, or has not been for 5 years, a member of

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

* Amendment No. __, taken up by committee: Adopted *
* Offered by __, failed __ *

(Amendment No. ___ Adopted ___ Failed ___ Date __/__/___)
The Committee on ... Judiciary-Civil ... recommended the following amendment which was moved by Senator .......... and adopted:

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If amendment is text from another bill insert:

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<th>Draft No.</th>
<th>With Changes?</th>
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Section 3. Paragraph (d) of subsection (1) of Section 48.193, F.S., is amended to read:

(d) Contracting to insure any person, property, or risks located within this state at the time of contracting or entering into a contract which specifies this state as the parties choice of forum or choice of law provided such contract is freely negotiated, not the product of fraud or duress and not otherwise contrary to the laws of this state.

(Renumber subsequent sections.)
A bill to be entitled
An act relating to enforcement of contracts;
providing that the parties to certain contracts
may agree that the law of this state will
govern their rights and duties under such
contracts; providing that the parties to
certain contracts may agree to subject
themselves to the courts of this state in the
event of disputes under such contracts;
providing that the act does not affect the
enforcement of choice-of-law or choice-of-forum
provisions in other contracts; providing for
applicability of the act; providing an
effective date.

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

Section 1. Choice of law.--
(1) The parties to any contract, agreement, or
undertaking, contingent or otherwise, in consideration of or
relating to any obligation arising out of a transaction
involving in the aggregate not less than $250,000, the
equivalent thereof in any foreign currency; or goods or
services, or both, of equivalent value, including a
transaction otherwise covered by subsection (1) of section
671.105, Florida Statutes, may agree that the law of this
state will govern their rights and duties in whole or in part;
whether or not such contract, agreement, or undertaking bears
any relation to this state.

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

CODING: Words struck are deletions; words underlined are additions.
(a) For labor or employment;
(b) Relating to any transaction for personal, family,
or household purposes; or
(c) To the extent provided to the contrary in
subsection (2) of section 671.105, Florida Statutes.
(3) This section does not limit or deny the
enforcement of any provision respecting choice of law in any
other contract, agreement, or undertaking.
(4) This section applies to contracts entered after
this act takes effect, and to contracts entered before this
act takes effect, in connection with any action or proceeding
commenced after this act takes effect.

Section 2. Choice of forum.--
(1) Notwithstanding any law that limits or affects the
right of a person to maintain an action or proceeding, any
person may maintain an action or proceeding against a foreign
corporation, nonresident, or foreign state if the action or
proceeding arises out of or relates to any contract,
agreement, or undertaking for which a choice of the law of
this state, in whole or in part, has been made pursuant to
section 1 of this act and which:
(a) Is a contract, agreement, or undertaking,
contingent or otherwise, in consideration of or relating to
any obligation arising out of a transaction involving in the
aggregate not less than $1,000,000, the equivalent thereof in
any foreign currency, or goods or services, or both, of
equivalent value; and
(b) Contains a provision or provisions by which such
foreign corporation, nonresident, or foreign state agrees to
submit to the jurisdiction of the courts of this state.
(2) This section does not affect the enforcement of any provision respecting choice of forum in any other contract, agreement, or undertaking.

(3) This section applies to contracts entered after this act takes effect, and to contracts entered before this act takes effect, in connection with any action or proceeding commenced after this act takes effect.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Provides that parties to a contract involving at least $250,000 or the equivalent in foreign currency or goods or services may agree that the law of this state will govern their rights and duties under the contract, whether or not the contract bears any relation to this state. This provision does not apply to contracts for labor or employment relating to any transaction for personal, family, or household purposes or to the extent provided to the contrary by s. 671.105(2), F.S. (Uniform Commercial Code). Provides that the parties to a contract involving at least $1 million or the equivalent in foreign currency or goods or services and including such a choice-of-law provision may agree to subject themselves to the courts of this state in the event of a dispute under such contract. Provides that the act does not affect the enforcement of choice-of-law or choice-of-forum provisions in other contracts.
A bill to be entitled
An act relating to enforcement of contracts of
financial institutions; providing that
contracts of financial institutions located in
this state are governed by the law of this
state; providing that the courts of this state
have jurisdiction over disputes under such
contracts; providing that the act does not
affect the law governing other contracts or the
jurisdiction of the courts of this state over
disputes under other contracts; providing for
applicability of the act; providing an
effective date.

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

Section 1. Contracts of financial institutions.--
(1) The law of this state, excluding its law regarding
comity and conflict of laws, shall govern any contract,
agreement, or undertaking, contingent or otherwise, including
an agreement otherwise covered by s. 671.105(1), Florida
Statutes, if at least one party to such contract, agreement,
or undertaking is a financial institution, as defined in
subsection (2) of this section, whether or not such contract,
agreement, or undertaking bears any other relation to this
state, except that this section does not apply to any
contract, agreement, or undertaking:
(a) For labor or employment;
(b) To the extent provided to the contrary in s.
671.105(2), Florida Statutes; or
(c) To the extent that all parties to such contract, agreement, or undertaking have agreed in writing that the law of another jurisdiction will govern it,

[2] As used in this section, "financial institution" means any of the following when acting by or through an employee or agent at a location in this state:

(a) A bank, trust company, industrial savings bank, credit union, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of this state;

(b) An international bank agency, representative office, or international administrative office operating pursuant to the laws of this state;

(c) A trust company, savings association, savings and loan association, savings banks, or building and loan association organized and existing under the laws of any other state and having any branch or office in this state;

(d) A national banking association organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq., and having any branch or office in this state;

(e) A federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1441 et seq., and having any branch or office in this state;

(f) A federal credit union organized and existing pursuant to the provisions of the Federal Credit Union Act, 12 U.S.C. ss. 1751 et seq., and having any branch or office in this state;

CODING: Words stricken are deletions; words underlined are additions.
Florida House of Representatives - 1988
186-629-5-8

(g) A federal agency operating pursuant to the
ss. 3101 et seq., and located in this state

(h) An agreement corporation operating pursuant to
seq., and having any office in this state

(i) An Edge Act corporation organized pursuant to the
provisions of section 25(a) of the Federal Reserve Act, 12
U.S.C. ss. 611 et seq., and having any branch or office in
this state.

(j) Notwithstanding any law that limits or affects the
right of a person to maintain an action or proceeding, any
person may, to the extent permitted under the United States
Constitution, maintain an action or proceeding in this state
against any person or other entity residing or located outside
this state if the action or proceeding arises out of or
relates to any contract, agreement, or undertaking which,
pursuant to subsection (1), is governed in whole or in part by
the law of this state.

(k) This section does not affect the law governing any
other contract, agreement, or undertaking or the jurisdiction
of the courts of this state over any dispute arising under any
other contract, agreement, or undertaking.

(l) This section applies to contracts entered into
after the date on which this section takes effect, and applies
to contracts entered into on or before the date on which this
section takes effect. However, this section shall not apply
to any contract existing on the effective date of this section
if either party to the contract provides the other party to
the contract with a written objection to the application of

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this section within 1 year of the effective date of this section.

Section 2. This act shall take effect upon becoming a law.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.
A bill to be entitled
An act relating to enforcement of contracts;
providing that the parties to certain contracts
may agree that the law of this state will
govern their rights and duties under such
contracts; providing that the parties to
certain contracts may agree to subject
themselves to the courts of this state in the
event of disputes under such contracts;
providing that the act does not affect the
enforcement of choice-of-law or choice-of-forum
provisions in other contracts; providing for
applicability of the act; providing an
effective date.

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

Section 1. Choice of law.--
(1) The parties to any contract, agreement, or
undertaking, contingent or otherwise, in consideration of or
relating to any obligation arising out of a transaction
involving in the aggregate not less than $250,000, the
equivalent thereof in any foreign currency, or goods or
services, or both, of equivalent value, including a
transaction otherwise covered by subsection (1) of section
671.105, Florida Statutes, may agree that the law of this
state will govern their rights and duties in whole or in part,
whether or not such contract, agreement, or undertaking bears
any relation to this state.

(2) This section does not apply to any contract,
agreement, or undertaking:
(a) For labor or employment;
(b) Relating to any transaction for personal, family, or household purposes; or
(c) To the extent provided to the contrary in subsection (2) of section 671.105, Florida Statutes.
(3) This section does not limit or deny the enforcement of any provision respecting choice of law in any other contract, agreement, or undertaking.
(4) This section applies to contracts entered after this act takes effect, and to contracts entered before this act takes effect, in connection with any action or proceeding commenced after this act takes effect.

Section 2. Choice of forum.--
(1) Notwithstanding any law that limits or affects the right of a person to maintain an action or proceeding, any person may maintain an action or proceeding against a foreign corporation, nonresident, or foreign state if the action or proceeding arises out of or relates to any contract, agreement, or undertaking for which a choice of the law of this state, in whole or in part, has been made pursuant to section 1 of this act and which:
(a) Is a contract, agreement, or undertaking, contingent or otherwise, in consideration of or relating to any obligation arising out of a transaction involving in the aggregate not less than $1,000,000, the equivalent thereof in any foreign currency, or goods or services, or both, of equivalent value; and
(b) Contains a provision or provisions by which such foreign corporation, nonresident, or foreign state agrees to submit to the jurisdiction of the courts of this state.

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(2) This section does not affect the enforcement of any provision respecting choice of forum in any other contract, agreement, or undertaking.

(3) This section applies to contracts entered after this act takes effect, and to contracts entered before this act takes effect, in connection with any action or proceeding commenced after this act takes effect.

Section 3. This act shall take effect upon becoming a law.

SENATE SUMMARY

Provides that parties to a contract involving at least $250,000 or the equivalent in foreign currency or goods or services may agree that the law of this state will govern their rights and duties under the contract, whether or not the contract bears any relation to this state. This provision does not apply to contracts for labor or employment; relating to any transaction for personal, family, or household purposes; or to the extent provided to the contrary by s. 671.105(2), F.S. (Uniform Commercial Code). Provides that the parties to a contract involving at least $1 million or the equivalent in foreign currency or goods or services and including such a choice-of-law provision may agree to subject themselves to the courts of this state in the event of a dispute under such contract. Provides that the act does not affect the enforcement of choice-of-law or choice-of-forum provisions in other contracts.
A bill to be entitled
An act relating to enforcement of contracts of
financial institutions; providing that
contracts of financial institutions located in
this state are governed by the law of this state; providing that the courts of this state have jurisdiction over disputes under such contracts; providing that the act does not affect the law governing other contracts or the jurisdiction of the courts of this state over disputes under other contracts; providing for applicability of the act; amending s. 48.193, F.S.; providing that contractual choice of law or choice of forum provisions subject persons to jurisdiction of state courts; providing an effective date.

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

Section 1. Contracts of financial institutions.--

(1) The law of this state, excluding its law regarding comity and conflict of laws, shall govern any contract, agreement, or undertaking, contingent or otherwise, including an agreement otherwise covered by subsection (1) of section 671.105, Florida Statutes, if at least one party to such contract, agreement, or undertaking is a financial institution, whether or not such contract, agreement, or undertaking bears any other relation to this state, except that this section does not apply to any contract, agreement, or undertaking:

(a) For labor or employment;
(b) To the extent provided to the contrary in subsection (2) of section 671.105, Florida Statutes; or
(c) To the extent that all parties to such contract, agreement, or undertaking have agreed in writing that the law of another jurisdiction will govern it.

(2) As used in this section, the term "financial institution" means any of the following:
(a) A bank, trust company, industrial savings bank, credit union, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of this state;
(b) An international bank agency, representative office, or international administrative office operating pursuant to the laws of this state;
(c) Any branch or office, located in this state, of a trust company, savings association, savings and loan association, savings bank, or building and loan association organized and existing under the laws of any other state and having any branch or office in this state;
(d) Any branch or office, located in this state, of a national banking association organized and existing pursuant to the provisions of the National Bank Act, 12 U.S.C. ss. 21 et seq., and having any branch or office in this state;
(e) Any branch or office, located in this state, of a federal association organized and existing pursuant to the provisions of the Home Owners' Loan Act of 1933, 12 U.S.C. ss. 1461 et seq., and having any branch or office in this state;
(f) Any branch or office, located in this state, of a federal credit union organized and existing pursuant to the provisions of the Federal Credit Union Act, 12 U.S.C. ss. 1751 et seq., and having any branch or office in this state;

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(g) A federal agency operating pursuant to the provisions of the International Banking Act of 1978, 12 U.S.C. ss. 3101 et seq., and located in this state;

(h) Any office, located in this state, of an Agreement corporation operating pursuant to section 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq., or

(i) Any branch or office, located in this state, of an Edge Act corporation organized pursuant to the provisions of section 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq., and having any branch or office in this state.

(3) Notwithstanding any law that limits or affects the right of a person to maintain an action or proceeding, any person may, to the extent permitted under the United States Constitution, maintain an action or proceeding against any person or other entity residing or located outside this state if the action or proceeding arises out of or relates to any contract, agreement, or undertaking which, pursuant to subsection (1), is governed in whole or in part by the law of this state.

(4) This section does not affect the law governing any other contract, agreement, or undertaking or the jurisdiction of the courts of this state over any dispute arising under any other contract, agreement, or undertaking.

(5) This section applies to contracts entered into after the date on which this section takes effect and, in connection with any action or proceeding commenced after the date on which this section takes effect, applies to contracts entered into on or before the date on which this section takes effect.

Section 2. Paragraph (d) of subsection (1) of section 48.193, Florida Statutes, is amended to read:
Acts subjecting person to jurisdiction of courts of state.--

(1) 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 and, if he is a natural person, his 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:

(d) Contracting to insure any person, property, or risk located within this state at the time of contracting or entering into a contract which specifies this state as the parties' choice of forum or choice of law and which is freely negotiated, is not the product of fraud or duress, and is not otherwise contrary to the laws of this state.

Section 3. This act shall take effect upon becoming a law.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 559

The provisions of CS/SB 559 would only apply to contracts wherein one of the parties is a financial institution as defined in the bill.

The bill deletes all provisions relating to choice of forum as well as any requirements that a contract be worth a given amount of money before the bill would apply.

The exception for contracts relating to any transaction for personal, family, or household purposes is deleted. However, an exception for contracts wherein all parties have agreed in writing that the law of another jurisdiction will govern it is added.

The bill amends s. 48.193, F.S., to include contracts which specify this state as the parties' choice of law or choice of forum.

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