

1                                   A bill to be entitled  
2           An act relating to the Florida Arbitration Code; creating  
3           s. 682.011, F.S.; providing definitions; creating s.  
4           682.012, F.S.; providing application; creating s. 682.013,  
5           F.S.; authorizing parties to an agreement to arbitrate to  
6           waive or vary the effect of the requirements of certain  
7           provisions; providing an exception; prohibiting a party  
8           from narrowing the grounds for vacating certain awards;  
9           providing that certain parties submitting a subject of  
10          arbitration to a court have waived the right to arbitrate;  
11          creating s. 682.031, F.S.; providing notice requirements;  
12          creating s. 682.032, F.S.; providing for initiation of  
13          arbitration; amending s. 682.04, F.S.; revising provisions  
14          relating to the selection of arbitrators; prohibiting  
15          certain persons from serving as arbitrators; creating s.  
16          682.041, F.S.; authorizing a court to award provisional  
17          remedies under certain circumstances; providing that a  
18          motion for provisional remedies does not waive the right  
19          to arbitration; creating s. 682.042, F.S.; requiring the  
20          disclosure of specified information by a person requested  
21          to serve as an arbitrator; requiring certain information  
22          to be provided to the parties; providing grounds for  
23          removal of the arbitrator under certain circumstances;  
24          providing procedure for the expedited removal of an  
25          arbitrator; requiring an arbitrator to sign an oath  
26          attesting to certain information; creating s. 682.043,  
27          F.S.; providing for consolidation of certain separate  
28          arbitration proceedings; amending s. 682.05, F.S.;

29 requiring action by more than one arbitrator to be action  
30 of a majority; requiring all of the arbitrators to conduct  
31 the hearing; creating s. 682.052, F.S.; providing for the  
32 arbitration process; providing requirements, powers, and  
33 duties of the arbitrator; providing requirements of  
34 parties; providing hearing requirements; amending s.  
35 682.06, F.S.; providing hearing notice requirements;  
36 providing certain hearing matters to be conducted in  
37 accordance with the Florida Rules of Evidence and the  
38 Florida Rules of Civil Procedure; providing for the  
39 replacement of an arbitrator under certain circumstances;  
40 amending s. 682.07, F.S.; requiring the parties to be  
41 provided with information concerning institutions that  
42 might offer assistance; amending s. 682.08, F.S.;  
43 requiring the issuance of a subpoena to be included in the  
44 record of the arbitration; providing requirements for  
45 depositions; providing requirements relating to discovery  
46 materials and procedures; providing for enforcement of  
47 subpoenas and discovery-related orders; authorizing an  
48 arbitrator to issue protective orders; providing for the  
49 court enforcement of certain subpoenas and discovery-  
50 related orders; requiring witnesses to be under oath  
51 during testimony; creating s. 682.085, F.S.; providing for  
52 judicial enforcement of preaward rulings; amending s.  
53 682.09, F.S.; providing requirements for awards; amending  
54 s. 682.11, F.S.; authorizing an arbitrator to award  
55 punitive damages and other exemplary relief; authorizing  
56 an arbitrator to award attorney fees and other expenses;

57 | authorizing the court to order certain costs to be shared  
58 | between the parties; amending s. 682.12, F.S.; revising  
59 | procedure for the confirmation of an award by a court;  
60 | amending s. 682.13, F.S.; revising procedure for vacating  
61 | awards; authorizing the court to vacate an award for  
62 | specified reasons; authorizing parties to contract in the  
63 | arbitration agreement for judicial review of errors of law  
64 | in the arbitration award; providing the court certain  
65 | powers relating to time limitations of procedures in the  
66 | vacating of awards; revising certain circumstances when a  
67 | court may order a rehearing before the arbitrators or  
68 | umpire who made the award; amending s. 682.14, F.S.;  
69 | requiring the court to modify or correct an award under  
70 | certain circumstances; authoring a consumer to seek to  
71 | modify or vacate an award within a specified time;  
72 | amending s. 682.15, F.S.; providing for entering judgment;  
73 | amending s. 682.20, F.S.; providing for appeals in certain  
74 | circumstances; authorizing certain rules to be reviewed by  
75 | writ of certiorari; authorizing an appeal to be taken from  
76 | a circuit or county court to a court of appeals under  
77 | certain circumstances; creating s. 682.202, F.S.;  
78 | specifying relationship to certain federal electronic  
79 | signatures act; creating s. 682.203, F.S.; providing for  
80 | the regulation of arbitration service providers; requiring  
81 | arbitration organizations to make available certain  
82 | information in a specified manner; authoring the  
83 | arbitration organizations to charge a fee for the actual  
84 | cost of copying certain information; requiring all fees

85 and costs charged to or assessed against certain consumers  
 86 to be waived; providing waiver requirements; providing  
 87 notice requirements; prohibiting certain fee agreements;  
 88 prohibiting certain arbitration organizations from  
 89 administering an arbitration; authorizing certain persons  
 90 to request a court to enjoin an arbitration organization  
 91 from violating certain provisions of law; creating s.  
 92 682.204, F.S.; requiring disclosure of certain arbitration  
 93 costs; authorizing certain disclosures to be based on  
 94 reasonable, good-faith estimate; providing that failure to  
 95 comply with certain disclosure requirements constitutes a  
 96 deceptive act pursuant to the Florida Deceptive and Unfair  
 97 Trade Practices Act; authorizing certain persons to  
 98 request a court to enjoin an arbitration organization from  
 99 violating certain provisions of law; providing an  
 100 effective date.

101

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

103

104 Section 1. Section 682.011, Florida Statutes, is created  
 105 to read:

106 682.011 Definitions.--

107 (1) "Arbitration organization" means an association,  
 108 agency, board, commission, or other entity that is neutral and  
 109 initiates, sponsors, or administers an arbitration proceeding or  
 110 is involved in the appointment of an arbitrator.

111       (2) "Arbitrator" means a neutral individual appointed to  
 112 render an award, alone or with others, in a controversy that is  
 113 subject to an agreement to arbitrate.

114       (3) "Consumer" means a party to an arbitration agreement  
 115 who, in the context of that arbitration agreement, is an  
 116 individual, not a business, who seeks or acquires, including by  
 117 lease, any goods or services primarily for personal, family, or  
 118 household purposes, including, but not limited to, transactions  
 119 involving banking, credit cards, home loans, and other financial  
 120 services; healthcare services; brokerage services; home  
 121 construction and improvements; insurance; communications; the  
 122 purchase and lease of motor vehicles and other personal  
 123 property; and the purchase and lease of real property. This  
 124 subsection shall not be construed to restrict the ability of  
 125 consumers to pursue arbitration on a group basis or render this  
 126 subsection inapplicable to arbitrations involving multiple  
 127 consumer parties.

128       (4) "Consumer arbitration agreement" means a standardized  
 129 contract written by the nonconsumer party with a provision  
 130 requiring that disputes arising after the contract is signed  
 131 shall be submitted to binding arbitration, and the other party  
 132 is a consumer.

133       (5) "Evident partiality" means that a reasonable person  
 134 would conclude that the arbitrator was partial to one party to  
 135 the arbitration, or that it reasonably looks as though the  
 136 arbitrator would tend to favor one of the parties. "Evident  
 137 partiality" does not require the party alleging such partiality  
 138 to prove that the arbitrator was actually prejudiced.

139       (6) "Financial interest" means holding a position in a  
140 business as officer, director, trustee, or partner or holding  
141 any position in management, or owning more than 5 percent  
142 interest in a business.

143       (7) "Knowledge" means actual knowledge.

144       (8) "Person" means an individual, corporation, business  
145 trust, estate, trust, partnership, limited liability company,  
146 association, or joint venture; government, governmental  
147 subdivision, agency, or instrumentality; public corporation; or  
148 any other legal or commercial entity.

149       (9) "Record" means information that is inscribed on a  
150 tangible medium or that is stored in an electronic or other  
151 medium and is retrievable in perceivable form.

152       (10) "Small business" means:

153       (a)1. A sole proprietor of an unincorporated business,  
154 including a professional practice, whose principal office is in  
155 this state, who is domiciled in this state, and whose business  
156 or professional practice has, at the time the action is  
157 initiated by a state agency, not more than 25 full-time  
158 employees or a net worth of not more than \$2 million, including  
159 both personal and business investments;

160       2. A partnership or corporation, including a professional  
161 practice, which has its principal office in this state and at  
162 the time the action is initiated by a state agency has not more  
163 than 25 full-time employees or a net worth of not more than \$2  
164 million; or

165       3. An individual whose net worth did not exceed \$2 million  
166 at the time the action was initiated by a state agency when the

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167 action is brought against that individual's license to engage in  
168 the practice or operation of a business, profession, or trade;  
169 or

170 (b) Any small business party as provided for in paragraph  
171 (a), without regard to the number of its employees or its net  
172 worth, in any action under s. 72.011 or in any administrative  
173 proceeding under that section to contest the legality of any  
174 assessment of tax imposed for the sale or use of services as  
175 provided in chapter 212, interest thereon, or penalty therefor.

176 Section 2. Section 682.012, Florida Statutes, is created  
177 to read:

178 682.012 Application in general.--

179 (1) This chapter does not apply to insurance policies made  
180 with a consumer or small business, and every provision in any  
181 such policy requiring arbitration or restricting a party thereto  
182 or beneficiary thereof from enforcing any right under it by  
183 usual legal proceedings or limiting the time to do so is void  
184 and unenforceable.

185 (2) A provision for mandatory binding arbitration within  
186 any arbitration agreement is void and unenforceable except to  
187 the extent federal law provides for its enforceability.

188 (3) This chapter does not apply to any arbitrator or any  
189 arbitration organization in an arbitration proceeding governed  
190 by rules adopted by a securities self-regulatory organization  
191 and approved by the United States Securities and Exchange  
192 Commission under the Securities and Exchange Act of 1934, 15  
193 U.S.C. s. 78s.

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194 Section 3. Section 682.013, Florida Statutes, is created  
195 to read:

196 682.013 Effect of agreement to arbitrate; nonwaivable  
197 provisions.--

198 (1) Except as otherwise provided in subsections (2) and  
199 (3), a party to an agreement to arbitrate or to an arbitration  
200 proceeding may waive, or the parties may vary the effect of, the  
201 requirements of this chapter to the extent permitted by law.

202 (2) Before a controversy arises that is subject to an  
203 agreement to arbitrate, a party to the agreement may not:

204 (a) Waive or agree to vary the effect of the requirements  
205 of s. 682.012, s. 682.032, s. 682.041, s. 682.042, s. 682.08(1)  
206 and (2), s. 682.11, or s. 682.20; or

207 (b) Waive the right under s. 682.07 of a party to an  
208 agreement to arbitrate to be represented by a lawyer at any  
209 proceeding or hearing under this chapter, but an employer and a  
210 labor organization may waive the right to representation by a  
211 lawyer in a labor arbitration.

212 (3) A party to an agreement to arbitrate or an arbitration  
213 proceeding may not waive, or the parties may not vary the effect  
214 of, the requirements of this section, s. 682.012(1) or (3), s.  
215 682.03, s. 682.085, s. 682.10, s. 682.12, s. 682.13, s. 682.14,  
216 s. 682.15, or s. 682.202, except that, if there is an agreement  
217 to arbitrate disputes over insurance obligations by two or more  
218 people engaged in the business of insurance, including, but not  
219 limited to, reinsurers, self-insurers, or reinsurance  
220 intermediaries, or any combination thereof, the parties to the  
221 agreement may waive the right to vacate under s. 682.13.



222       (4) A party to an agreement to arbitrate or an arbitration  
 223 proceeding may not narrow the grounds for vacating an award set  
 224 forth in s. 682.13, except in a subsequent agreement for  
 225 consideration made after the controversy that is at issue in the  
 226 arbitration has arisen.

227       (5) A party to an agreement that submits to having, or  
 228 agrees to have, a court decide an issue subject to arbitration  
 229 has waived his or her right to arbitrate. This includes, but is  
 230 not limited to, initiating a suit or responding to a suit in any  
 231 manner other than by a motion to compel arbitration.

232       Section 4. Section 682.031, Florida Statutes, is created  
 233 to read:

234       682.031 Notice.--

235       (1) Except as otherwise provided in this chapter, a person  
 236 gives notice to another party by delivering notice to the  
 237 party's place of residence by certified or registered mail,  
 238 return receipt requested and obtained, or by in-hand delivery  
 239 with notice of service of process.

240       (2) A person has notice if the person has knowledge of the  
 241 notice or has received actual notice.

242       Section 5. Section 682.032, Florida Statutes, is created  
 243 to read:

244       682.032 Initiation of arbitration.--A person initiates an  
 245 arbitration proceeding by giving notice in a record to the other  
 246 parties to the agreement to arbitrate by certified or registered  
 247 mail, return receipt requested and obtained, or by service as  
 248 authorized for the commencement of a civil action. The notice

249 must describe the nature of the controversy and the remedy  
 250 sought.

251 Section 6. Section 682.04, Florida Statutes, is amended to  
 252 read:

253 682.04 Appointment of arbitrators by court.--

254 (1) The parties shall select the arbitrator after the  
 255 arbitration has been initiated. In the event that the parties  
 256 are unable to come to an agreement, the court ~~If an agreement or~~  
 257 ~~provision for arbitration subject to this law provides a method~~  
 258 ~~for the appointment of arbitrators or an umpire, this method~~  
 259 ~~shall be followed. In the absence thereof, or if the agreed~~  
 260 ~~method fails or for any reason cannot be followed, or if an~~  
 261 ~~arbitrator or umpire who has been appointed fails to act and his~~  
 262 ~~or her successor has not been duly appointed, the court, on~~  
 263 ~~application of a party to such agreement or provision shall~~  
 264 ~~appoint one or more arbitrators or an umpire~~ deemed by both  
 265 parties to be acceptable. An arbitrator or umpire so appointed  
 266 shall have like powers as if named or provided for in the  
 267 agreement or provision.

268 (2) An individual may not serve as an arbitrator if the  
 269 individual has, either at the time of arbitration or at some  
 270 time in the past, a direct and material interest in the outcome  
 271 of the arbitration proceeding, an existing relationship with a  
 272 party, or any other interest more than a de minimis interest  
 273 that could be affected by the proceeding.

274 (3) An individual may not serve as an arbitrator if the  
 275 arbitration service through which the individual has been

276 contracted has an interest, either direct or indirect, in the  
 277 outcome of the arbitration.

278 Section 7. Section 682.041, Florida Statutes, is created  
 279 to read:

280 682.041 Provisional remedies.--The court, upon motion of a  
 281 party to an arbitration proceeding and for good cause shown, may  
 282 enter an order for provisional remedies to protect the  
 283 effectiveness of the arbitration proceeding to the same extent  
 284 and under the same conditions as if the controversy were the  
 285 subject of a civil action. A party does not waive a right of  
 286 arbitration by making a motion pursuant to this section.

287 Section 8. Section 682.042, Florida Statutes, is created  
 288 to read:

289 682.042 Disclosure by arbitrator.--

290 (1) Before accepting appointment, an individual who is  
 291 requested to serve as an arbitrator, after making a reasonable  
 292 inquiry, shall disclose to all parties to the agreement to  
 293 arbitrate and the arbitration proceeding and to any other  
 294 arbitrators involved in the proceedings any facts that might  
 295 affect, or appear to affect, the impartiality of the arbitrator  
 296 in the arbitration proceeding, including:

297 (a) Any financial or personal interest in the outcome of  
 298 the arbitration proceeding.

299 (b) Any existing or past relationship with any of the  
 300 parties to the agreement to arbitrate or the arbitration  
 301 proceeding, their counsel or representatives, a witness, or  
 302 other arbitrators, including the number of past arbitrations

303 conducted involving either party, the outcomes of those past  
304 arbitrations, and the dates of decision.

305 (2) The parties must be informed that information  
306 concerning the arbitration service provider's past cases is  
307 available, either in a hard copy or on the provider's website.

308 (3) An arbitrator has a continuing obligation to disclose  
309 to all parties to the agreement to arbitrate and the arbitration  
310 proceeding and to any other arbitrators involved in the  
311 proceeding any facts that the arbitrator learns after accepting  
312 appointment which might affect, or appear to affect, the  
313 impartiality of the arbitrator, including, but not limited to,  
314 the information or facts required to be disclosed under  
315 subsection (1).

316 (4) If an arbitrator discloses a fact as required by  
317 subsection (1) or subsection (3) and a party timely objects to  
318 the appointment or continued service of the arbitrator based  
319 upon the fact disclosed, the objection may be grounds for  
320 removal of the arbitrator or for vacating an award made by the  
321 arbitrator under s. 682.13.

322 (5) If the arbitrator did not disclose a fact as required  
323 by subsection (1) or subsection (3), upon timely objection by a  
324 party, the party may make a motion to the court for an expedited  
325 order to remove the arbitrator and appoint a successor. Failure  
326 of an arbitrator to make such disclosure is cause for the court  
327 to vacate an award under s. 682.13.

328 (6) An arbitrator appointed as a neutral arbitrator who  
329 fails to comply with any of the disclosure requirements of this

330 section is presumed to have acted with evident partiality under  
 331 s. 682.13(1)(b).

332 (7) If no circumstances exist that would affect the  
 333 impartiality of any designated arbitrator, such arbitrator shall  
 334 sign an oath provided by the court affirming the absence of such  
 335 present or preexisting ties.

336 Section 9. Section 682.043, Florida Statutes, is created  
 337 to read:

338 682.043 Consolidation of separate arbitration  
 339 proceedings.--

340 (1) Except as otherwise provided in subsection (2), upon  
 341 motion of a party to an agreement to arbitrate or to an  
 342 arbitration proceeding, the court shall order consolidation of  
 343 separate arbitration proceedings as to all or some of the claims  
 344 if:

345 (a) There are separate agreements to arbitrate or separate  
 346 arbitration proceedings between the same persons or one of them  
 347 is a party to a separate agreement to arbitrate or a separate  
 348 arbitration proceeding with a third person.

349 (b) The claims subject to the agreements to arbitrate  
 350 arise in substantial part from the same transaction or series of  
 351 related transactions.

352 (c) The existence of a common issue of law or fact creates  
 353 the possibility of conflicting decisions in the separate  
 354 arbitration proceedings.

355 (d) Prejudice resulting from a failure to consolidate is  
 356 not outweighed by the risk of undue delay or prejudice to the  
 357 rights of or hardship to parties opposing consolidation.

358           (2) The court may order consolidation of separate  
 359 arbitration proceedings as to some claims and allow other claims  
 360 to be resolved in separate arbitration proceedings.

361           (3) Nothing in this section is intended to prevent a  
 362 party's participation in a class-action lawsuit.

363           Section 10. Section 682.05, Florida Statutes, is amended  
 364 to read:

365           682.05 Majority action by arbitrators.--The powers of the  
 366 arbitrators shall ~~may~~ be exercised by a majority of their  
 367 number, but all of them shall conduct the hearing under s.  
 368 682.052 unless otherwise provided in the agreement or provision  
 369 for arbitration.

370           Section 11. Section 682.052, Florida Statutes, is created  
 371 to read:

372           682.052 Arbitration process.--

373           (1) An arbitrator must conduct an arbitration in a manner  
 374 that is fundamentally fair. "Fundamental fairness" includes  
 375 notice, an opportunity to be heard, an opportunity to present  
 376 relevant and material evidence, an opportunity for argument  
 377 before the decisionmakers, and an unbiased decisionmaker.

378           (2) The authority conferred upon the arbitrator includes  
 379 the power to hold conferences with the parties to the  
 380 arbitration proceeding before the hearing and, among other  
 381 matters, determine the admissibility, relevance, materiality,  
 382 and weight of any evidence in accordance with the Florida Rules  
 383 of Evidence and the Florida Rules of Civil Procedure.

384           (3) Unless after a dispute arises both parties settle the  
 385 dispute or in cases of extreme hardship, both parties or their

386 attorneys must be physically present at all hearings and  
 387 conferences with the arbitrator.

388 (4) An arbitrator may decide a request for summary  
 389 disposition of a claim or particular issue:

390 (a) If all interested parties agree to permit summary  
 391 disposition of the issue; or

392 (b) Upon request of one party to the arbitration  
 393 proceeding if that party gives actual, written notice to all  
 394 other parties to the proceeding in the manner provided in s.  
 395 682.031, and the other parties have been given 30 days to  
 396 respond after receiving such notice.

397 Section 12. Section 682.06, Florida Statutes, is amended  
 398 to read:

399 682.06 Hearing.--Unless otherwise provided by the  
 400 agreement or provision for arbitration:

401 (1) (a) The arbitrators shall appoint a time and place for  
 402 the hearing and cause notification to the parties to be served  
 403 personally or by registered or certified mail not less than 5  
 404 days before the hearing. Notice shall include a statement that a  
 405 party is entitled to representation. Appearance at the hearing  
 406 does not waive ~~waives~~ a party's right to object to the  
 407 proceeding on the basis of insufficient notice or lack of such  
 408 notice. The arbitrators may adjourn their hearing from time to  
 409 time upon their own motion and shall do so upon the request of  
 410 any party to the arbitration for good cause shown, provided that  
 411 no adjournment or postponement of their hearing shall extend  
 412 beyond the date fixed in the agreement or provision for making  
 413 the award unless the parties consent to a later date. An umpire

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414 authorized to hear and decide the cause upon failure of the  
415 arbitrators to agree upon an award shall, in the course of his  
416 or her jurisdiction, have like powers and be subject to like  
417 limitations thereon.

418 (b) The arbitrators, or umpire in the course of his or her  
419 jurisdiction, may hear and decide the controversy upon the  
420 evidence produced notwithstanding the failure or refusal of a  
421 party duly notified of the time and place of the hearing to  
422 appear. The court on application may direct the arbitrators, or  
423 the umpire in the course of his or her jurisdiction, to proceed  
424 promptly with the hearing and making of the award.

425 (2) The parties are entitled to be heard, to present  
426 evidence material to the controversy and to cross-examine  
427 witnesses appearing at the hearing in accordance with the  
428 Florida Rules of Evidence and the Florida Rules of Civil  
429 Procedure.

430 (3) The hearing shall be conducted by all of the  
431 arbitrators but a majority may determine any question and render  
432 a final award. An umpire authorized to hear and decide the cause  
433 upon the failure of the arbitrators to agree upon an award shall  
434 sit with the arbitrators throughout their hearing but shall not  
435 be counted as a part of their quorum or in the making of their  
436 award. If, during the course of the hearing, an arbitrator for  
437 any reason ceases to act, a replacement arbitrator must be  
438 appointed in accordance with s. 682.04 to continue the  
439 proceeding and to resolve the controversy ~~the remaining~~  
440 ~~arbitrator, arbitrators or umpire appointed to act as neutrals~~



441 ~~may continue with the hearing and determination of the~~  
 442 ~~controversy.~~

443 Section 13. Section 682.07, Florida Statutes, is amended  
 444 to read:

445 682.07 Representation by attorney.--A party has the right  
 446 to be represented by an attorney at any arbitration proceeding  
 447 or hearing under this law. A waiver thereof prior to the  
 448 proceeding or hearing is ineffective. The parties to an  
 449 arbitration must be provided with information concerning  
 450 institutions that might offer assistance, such as bar  
 451 associations, legal service associations, civil rights  
 452 organizations, and trade unions.

453 Section 14. Section 682.08, Florida Statutes, is amended  
 454 to read:

455 682.08 Witnesses, subpoenas, depositions, discovery.--

456 (1) Arbitrators, or an umpire authorized to hear and  
 457 decide the cause upon failure of the arbitrators to agree upon  
 458 an award, in the course of ~~her or~~ his or her jurisdiction, may  
 459 issue subpoenas for the attendance of witnesses and for the  
 460 production of books, records, documents and other evidence, and  
 461 shall have the power to administer oaths. Subpoenas so issued  
 462 shall be served, and upon application to the court by a party to  
 463 the arbitration or the arbitrators, or the umpire, enforced in  
 464 the manner provided by law for the service and enforcement of  
 465 subpoenas in a civil action. The issuance of a subpoena must be  
 466 included in the record of the arbitration.

467 (2) On application of a party to the arbitration and for  
 468 use as evidence, the arbitrators, or the umpire in the course of

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469 ~~her or~~ his or her jurisdiction, may permit a deposition to be  
470 taken, in the manner and upon the terms designated by them or  
471 ~~her or~~ him or her of a witness who cannot be subpoenaed or is  
472 unable to attend the hearing. Any deposition must be conducted  
473 in the manner provided by the Florida Rules of Civil Procedure.  
474 A copy of every deposition given by a witness called to testify  
475 during the arbitration must be filed and included in the record  
476 of the arbitration.

477 (3) A party must, without awaiting a discovery request  
478 from the arbitrator, provide to the arbitrator and the other  
479 parties:

480 (a) The name and, if known, the address and telephone  
481 number of each individual likely to have discoverable  
482 information, along with the subjects of that information that  
483 the disclosing party seeks authorization to use in support of  
484 its claims or defenses.

485 (b) A copy, or a description by category and location, of  
486 all documents, electronically stored information, and tangible  
487 evidence that the disclosing party has in its possession,  
488 custody, or control and may use to support its claims or  
489 defenses.

490  
491 All information furnished under this subsection shall be entered  
492 into the record of the arbitration.

493 (4) Discovery shall be conducted in a manner consistent  
494 with the Florida Rules of Civil Procedure and general law.

495 (5) A party to an arbitration may petition an arbitrator  
496 to permit additional discovery, as provided by the Florida Rules

497 of Civil Procedure and consistent with general law, as the  
 498 arbitrator decides is appropriate in the circumstances, taking  
 499 into account the needs of the parties to the arbitration  
 500 proceeding and other affected persons and the desirability of  
 501 making the proceeding fair, expeditious, and cost effective.

502 (6) The arbitrator may order a party to the arbitration  
 503 proceeding to comply with the arbitrator's discovery-related  
 504 orders, issue subpoenas for the attendance of a witness and for  
 505 the production of records and other evidence at a discovery  
 506 proceeding, and take action against a noncomplying party to the  
 507 extent a court could if the controversy were the subject of a  
 508 civil action in this state.

509 (7) An arbitrator may only issue a protective order to  
 510 prevent the disclosure of privileged information, confidential  
 511 information, and trade secrets only under circumstances in which  
 512 a court could issue a protective order if the arbitrator makes a  
 513 finding on the record that any public interest in disclosure of  
 514 information relevant to the protection of public health and  
 515 safety is outweighed by a specific and substantial harm that  
 516 would result from disclosure.

517 (8) ~~(3)~~ All provisions of law compelling a person under  
 518 subpoena to testify are applicable.

519 (9) The court may enforce a subpoena or discovery-related  
 520 order for the attendance of a witness within the state and for  
 521 the production of records and other evidence issued by an  
 522 arbitrator considered by an arbitrator in connection with an  
 523 arbitration proceeding in another state and consistent with the  
 524 laws of the jurisdiction. A subpoena or discovery-related order

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525 issued by an arbitrator in another state must be served in the  
526 manner provided by law for service of subpoenas in a civil  
527 action in the state and, upon motion to the court by a party to  
528 the arbitration proceeding or the arbitrator, enforced in the  
529 manner provided by law for enforcement of subpoenas in a civil  
530 action in the state.

531 (10) All witnesses must be under oath during testimony,  
532 including testimony given during a deposition.

533 (11)~~(4)~~ Fees for attendance as a witness shall be the same  
534 as for a witness in the circuit court.

535 Section 15. Section 682.085, Florida Statutes, is created  
536 to read:

537 682.085 Judicial enforcement of preaward ruling.--A party  
538 may request the arbitrator to incorporate any preaward ruling in  
539 favor of a party to the arbitration proceeding into an award  
540 made pursuant to s. 682.09. The court shall issue an order to  
541 confirm the award unless the court vacates, modifies, or  
542 corrects the award under ss. 682.13 and 682.14.

543 Section 16. Section 682.09, Florida Statutes, is amended  
544 to read:

545 682.09 Award.--

546 (1) The award shall be in writing and shall contain a  
547 summary of the issues considered, the arbitrator's findings on  
548 the issues, their reasons, the damages and any other relief  
549 requested and awarded, a statement of any other issues resolved,  
550 the discovery list required under s. 682.08, and a statement  
551 regarding the disposition of any statutory claims. The award  
552 shall be signed by the arbitrators joining in the award or by

553 the umpire in the course of his or her jurisdiction. A copy of  
 554 the award shall be delivered ~~They or he or she shall deliver a~~  
 555 ~~copy~~ to each party to the arbitration either personally or by  
 556 registered or certified mail, ~~or as provided in the agreement or~~  
 557 ~~provision.~~

558 (2) An award shall be made within the time fixed therefor  
 559 by the agreement or provision for arbitration or, if not so  
 560 fixed, within such time as the court may order on application of  
 561 a party to the arbitration. The parties may, by written  
 562 agreement, extend the time either before or after the expiration  
 563 thereof. Any objection that an award was not made within the  
 564 time required is waived unless the objecting party notifies the  
 565 arbitrators or umpire in writing of his or her objection prior  
 566 to the delivery of the award to him or her.

567 (3) The written opinion, including all evidence required  
 568 to be filed under this chapter and the opinion and award, shall  
 569 be entered into the public record by filing with the clerk of  
 570 the court of the proper jurisdiction over the arbitration.

571 Section 17. Section 682.11, Florida Statutes, is amended  
 572 to read:

573 682.11 Remedies; fees and expenses of arbitration.--

574 (1) An arbitrator may award punitive damages or other  
 575 exemplary relief to the extent that he or she would be  
 576 authorized by law in a civil action involving the same claim and  
 577 the evidence produced at the hearing justifies the award under  
 578 the legal standards otherwise applicable to the claim.

579 (2) Unless otherwise agreed to by the parties to the  
 580 arbitration, the circuit court shall establish the amount of

581 compensation, if any, that each arbitrator or umpire shall  
582 receive for services rendered in each case. Unless otherwise  
583 ~~provided in the agreement or provision for arbitration,~~ The  
584 arbitrators' and umpire's expenses and fees, together with other  
585 expenses, ~~not including counsel fees,~~ incurred in the conduct of  
586 the arbitration, shall be paid as provided in the award. All  
587 fees must be itemized in the award. Expenses and fees may not  
588 exceed the limits of court fees awarded in a civil action  
589 involving the same claim.

590 (3) An arbitrator shall award reasonable attorney's fees  
591 and other reasonable expenses of arbitration to the extent that  
592 they are authorized by law in a civil action involving the same  
593 claim or by the agreement of the parties to the arbitration  
594 proceeding.

595 (4) Upon a showing by the consumer, evidenced by an  
596 affidavit that includes a statement of financial resources  
597 possessed by the consumer, that the consumer is unable to pay  
598 the costs of arbitration, the court may order such costs to be  
599 shared between the two parties in an equitable manner. A  
600 nonconsumer may be ordered to pay the entire cost of an  
601 arbitration when continuing the arbitration proceeding would  
602 create a financial hardship due to a consumer's lack of  
603 financial resources.

604 (5) If an arbitrator awards punitive damages or other  
605 exemplary relief under subsection (1), the arbitrator shall  
606 specify in the award the basis in fact justifying and the basis  
607 in law authorizing the award and state separately the amount of  
608 the punitive damages or other exemplary relief.

609 Section 18. Section 682.12, Florida Statutes, is amended  
 610 to read:

611 682.12 Confirmation of an award.--After a party to an  
 612 arbitration proceeding receives notice of an award and upon  
 613 application of a party to the arbitration, the court shall  
 614 confirm an award, unless within the time limits hereinafter  
 615 imposed grounds are urged for vacating or modifying or  
 616 correcting the award, in which case the court shall proceed as  
 617 provided in ss. 682.13 and 682.14.

618 Section 19. Section 682.13, Florida Statutes, is amended  
 619 to read:

620 682.13 Vacating an award.--

621 (1) Upon application of a party, the court shall vacate an  
 622 award when:

623 (a) The award was procured by corruption, fraud, or other  
 624 undue means.

625 (b) There was evident partiality by an arbitrator  
 626 appointed as a neutral or corruption in any of the arbitrators  
 627 or umpire or misconduct prejudicing the rights of any party.

628 (c) The arbitrators or the umpire in the course of ~~her~~  
 629 his or her jurisdiction exceeded their powers. Partiality may be  
 630 demonstrated by the appearance of bias, provided that bias is  
 631 apparent based upon established facts. Such facts are not  
 632 limited to those facts disclosed by the arbitrator or arising  
 633 during the course of the arbitration. The mere nondisclosure of  
 634 facts that demonstrate potential arbitrator bias creates a  
 635 presumption of partiality.

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636 (d) The arbitrators or the umpire in the course of ~~her or~~  
637 his or her jurisdiction refused to postpone the hearing upon  
638 sufficient cause being shown therefor or refused to hear  
639 evidence material to the controversy or otherwise so conducted  
640 the hearing, contrary to the provisions of s. 682.06, as to  
641 prejudice substantially the rights of a party.

642 (e) There was no agreement or provision for arbitration  
643 subject to this law, unless the matter was determined in  
644 proceedings under s. 682.03 and unless the party participated in  
645 the arbitration hearing without raising the objection.

646 (f) The arbitration was conducted without proper notice of  
647 the initiation of any stage of arbitration as required pursuant  
648 to s. 682.043 so as to prejudice substantially the rights of a  
649 party to the arbitration proceeding.

650 (g) The arbitration award is inconsistent with applicable  
651 law.

652 (h) The arbitration award violates public policy.

653 (i) The arbitration award is arbitrary and capricious or  
654 lacks a rational basis.

655 (j) The arbitration award is not supported by substantial  
656 evidence on the record as a whole.

657  
658 But the fact that the relief was such that it could not or would  
659 not be granted by a court of law or equity is not ground for  
660 vacating or refusing to confirm the award.

661 (2) In addition to the grounds to vacate an award under  
662 subsection (1), the parties may contract in the arbitration  
663 agreement for judicial review of errors of law in the



664 arbitration award. If they have so contracted, the court shall  
 665 vacate the award if the arbitrator has committed an error of law  
 666 substantially prejudicing the rights of a party.

667 (3)~~(2)~~ An application under this section shall be made  
 668 within 90 days after delivery of a copy of the award to the  
 669 applicant, except that, if predicated upon corruption, fraud, or  
 670 other undue means, it shall be made within 90 days after such  
 671 grounds are known or should have been known. A court may extend  
 672 any time limitation in this subsection upon a showing of good  
 673 cause.

674 (4)~~(3)~~ In vacating the award on grounds other than those  
 675 stated in paragraph (1)(e), the court may order a rehearing  
 676 before new arbitrators chosen as provided in the agreement or  
 677 provision for arbitration or by the court in accordance with s.  
 678 682.04, or, if the award is vacated on grounds other than those  
 679 provided set forth in paragraphs (1) (a)~~(e)~~ and (e)~~(d)~~, the court  
 680 may order a rehearing before the arbitrators or umpire who made  
 681 the award or their successors appointed in accordance with s.  
 682 682.04. The time within which the agreement or provision for  
 683 arbitration requires the award to be made is applicable to the  
 684 rehearing and commences from the date of the order therefor.

685 (5)~~(4)~~ If the application to vacate is denied and no  
 686 motion to modify or correct the award is pending, the court  
 687 shall confirm the award.

688 Section 20. Section 682.14, Florida Statutes, is amended  
 689 to read:

690 682.14 Modification or correction of award.--

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691 (1) Upon application made within 90 days after delivery of  
 692 a copy of the award to the applicant, the court shall modify or  
 693 correct the award when:

694 (a) There is an evident miscalculation of figures or an  
 695 evident mistake in the description of any person, thing, or  
 696 property referred to in the award.

697 (b) The arbitrators or umpire have awarded upon a matter  
 698 not submitted to them or him or her and the award may be  
 699 corrected without affecting the merits of the decision upon the  
 700 issues submitted.

701 (c) The award is imperfect as a matter of form, not  
 702 affecting the merits of the controversy, including cases where  
 703 fees awarded exceed the amount that would be assessed in a  
 704 comparable civil claim in state court.

705 (2) If the application is granted, the court shall modify  
 706 and correct the award so as to effect its intent and shall  
 707 confirm the award as so modified and corrected. Otherwise, the  
 708 court shall confirm the award as made.

709 (3) An application to modify or correct an award may be  
 710 joined in the alternative with an application to vacate the  
 711 award.

712 (4) Irrespective of the time periods established under  
 713 this section and s. 682.13, a consumer may also seek to modify  
 714 or vacate an award issued pursuant to a consumer arbitration  
 715 agreement within 30 days after receiving notice of a motion to  
 716 confirm the award.

717 Section 21. Section 682.15, Florida Statutes, is amended  
 718 to read:

719           682.15 Judgment or decree on award.--Upon the granting of  
 720 an order confirming, vacating without directing a rehearing,  
 721 modifying, or correcting an award, judgment or decree shall be  
 722 entered in conformity therewith and be enforced as any other  
 723 judgment or decree. The judgment may be recorded, docketed, and  
 724 enforced as any other judgment in a civil action. Costs of the  
 725 application and of the proceedings subsequent thereto, and  
 726 disbursements may be awarded by the court.

727           Section 22. Section 682.20, Florida Statutes, is amended  
 728 to read:

729           682.20 Appeals.--

730           (1) An appeal may be taken from the arbitration to a court  
 731 with proper jurisdiction upon:

732           (a) An order denying or granting an application to compel  
 733 arbitration made under s. 682.03.

734           (b) An order granting an application to stay arbitration  
 735 made under s. 682.03(2)-(4).

736           (c) A decision regarding the impartiality or lack of  
 737 conflict on the part of the arbitrator.

738           (d) An evidentiary ruling, except as provided in paragraph  
 739 (2)(a), after final award or decision.

740           (2) The following rules may be reviewed by writ of  
 741 certiorari:

742           (a) A ruling concerning evidentiary privileges or  
 743 confidentiality rights of the parties.

744           (b) A grant of a protective order preventing the  
 745 disclosure of privileged information, confidential information,  
 746 or trade secrets under s. 682.08.

747 (3) An appeal may be taken from a circuit or county court  
 748 to a court of appeals on the basis of any decision made in  
 749 subsection (1) or subsection (2) and upon:

750 (a)~~(e)~~ An order confirming or denying confirmation of an  
 751 award;~~;~~

752 (b)~~(d)~~ An order modifying or correcting an award;~~;~~

753 (c)~~(e)~~ An order vacating an award without directing a  
 754 rehearing; or~~;~~

755 (d)~~(f)~~ A judgment or decree entered pursuant to the  
 756 provisions of this law.

757 (4)~~(2)~~ The appeal or petition for certiorari shall be  
 758 taken in the manner and to the same extent as from orders or  
 759 judgments in a civil action.

760 Section 23. Section 682.202, Florida Statutes, is created  
 761 to read:

762 682.202 Relationship to Electronic Signatures in Global  
 763 and National Commerce Act.--This chapter modifies, limits, and  
 764 supersedes the federal Electronic Signatures in Global and  
 765 National Commerce Act, 15 U.S.C. ss. 7001 et. seq., but does not  
 766 modify, limit, or supersede s. 101(c) of that act, or authorize  
 767 electronic delivery of any of the notices described in s. 103(b)  
 768 of that act.

769 Section 24. Section 682.203, Florida Statutes, is created  
 770 to read:

771 682.203 Regulation of arbitration service providers.--

772 (1) Any arbitration organization that administers or is  
 773 otherwise involved in 10 or more consumer arbitrations a year  
 774 shall collect, publish at least quarterly, and make available to

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775 the public in a computer searchable, sortable, and downloadable  
776 database that permits searching with multiple search terms in  
777 the same search all of the information in paragraphs (a)-(i)  
778 regarding each consumer arbitration within the preceding 5  
779 years. Such information shall be prominently displayed,  
780 accessible, and easily comprehensible to an ordinary user with  
781 ordinary knowledge of computer databases, at the Internet  
782 website of the private arbitration organization, and on paper  
783 upon request:

784 (a) The name of any corporation or other business entity  
785 that is party to the arbitration.

786 (b) The type and subject matter of the transaction that  
787 gave rise to the dispute involved, including, but not limited  
788 to, goods, banking, insurance, health care, debt collection,  
789 employment, and, if it involves employment, the amount of the  
790 employee's annual wage divided into the following ranges:

- 791 1. Less than \$100,000.  
792 2. From \$100,000 to \$250,000, inclusive.  
793 3. More than \$250,000.

794 (c) The name of the prevailing party.

795 (d) The number of occasions, if any, a corporation or  
796 business entity that is a party to an arbitration has previously  
797 been a party in an arbitration or mediation administered by the  
798 arbitration organization.

799 (e) Whether or not the consumer in each prior arbitration  
800 was represented by an attorney and, if so, the identifying  
801 information for that attorney, including the attorney's name,

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802 law firm affiliation, business telephone number, and the address  
803 of the attorney's law firm.

804 (f) The date the arbitration organization received the  
805 demand for arbitration, the date the arbitrator was appointed,  
806 and the date of disposition by the arbitrator or arbitration  
807 organization.

808 (g) The type of disposition of the dispute, if known,  
809 including withdrawal, abandonment, settlement, award after  
810 hearing, award without hearing, default, or dismissal without  
811 hearing.

812 (h) The amount of the claim, the amount of the award, and  
813 any other relief granted.

814 (i) The name of the arbitrator, his or her fee for the  
815 case, and the percentage of the arbitrator's fee allocated to  
816 each party.

817 (2) If the required information is provided by the  
818 arbitration organization in a computer-searchable format at the  
819 company's Internet website and may be downloaded without any  
820 fee, the company may charge the actual cost of copying to any  
821 person who requests the information on paper. If the information  
822 required is not accessible by the Internet, the company shall  
823 provide that information without charge to any person who  
824 requests the information on paper.

825 (3) All fees and costs charged to or assessed in the state  
826 against a consumer by an arbitration organization in a consumer  
827 arbitration shall be waived for any person having a gross  
828 monthly income that is less than 500 percent of the poverty line  
829 as defined in 42 U.S.C. s. 9902(2).

830       (4) Prior to requesting or obtaining any fee, an  
831 arbitration organization shall provide written notice of the  
832 right to obtain a waiver of fees in a manner calculated to bring  
833 the matter to the attention of a reasonable consumer, including,  
834 but not limited to, prominently placing a notice in its first  
835 written communication to a consumer and in any invoice, bill,  
836 submission form, fee schedule, rules, or code of procedure.

837       (5) Any person requesting a waiver of fees or costs may  
838 establish eligibility by making a declaration under oath on a  
839 form provided by the arbitration organization indicating the  
840 person's monthly income and the number of persons living in the  
841 household. No arbitration organization may require a consumer to  
842 provide any further statement or evidence of indigence. The form  
843 and the information contained therein shall be confidential and  
844 shall not be disclosed to any adverse party or any nonparty to  
845 the arbitration.

846       (6) An arbitration organization shall not keep  
847 confidential the number of waiver requests received or granted,  
848 or the total amount of fees waived, and must disclose all fees  
849 charged.

850       (7) An arbitrator or arbitration organization may not  
851 administer an arbitration under any agreement or rule requiring  
852 that a consumer who is a party to the arbitration pay the fees  
853 and costs incurred by any opposing party if the consumer does  
854 not prevail in the arbitration, including, but not limited to,  
855 the fees and costs of the arbitrator, provider organization,  
856 attorney, or witnesses.

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857 (8) An arbitration organization may not administer a  
858 consumer arbitration to be conducted in the state, or provide  
859 any other services related to such a consumer arbitration, if:

860 (a) The arbitration organization has, or within the  
861 preceding year has had, a financial interest in any party or  
862 attorney for a party involved in the arbitration; or

863 (b) Any party or attorney for a party in the arbitration  
864 has, or within the preceding year has had, any type of financial  
865 interest in the arbitration organization.

866 (9) Any affected person or entity, including the Office of  
867 the Attorney General, can request a court to enjoin an  
868 arbitration organization from violating the provisions of this  
869 section and order such restitution as appropriate. The  
870 arbitration organization shall be liable for that person's or  
871 entity's reasonable attorney's fees and costs when that person  
872 or entity prevails or when, after the action is commenced, the  
873 arbitration organization voluntarily complies with the section.

874 Section 25. Section 682.204, Florida Statutes, is created  
875 to read:

876 682.204 Disclosure of arbitration costs.--

877 (1) A party drafting an arbitration agreement shall  
878 clearly and conspicuously disclose in regard to any arbitration:

879 (a) The filing fee.

880 (b) The average daily cost for an arbitrator and hearing  
881 room if the consumer elects to appear in person.

882 (c) Other charges that the arbitrator or arbitration  
883 service provider will assess in conjunction with an arbitration  
884 when the consumer appears in person.



885       (d) The proportion of these costs which each party bears  
886 in the event that the consumer prevails and in the event that  
887 the consumer does not prevail.

888       (2) The costs specified in subsection (1) need not include  
889 attorney's fees and, to the extent that, with regard to the  
890 disclosures required by subsection (1), a precise amount is not  
891 known, the disclosures may be based on reasonable, good-faith  
892 estimate. A party providing a reasonable, good-faith cost  
893 estimate shall not be liable if the actual costs of a particular  
894 arbitration varies within reason from the estimate provided.

895       (3) Failure to comply with the provisions of this section  
896 constitutes a deceptive act pursuant to the Florida Deceptive  
897 and Unfair Trade Practices Act. Further, the information  
898 provided in the disclosure can be considered in a determination  
899 of whether an arbitration agreement is unconscionable or is  
900 otherwise not enforceable under other law.

901       (4) Any person or entity, including the Office of the  
902 Attorney General, can request a court to enjoin the drafting  
903 party from violating the provisions of this section as to  
904 agreements it enters into in the future. The drafting party  
905 shall be liable to the person or entity bringing such an action  
906 for that person or entity's reasonable attorney's fees and costs  
907 where the court issues an injunction or where, after the action  
908 is commenced, the drafting party voluntarily complies with the  
909 Florida Deceptive and Unfair Trade Practices Act.

910       Section 26. This act shall take effect July 1, 2008, and  
911 shall apply to agreements and provisions for arbitration made  
912 subsequent to the effect date of this act.