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CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RE	.	
4/1/2008	.	
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1 The Committee on Commerce (Justice) recommended the following  
 2 **amendment:**

**Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

7 Section 1. Section 682.501, Florida Statutes, is created to  
8 read:

9 682.501 Florida Consumer Arbitration Act.--Sections  
10 682.501-682.521 may be cited as the "Florida Consumer Arbitration  
11 Act."

12 Section 2. Section 682.502, Florida Statutes, is created to  
13 read:

14 682.502 Definitions.--As used in ss. 682.501-682.521, the  
15 term:

16 (1) "Arbitration organization" means an association,  
17 agency, board, commission, or other entity that is neutral and



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18 initiates, sponsors, or administers an arbitration proceeding or  
19 is involved in the appointment of an arbitrator.

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

23 (3) "Consumer" means a party to an arbitration agreement  
24 who, in the context of that arbitration agreement, is an not a  
25 business, but an individual who seeks or acquires, including by  
26 lease, any goods or services primarily for personal, family, or  
27 household purposes, including, but not limited to, transactions  
28 involving banking, credit cards, home loans, and other financial  
29 services, healthcare services, brokerage services, home  
30 construction and improvements, insurance, communications,  
31 purchases or leases of motor vehicles and other personal  
32 property, and purchases or leases of real property. This  
33 definition may not be construed to restrict the ability of  
34 consumers to pursue arbitration on a group basis or render this  
35 definition inapplicable to arbitrations involving multiple  
36 consumer parties.

37 (4) "Consumer arbitration agreement" means a standardized  
38 contract between a party who is a consumer and a party who is  
39 not a consumer, written by the party who is not a consumer,  
40 which includes a provision requiring that disputes arising after  
41 the contract is signed be submitted to binding arbitration.

42 (5) "Court" means any court of competent jurisdiction of  
43 this state. The making of an agreement or provision for  
44 arbitration subject to this act and providing for arbitration in  
45 this state shall, whether made within or outside this state,  
46 confer jurisdiction on the court to enforce the agreement or  
47 provision under this act, refuse to enforce the agreement, enter



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48 judgment on an award duly rendered in an arbitration thereunder,  
49 or vacate, modify, or correct an award rendered thereunder for  
50 such cause and in the manner provided in this act.

51 (6) "Evident partiality" means that a reasonable person  
52 would conclude that the arbitrator was partial to one party to  
53 the arbitration, or it may be reasonably inferred that the  
54 arbitrator would tend to favor one of the parties to a dispute.  
55 This definition does not require the party alleging such  
56 partiality to prove that the arbitrator was actually prejudiced.

57 (7) "Financial interest" means holding a position in a  
58 business as officer, director, trustee, or partner, holding any  
59 position in management, or owning more than 5 percent of the  
60 total interest in a business.

61 (8) "Knowledge" means actual knowledge.

62 (9) "Person" means an individual, corporation, business  
63 trust, estate, trust, partnership, public corporation, limited  
64 liability company, association, joint venture, or a government,  
65 governmental subdivision, agency, or instrumentality, or any  
66 other legal or commercial entity.

67 (10) "Record" means information inscribed on a tangible  
68 medium or stored in an electronic or other medium and  
69 retrievable in perceivable form.

70 Section 3. Section 682.503, Florida Statutes, is created to  
71 read:

72 682.503 Application in general.--

73 (1) Except as otherwise provided in ss. 682.501-682.521,  
74 the provisions of this act apply to consumer arbitration  
75 agreements. Notwithstanding any provision of ss. 682.01-682.022  
76 to the contrary, the provisions of ss. 682.01-682.022 do not  
77 apply to any arbitration agreement to which ss. 682.501-682.521



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78 apply.

79 (2) Every provision in an insurance policy requiring  
80 arbitration or restricting a party or beneficiary from enforcing  
81 any right under the policy by usual legal proceedings or  
82 limiting the time to do so is void and unenforceable.

83 (3) A provision for mandatory binding arbitration within  
84 any arbitration agreement is void and unenforceable except to  
85 the extent federal law provides for its enforceability.

86 Section 4. Section 682.504, Florida Statutes, is created to  
87 read:

88 682.504 Effect of agreement to arbitrate; nonwaivable  
89 provisions.--

90 (1) Except as otherwise provided in subsections (2) and  
91 (3), a party to an agreement to arbitrate or to an arbitration  
92 proceeding may waive, or the parties may vary the effect of, the  
93 requirements of ss. 682.501-682.521 to the extent permitted by  
94 law.

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

97 (a) Waive or agree to vary the effect of the requirements  
98 of s. 682.503, s. 682.506, , s. 682.508, s. 682.512(1) s.  
99 682.514, or s. 682.518; or

100 (b) Waive the right under s. 682.510 of a party to an  
101 agreement to arbitrate to be represented by a lawyer at any  
102 proceeding or hearing under ss. 682.501-682.521. However, an  
103 employer and a labor organization may waive the right to  
104 representation by a lawyer in a labor arbitration.

105 (3) A party to an agreement to arbitrate or an arbitration  
106 proceeding may not waive, or the parties may not vary the effect  
107 of, the requirements of this section, s. 682.503(1) or (3), s.

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108 682.505, s. 682.513, s. 682.516, , s. 682.515, , or s. 682.519,  
109 except that, if there exists an agreement to arbitrate disputes  
110 over insurance obligations by two or more people engaged in the  
111 business of insurance, including, but not limited to,  
112 reinsurers, self-insurers, or reinsurance intermediaries, or any  
113 combination thereof, the parties to the agreement may waive the  
114 right to vacate under s. 682.515.

115 (4) A party to an agreement to arbitrate or to an  
116 arbitration proceeding may not narrow the grounds for vacating  
117 an award set forth in s. 682.515, except in a subsequent  
118 agreement for consideration made after the controversy that is  
119 at issue in the arbitration has arisen.

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

125 Section 5. Section 682.505, Florida Statutes, is created to  
126 read:

127 682.505 Proceedings to compel and to stay arbitration.-- A  
128 party to an agreement or provision for arbitration which is  
129 subject to this act who claims the neglect or refusal of another  
130 party to comply, or who claims that the agreement or provision  
131 does not apply, may make application to the court for an order  
132 determining applicability of the agreement or provision to the  
133 case or controversy or the application of this act. The court  
134 shall summarily hear and determine the issue. If the court is  
135 satisfied that no substantial issue exists as to the making of  
136 the agreement or provision, that an arbitratable issue exists,  
137 that the arbitration agreement is not void as against public

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138 policy, or that the right to arbitration has not been waived, it  
139 shall grant the application.

140 Section 6. Section 682.506, Florida Statutes, is created to  
141 read:

142 682.506 Notice and initiation of arbitration.--

143 (1) A person gives notice to another party by delivering  
144 notice to the party's place of residence by certified or  
145 registered mail, return receipt requested and obtained, or by  
146 in-hand delivery, with notice of service of process.

147 (2) Unless initiated by a consumer, a person or entity  
148 initiates an arbitration proceeding by giving notice in a record  
149 to the other parties to the agreement to arbitrate by certified  
150 or registered mail, return receipt requested and obtained, or by  
151 service as authorized for the commencement of a civil action.  
152 The notice must describe the nature of the controversy and the  
153 remedy sought.

154 Section 7. Section 682.507, Florida Statutes, is created to  
155 read:

156 682.507 Appointment of arbitrators by court.--

157 (1) The parties shall select the arbitrator or arbitrators  
158 after the arbitration has been initiated. If the parties are  
159 unable to come to an agreement, the court shall appoint one or  
160 more arbitrators or an umpire deemed by both parties to be  
161 acceptable.

162 (2) An individual may not serve as an arbitrator if the  
163 individual has, at the time of arbitration or at some time in  
164 the past, a direct and material interest in the outcome of the  
165 arbitration proceeding, an existing relationship with a party,  
166 or any other interest more than a de minimis interest which  
167 could be affected by the proceeding.



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168       (3) An individual may not serve as an arbitrator if the  
169 arbitration service through which the individual has been  
170 contracted has an interest, direct or indirect, including a  
171 financial interest in the outcome of the arbitration.

172       Section 8. Section 682.508, Florida Statutes, is created to  
173 read:

174       682.508 Disclosure by arbitrator.--

175       (1) Before accepting appointment, an individual or  
176 arbitration organization who is requested to serve as an  
177 arbitrator shall disclose to all parties to the agreement to  
178 arbitrate, the arbitration proceeding, and to any other  
179 arbitrators involved in the proceedings any facts that might  
180 affect, or appear to affect, the impartiality of the arbitrator  
181 in the arbitration proceeding, including:

182       (a) Any personal or financial interest in the outcome of  
183 the arbitration proceeding.

184       (b) Any existing or past relationship with any of the  
185 parties to the agreement to arbitrate or the arbitration  
186 proceeding, their counsel or representatives, a witness, or  
187 other arbitrators, including the number of past arbitrations  
188 conducted involving either party, the outcomes of those past  
189 arbitrations, and the dates of decision.

190       (2) The parties must be informed that information  
191 concerning the arbitration service provider's past cases is  
192 available in a hard copy or on the provider's website.

193       (3) An arbitrator has a continuing obligation to disclose  
194 to all parties to the agreement to arbitrate and the arbitration  
195 proceeding and to any other arbitrators involved in the  
196 proceeding any facts that the arbitrator learns after accepting  
197 appointment which might affect, or appear to affect, the



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198 impartiality of the arbitrator, including, but not limited to,  
199 the information or facts required to be disclosed under  
200 subsection (1).

201 (4) If an arbitrator fails to comply with subsection (1)  
202 or subsection (3), or if an arbitrator reveals facts that could  
203 affect the impartiality of the arbitrator, the party may make a  
204 motion to the court for an expedited order to remove the  
205 arbitrator and appoint a successor.

206 (5) If circumstances do not exist which would affect the  
207 impartiality of any designated arbitrator, such arbitrator shall  
208 sign an oath provided by the court affirming the absence of such  
209 present or preexisting ties.

210 Section 9. Section 682.509, Florida Statutes, is created to  
211 read:

212 682.509 Majority action by arbitrators.--The powers of the  
213 arbitrators shall be exercised by a majority of their number, but  
214 all of them shall conduct the hearing under s. 682.510 and  
215 682.511.

216 Section 10. Section 682.510, Florida Statutes, is created  
217 to read:

218 682.510 Arbitration process.--

219 (1) An arbitrator must conduct an arbitration in a manner  
220 that is fundamentally fair. "Fundamental fairness" includes  
221 notice, an opportunity to be heard, an opportunity to present  
222 relevant and material evidence, an opportunity for argument  
223 before the decisionmakers, and an unbiased decisionmaker. A  
224 party has the right to be represented by an attorney at any  
225 arbitration proceeding or hearing subject to this act. A waiver  
226 made before the proceeding or hearing has no effect. Any  
227 consumer who is a party to an arbitration agreement must be





228 provided with information concerning institutions which might  
229 offer assistance in an arbitration proceeding, such as bar  
230 associations, legal service associations, civil rights  
231 organizations, and trade unions.

232 (2) After the court has made determinations under s.  
233 682.505, the authority conferred upon the arbitrator includes  
234 the power to hold conferences with the parties to the  
235 arbitration proceeding before the hearing and, among other  
236 matters, determine the admissibility, relevance, materiality,  
237 and weight of any evidence. The scope of discovery and the  
238 procedure for any hearings and trials shall be governed by Rule  
239 7.020, Florida Small Claims Rules. The parties to an arbitration  
240 proceeding may, after the arbitration has been instituted,  
241 stipulate in writing to apply arbitration, discovery, or  
242 evidentiary rules that vary from this part.

243 (3) Unless after a dispute arises both parties settle the  
244 dispute or in cases of extreme hardship, both parties or their  
245 attorneys must be physically present at all hearings and  
246 conferences with the arbitrator.

247 Section 11. Section 682.511, Florida Statutes, is created  
248 to read:

249 682.511 Hearing.--:

250 (1)(a) The arbitrator shall give notice as to the a time  
251 and place for the hearing not less than 30 days before the date  
252 of the initial hearing, and not less than 10 days before the  
253 date of any subsequent hearings. Notice shall include a  
254 statement that a party is entitled to representation. Appearance  
255 at the hearing does not waive a party's right to object to the  
256 proceeding on the basis of insufficient notice or lack of  
257 notice. The hearing shall be conducted by all of the arbitrators



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258 and an umpire, if applicable. If, during the course of the  
259 hearing, an arbitrator ceases to act for any reason, a  
260 replacement arbitrator must be appointed in accordance with s.  
261 682.507 for the purpose of continuing the proceeding and  
262 resolving the controversy. The arbitrators may adjourn the  
263 hearing from time to time upon their own motion and shall do so  
264 upon the request of any party to the arbitration for good cause  
265 shown. An umpire authorized to hear and decide the cause upon  
266 failure of the arbitrators to agree upon an award shall, in the  
267 course of his or her jurisdiction, have like powers and be  
268 subject to like limitations thereon.

269 (2) The parties are entitled to be heard, present evidence  
270 material to the controversy, and cross-examine witnesses  
271 appearing at the hearing, unless otherwise stipulated by the  
272 parties after the cause of action has arisen and the arbitration  
273 proceeding has been instituted.

274 Section 12. Section 682.512, Florida Statutes, is created  
275 to read:

276 682.512 Witnesses, subpoenas, depositions, discovery.--

277 (1) An arbitrator, or an umpire authorized to hear and  
278 decide the cause upon failure of the arbitrators to agree upon  
279 an award, in the course of his or her jurisdiction, may issue  
280 subpoenas for the attendance of witnesses and for the production  
281 of books, records, documents, and other evidence, and shall have  
282 the power to administer oaths. Subpoenas so issued shall be  
283 served and, upon application to the court by a party to the  
284 arbitration, the arbitrators, or the umpire, enforced in the  
285 manner provided by law for the service and enforcement of  
286 subpoenas in a civil action. The issuance of a subpoena must be  
287 included in the record of the arbitration.



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288       (2) The arbitrator may order a party to the arbitration  
289 proceeding to comply with the arbitrator's discovery-related  
290 orders, issue subpoenas for the attendance of a witness and for  
291 the production of records and other evidence at a discovery  
292 proceeding, and take action against a noncomplying party to the  
293 extent a court could if the controversy were the subject of a  
294 civil action in this state.

295       (3) An arbitrator may issue a protective order to prevent  
296 the disclosure of privileged information, confidential  
297 information, and trade secrets only under circumstances in which  
298 a court could issue a protective order, and only if the  
299 arbitrator makes a finding on the record that any public  
300 interest in disclosure of information relevant to the protection  
301 of public health and physical or economic safety is outweighed  
302 by a specific and substantial harm that would result from  
303 disclosure.

304       (4) All provisions of law compelling a person under  
305 subpoena to testify apply.

306       (5) All witnesses must be under oath during testimony,  
307 including testimony given during a deposition.

308       (6) Fees for attendance as a witness shall be the same as  
309 for a witness in the circuit court.

310       (7) All materials produced, generated, considered, or in  
311 any way referenced as part of an arbitration proceeding shall be  
312 maintained by the arbitration company and accessible by any  
313 consumer seeking information as to the arbitration company for 10  
314 years after the arbitration proceeding has been fully and finally  
315 concluded, including the expiration of all appeals, if any.

316       Section 13. Section 682.513, Florida Statutes, is created  
317 to read:



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318 682.513 Award, Opinion, and Judgment.--

319 (1) An arbitrator or umpires award or opinion shall be in  
320 writing and contain a summary and findings of the issues raised  
321 and the damages awarded, if any. The award or opinion shall be  
322 issued within a reasonable time after the final hearing but not  
323 more than 60 days after the date of the final hearing, unless an  
324 extension is granted by the court upon a demonstration of good  
325 cause. The parties may, by written agreement, extend the  
326 deadline. The award shall be signed by the arbitrators joining  
327 in the award or by the umpire in the course of his or her  
328 jurisdiction. A copy of the award shall be delivered to each  
329 party to the arbitration personally or by registered or  
330 certified mail.

331 (2) The written award or opinion, and the agreement or  
332 provision for arbitration, shall be entered into the court record  
333 by filing with the clerk of the court having jurisdiction over  
334 the arbitration at such time as entry of judgment is sought. If a  
335 court file has not been previously opened, the party seeking  
336 entry of judgment shall pay the applicable filing fee and file  
337 the documents specified in this section before a judgment is  
338 entered.

339 (3) After a party to an arbitration proceeding receives  
340 notice of the filing of the arbitration opinion as required by  
341 subsection (2), the court shall confirm the opinion or award  
342 unless the court modifies or vacates an award as provided in ss.  
343 682.515 or 682.516.

344 (4) Upon the granting of an order directing a rehearing or  
345 confirming, vacating, modifying, or correcting an award, the  
346 judgment or decree shall be entered in conformity therewith and  
347 be enforced as any other judgment or decree.



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348       (5) The judgment shall be recorded, docketed, and enforced  
349 as any other judgment in a civil action.

350       Section 14. Section 682.514, Florida Statutes, is created  
351 to read:

352       682.514 Remedies; fees and expenses of arbitration.--

353       (1) An arbitrator may award any relief or damages allowed  
354 by law and otherwise awardable under the legal standards that  
355 would apply to the same claim if brought in a court of law.

356       (2) Unless otherwise agreed by the parties to the  
357 arbitration after the dispute has arisen and the arbitration  
358 proceeding instituted, the circuit court shall establish the  
359 amount of compensation, if any, that each arbitrator or umpire  
360 shall receive for services rendered in each case. Such expenses  
361 and fees, together with other expenses incurred in the conduct  
362 of the arbitration, shall be reasonable and paid as provided in  
363 the award.

364       (3) An arbitrator shall award reasonable attorney's fees  
365 and other reasonable expenses of arbitration to the extent  
366 authorized by law in a civil action involving the same claim.

367       (4) Upon a showing by the consumer, evidenced by an  
368 affidavit including a statement of financial resources possessed  
369 by the consumer, that the consumer is unable to pay the costs of  
370 arbitration, the court may order such costs to be shared between  
371 the two parties in an equitable manner. A nonconsumer may be  
372 ordered to pay the entire cost of an arbitration if continuing  
373 the arbitration proceeding would create a financial hardship due  
374 to a consumer's lack of financial resources. This subsection  
375 does not apply to any voluntary arbitration proceeding begun by  
376 joint stipulation of the parties after a lawsuit has been  
377 instituted or conducted pursuant to s. 44.104.



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378 Section 15. Section 682.515, Florida Statutes, is created  
379 to read:

380 682.515 Vacating an award.--

381 (1) Upon application of a party, the court shall vacate an  
382 award if:

383 (a) The award was procured by corruption, fraud, or other  
384 undue or unjust means.

385 (b) There exists evident partiality by an arbitrator or  
386 umpire, corruption in or by any of the arbitrators or umpire, or  
387 misconduct prejudicing the rights of any party. Partiality may  
388 be demonstrated by the appearance of bias if bias is apparent  
389 based upon established facts, or by facts disclosed pursuant to  
390 s. 682.508. Such facts are not limited to those facts disclosed  
391 by the arbitrator or arising during the course of the  
392 arbitration. The mere nondisclosure of facts that demonstrate  
393 potential arbitrator bias creates a presumption of partiality.

394 (c) The arbitrator or umpire, in the course of his or her  
395 jurisdiction, exceeded his or her powers.

396 (d) The arbitrator or umpire in the course of his or her  
397 jurisdiction refused to postpone the hearing upon sufficient  
398 cause shown for such postponement, refused to hear evidence  
399 material to the controversy, or otherwise so conducted the  
400 hearing contrary to the provisions of this act.

401 (e) No agreement or provision for arbitration subject to  
402 this act exists.

403 (f) The arbitration was conducted without proper notice of  
404 the initiation of any stage of arbitration as required by this  
405 act.

406 (g) The arbitration award is inconsistent with applicable  
407 law, violates public policy, is arbitrary or capricious or lacks



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408 a rational basis, or is not supported by substantial evidence as  
409 reflected in the record.

410 (2) An application under this section shall be made within  
411 90 days after date of delivery of a copy of the award to the  
412 applicant, except that, if predicated upon corruption, fraud, or  
413 other undue means, it shall be made within 90 days after such  
414 grounds become known or should have become known. A court may  
415 extend any time limitation in this subsection upon a showing of  
416 good cause.

417 (3) In vacating the award on grounds other than those  
418 stated in paragraph (1) (e), the court may order a rehearing  
419 before new arbitrators chosen as provided in the agreement or  
420 provision for arbitration or by the court in accordance with s.  
421 682.507, or, if the award is vacated on grounds other than those  
422 provided in paragraph (1) (a) or paragraph (1) (e), the court may  
423 order a rehearing before the arbitrator or umpire issuing the  
424 award or his or her successors appointed in accordance with s.  
425 682.507.

426 Section 16. Section 682.516, Florida Statutes, is created  
427 to read:

428 682.516 Modification or correction of award.--

429 (1) Upon application made within 90 days after the date of  
430 delivery of a copy of the award to the applicant, the court  
431 shall modify or correct the award if:

432 (a) There is an evident miscalculation of figures or an  
433 evident mistake in the description of any person, thing, or  
434 property referenced in the award.

435 (b) The arbitrator or umpire has made an award upon a  
436 matter not submitted to him or her, and the award may be  
437 corrected without affecting the merits of the decision upon the



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438 issues actually submitted.

439 (c) The award is imperfect as a matter of form, not  
440 affecting the merits of the controversy.

441 (2) If the application is granted, the court shall modify  
442 and correct the award so as to effect its intent and shall  
443 confirm the award as modified and corrected. Otherwise, the  
444 court shall confirm the award as made.

445 (3) An application to modify or correct an award may be  
446 joined in the alternative with an application to vacate the  
447 award.

448 (4) The filing of a motion to modify or correct an award  
449 shall toll the time for taking any other action under this act  
450 as to the award or opinion.

451 Section 17. Section 682.517, Florida Statutes, is created  
452 to read:

453 682.517 Venue.--Any application under this act may be made  
454 to the court of the county in which the other party to the  
455 agreement or provision for arbitration resides or has a place of  
456 business, or, if she or he has no residence or place of business  
457 in this state, to the court of any county. All applications under  
458 this act subsequent to an initial application shall be made to  
459 the court hearing the initial application unless the court orders  
460 otherwise.

461 Section 18. Section 682.518, Florida Statutes, is created  
462 to read:

463 682.518 Appeals.--

464 (1) A final appeal, or an interlocutory appeal if  
465 appropriate, may be taken from a circuit or county court to the  
466 appropriate court of appeals as a result of:

467 (a) An order denying or granting an application to compel





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468 arbitration made under s. 682.505, pursuant to Rule 9.130,  
469 Florida Rules of Appellate Procedure;

470 (b) An order denying or granting an application to stay  
471 arbitration made under s. 682.505 pursuant to Rule 9.130,  
472 Florida Rules of Appellate Procedure;

473 (c) A decision regarding the impartiality or lack of  
474 conflict on the part of the arbitrator;

475 (d) An evidentiary ruling, except as provided in paragraph  
476 (2) (a), after final award or decision;

477 (e) An order confirming or denying confirmation of an  
478 award;

479 (f) An order modifying or correcting an award;

480 (g) An order on a motion to vacate an award; or

481 (h) A judgment or decree entered pursuant to ss. 682.501-  
482 682.521.

483 (2) The following may be reviewed by writ of certiorari:

484 (a) A ruling concerning evidentiary privileges or  
485 confidentiality rights of the parties; or

486 (b) The granting of a protective order preventing the  
487 disclosure of privileged information, confidential information,  
488 or trade secrets under s. 682.512.

489 (3) The appeal or petition for certiorari shall be taken  
490 in the manner and to the same extent as from orders or judgments  
491 in a civil action.

492 Section 19. Section 682.519, Florida Statutes, is created  
493 to read:

494 682.519 Relationship to Electronic Signatures in Global and  
495 National Commerce Act.--Sections 682.501-682.521 modify, limit,  
496 and supersede the federal Electronic Signatures in Global and  
497 National Commerce Act, 15 U.S.C. s. 7001, et. seq., but do not



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498 modify, limit, or supersede s. 101(c) of that act or authorize  
499 electronic delivery of any of the notices described in s. 103(b)  
500 of that act.

501 Section 20. Section 682.520, Florida Statutes, is created  
502 to read:

503 682.520 Regulation of arbitration service providers.--

504 (1) Any arbitration organization that administers or is  
505 otherwise involved in 10 or more consumer arbitrations per year  
506 shall collect, publish at least quarterly, and make available to  
507 the public in a searchable, sortable, and downloadable computer  
508 database which permits searches using multiple search terms in  
509 the same search, all of the information in paragraphs (a)-(i)  
510 regarding each consumer arbitration occurring within the  
511 immediately preceding 5 years. Such information shall be  
512 prominently displayed, accessible, and easily comprehensible to  
513 an ordinary user who has ordinary knowledge of computer  
514 databases, at the Internet website of the arbitration  
515 organization, and on paper upon request:

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

518 (b) The type and subject matter of the transaction giving  
519 rise to the dispute involved, including, but not limited to,  
520 goods, banking, insurance, health care, debt collection,  
521 employment, and, if the dispute involves employment, the amount  
522 of the employee's annual wage divided into the following ranges:

523 1. Less than \$100,000.

524 2. From \$100,000 to \$250,000, inclusive.

525 3. More than \$250,000.

526 (c) The name of the prevailing party.

527 (d) The number of occasions, if any, that a corporation or



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528 business entity that is a party to an arbitration has previously  
529 been a party in an arbitration or mediation administered by the  
530 arbitration organization.

531 (e) Whether or not the consumer in each prior arbitration  
532 was represented by an attorney and, if so, the identifying  
533 information for that attorney, including the attorney's name,  
534 law firm affiliation, business telephone number, and the address  
535 of the attorney's law firm.

536 (f) The date the arbitration organization received the  
537 demand for arbitration, the date the arbitrator was appointed,  
538 and the date of disposition by the arbitrator or arbitration  
539 organization.

540 (g) The type of disposition of the dispute, if known,  
541 including withdrawal, abandonment, settlement, award after  
542 hearing, award without hearing, default, or dismissal without  
543 hearing.

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

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

549 (2) For information provided by the arbitration  
550 organization in a computer-searchable format at the company's  
551 Internet website and which may be downloaded without any fee,  
552 the company may charge the actual cost of copying to any person  
553 requesting the information on paper.

554 (3) All fees and costs charged to or assessed in the state  
555 against a consumer by an arbitration organization in a consumer  
556 arbitration shall be waived for any person having a gross  
557 monthly income that is less than 500 percent of the poverty line



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558 as defined in 42 U.S.C. s. 9902(2).

559 (4) Before requesting or obtaining any fee, an arbitration  
560 organization shall provide written notice of the right to obtain  
561 a waiver of fees in a manner calculated to bring the matter to  
562 the attention of a reasonable consumer, including, but not  
563 limited to, prominently placing a notice in its first written  
564 communication to a consumer and in any invoice, bill, submission  
565 form, fee schedule, rules, or code of procedure.

566 (5) Any person requesting a waiver of fees or costs may  
567 establish eligibility by making a declaration under oath on a  
568 form provided by the arbitration organization indicating the  
569 person's monthly income and the number of persons living in the  
570 household. An arbitration organization may not require a  
571 consumer to provide any further statement or evidence of  
572 indigence. The form and the information contained therein is  
573 confidential and may not be disclosed to any adverse party or  
574 any nonparty to the arbitration.

575 (6) An arbitration organization may not keep confidential  
576 the number of waiver requests received or granted, or the total  
577 amount of fees waived, and must disclose all fees charged.

578 (7) An arbitrator or arbitration organization may not  
579 administer an arbitration under any agreement or rule requiring  
580 that a consumer who is a party to the arbitration pay the fees  
581 and costs incurred by any opposing party if the consumer does  
582 not prevail in the arbitration, including, but not limited to,  
583 the fees and costs of the arbitrator, provider organization,  
584 attorney, or witnesses.

585 (8) An arbitration organization may not administer a  
586 consumer arbitration involving any consumer who resides in this  
587 state, or provide any other services related to such a consumer



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588 arbitration, if:

589 (a) The arbitration organization has, or within the  
590 preceding year has had, a financial interest in any party or  
591 attorney for a party involved in the arbitration; or

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

595 (9) Any affected person or entity, including the Office of  
596 the Attorney General, may request a court to enjoin an  
597 arbitration organization from violating the provisions of this  
598 section and order such restitution as appropriate. The  
599 arbitration organization is liable for such person's or entity's  
600 reasonable attorney's fees and costs if the person or entity  
601 prevails.

602 Section 21. Section 682.521, Florida Statutes, is created  
603 to read:

604 682.521 Disclosure of arbitration costs.--

605 (1) A party drafting an arbitration agreement shall  
606 clearly and conspicuously disclose in the arbitration agreement  
607 the following:

608 (a) The filing fee.

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

611 (c) Other charges that the arbitrator or arbitration  
612 service provider will assess in conjunction with an arbitration  
613 when the consumer appears in person.

614 (d) The proportion of these costs which each party bears  
615 if the consumer prevails or if the consumer does not prevail.

616 (2) Failure to provide disclosures pursuant to subsection  
617 (1) constitutes a deceptive act pursuant to the Florida



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618 Deceptive and Unfair Trade Practices Act. Further, the  
 619 information provided in the disclosure may be considered in a  
 620 determination of whether an arbitration agreement is  
 621 unconscionable or is otherwise not enforceable under applicable  
 622 law.

623 (3) Any person or entity, including the Office of the  
 624 Attorney General, may request a court to enjoin the drafting  
 625 party from violating the provisions of this section as to  
 626 agreements into which it enters in the future. The drafting party  
 627 is liable to the person or entity bringing such an action for  
 628 that person or entity's reasonable attorney's fees and costs if  
 629 the court issues an injunction or if, after the action is  
 630 commenced, the drafting party voluntarily complies with the  
 631 Florida Deceptive and Unfair Trade Practices Act.

632 Section 22. This act shall take effect July 1, 2008.

634 ===== T I T L E A M E N D M E N T =====

635 And the title is amended as follows:

636 Delete everything before the enacting clause  
 637 and insert:

638 A bill to be entitled  
 639 An act relating to arbitration; creating s. 682.501, F.S.;  
 640 providing a short title; creating s. 682.502, F.S.;  
 641 providing definitions; creating s. 682.503, F.S.;  
 642 providing for applicability of the act; providing that the  
 643 Florida Consumer Arbitration Act does not apply to certain  
 644 insurance policies; providing that mandatory binding  
 645 arbitration is void and unenforceable except as otherwise  
 646 provided by federal law; creating s. 682.504, F.S.;

647 providing for the effect of an arbitration agreement;



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648 prohibiting the waiver of certain rights and requirements;  
649 providing an exception to provisions prohibiting the  
650 waiver of certain rights; providing that certain actions  
651 constitute a waiver of the right to arbitrate; creating s.  
652 682.505, F.S.; authorizing parties to agree to arbitration  
653 of any controversy; providing for application to written  
654 interlocal agreements; providing that the act does not  
655 apply to certain agreements; creating s. 682.506, F.S.;  
656 authorizing a party to comply with arbitration; providing  
657 for a stay in arbitration proceedings; providing an order  
658 of arbitration may not be refused under certain  
659 circumstances; creating s. 682.507, F.S.; specifying  
660 actions constituting notice; creating s. 682.508, F.S.;  
661 providing procedures for initiating arbitration; creating  
662 s. 682.509, F.S.; requiring that the court appoint  
663 arbitrators if the parties do not agree on the selection  
664 thereof; prohibiting certain persons from serving as an  
665 arbitrator; creating s. 682.511, F.S.; requiring that an  
666 arbitrator disclose any facts which may affect the  
667 impartiality of the proceeding; providing grounds for  
668 removal of an arbitrator; authorizing the court to order  
669 the removal of the arbitrator and appoint a successor;  
670 providing that failure to disclose an interest in the  
671 outcome of a proceeding or to disclose a relationship with  
672 a party constitutes evidence of partiality; creating s.  
673 682.512, F.S.; providing for the consolidation of separate  
674 arbitration proceedings; authorizing the court to  
675 consolidate certain claims and allow certain other claims  
676 to be resolved separately; creating s. 682.513, F.S.;  
677 providing that the powers of arbitrators is exercised by



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678 | the majority of their number; creating s. 682.514, F.S.;

679 | providing procedures for an arbitration proceeding;

680 | requiring that all parties be physically present;

681 | providing exceptions; providing for a summary disposition

682 | of a claim or particular issue under certain

683 | circumstances; creating s. 682.515, F.S.; providing

684 | requirements for conducting an arbitration hearing;

685 | creating s. 682.516, F.S.; providing that a party has a

686 | right to be represented by an attorney at an arbitration

687 | proceeding; requiring that the parties receive information

688 | concerning available assistance; creating s. 682.517,

689 | F.S.; authorizing an arbitrator to issue subpoenas for the

690 | attendance of witnesses and production of documents and to

691 | permit depositions; requiring that a subpoena be included

692 | in the record of the arbitration; providing for

693 | dispositions to be conducted under the Florida Rules of

694 | Civil Procedure; providing for additional discovery, the

695 | issuance of subpoenas, and other orders; authorizing an

696 | arbitrator to issue a protective order under limited

697 | circumstances; providing for enforcement of a subpoena or

698 | order by a court; requiring that witnesses testify under

699 | oath; providing for witness fees; requiring the

700 | arbitration company to maintain all materials pertaining

701 | to an arbitration proceeding for a specified period;

702 | creating s. 682.518, F.S.; providing for judicial

703 | enforcement of a pre-award ruling; creating s. 682.519,

704 | F.S.; providing certain requirements for issuing an

705 | arbitration award; requiring that the award contain

706 | findings and damages, or other relief; requiring that the

707 | award and written opinion be entered into the court of



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708 record; creating s. 682.520, F.S.; authorizing the  
709 arbitrators or umpire to modify or correct an arbitration  
710 award; creating s. 682.521, F.S.; authorizing an  
711 arbitrator to award punitive damages; requiring the  
712 circuit court to establish the amount of compensation for  
713 arbitrators and umpires; specifying limitations on  
714 expenses and fees; authorizing an arbitrator to award  
715 attorney's fees and other expenses of arbitration;  
716 authorizing the court to order that the costs of  
717 arbitration be shared among the parties; requiring an  
718 arbitrator to specify the basis in fact and in law  
719 authorizing an award for punitive damages; creating s.  
720 682.522, F.S.; requiring the court to confirm an award;  
721 creating s. 682.523, F.S.; providing circumstances under  
722 which a court may vacate an award; authorizing the parties  
723 to an arbitration to contract for judicial review of  
724 errors of law in the award; providing processes by which a  
725 court may vacate an award; authorizing the court to  
726 conduct a rehearing for the vacating of an award under  
727 certain circumstances; creating s. 682.524, F.S.;  
728 authorizing the court to modify or correct an award;  
729 requiring that a consumer seek to modify or vacate an  
730 award issued under a consumer arbitration agreement within  
731 a specified period; creating s. 682.525, F.S.; providing  
732 for the recording and enforcement of an award; creating s.  
733 682.526, F.S.; providing requirements for the court clerk  
734 to follow when preparing the judgment roll; creating s.  
735 682.527, F.S.; providing requirements for an application  
736 to the court with regard to arbitration; creating s.  
737 682.528, F.S.; defining the term "court"; providing for



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738 jurisdiction; creating s. 682.529, F.S.; providing for  
739 venue; creating s. 682.530, F.S.; providing for an appeal  
740 from an arbitration; specifying rules which may be  
741 reviewed by writ of certiorari; providing additional  
742 circumstances under which an arbitration decision may be  
743 appealed; creating s. 682.531, F.S.; specifying that the  
744 act modifies, limits, and supersedes certain provisions of  
745 federal law; creating s. 682.532, F.S.; requiring that  
746 certain arbitration organizations make information  
747 available to the public concerning the type and number of  
748 disputes it handles; requiring that such information be  
749 provided free of charge; requiring that an arbitration  
750 organization waive the fees for low-income persons  
751 involved in a consumer arbitration; requiring that an  
752 arbitration organization provide notice of the right to  
753 such waiver; requiring a declaration of oath of indigency;  
754 prohibiting an arbitration organization from keeping  
755 confidential the number of waiver requests received or  
756 granted or the total amount of fees waived; requiring the  
757 arbitration organization to disclose all fees charged;  
758 prohibiting an arbitrator or arbitration organization from  
759 requiring a consumer to pay the fees and costs incurred by  
760 an opposing party; providing that an arbitration  
761 organization may not administer a consumer arbitration  
762 under certain circumstances; authorizing a person or  
763 entity to request that a court enjoin an arbitration  
764 organization from violating provisions of the act, and to  
765 request that a court order restitution; providing that the  
766 arbitration organization is liable for such person's or  
767 entity's reasonable attorney's fees and costs under



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768 | certain circumstances; creating s. 682.533, F.S.;

769 | requiring that a party drafting an arbitration agreement

770 | disclose filing fees and costs; providing that failure to

771 | make such disclosures constitutes a deceptive and unfair

772 | trade practice; providing for the enforcement of such

773 | provision by injunction; providing for applicability of

774 | the act; providing an effective date.