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CHAMBER ACTION

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

3
 4 **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 (4) This chapter does not apply to any arbitrator or any
87 arbitration organization in an arbitration proceeding governed by
88 rules adopted by a securities self-regulatory organization and
89 approved by the United States Securities and Exchange Commission
90 under the Securities and Exchange Act of 1934, 15 U.S.C. s. 78s.

91 Section 4. Section 682.504, Florida Statutes, is created to
92 read:

93 682.504 Effect of agreement to arbitrate; nonwaivable
94 provisions.--

95 (1) Except as otherwise provided in subsections (2) and
96 (3), a party to an agreement to arbitrate or to an arbitration
97 proceeding may waive, or the parties may vary the effect of, the
98 requirements of ss. 682.501-682.521 to the extent permitted by
99 law.

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

102 (a) Waive or agree to vary the effect of the requirements
103 of s. 682.503, s. 682.506, , s. 682.508, s. 682.512(1) s.
104 682.514, or s. 682.518; or

105 (b) Waive the right under s. 682.510 of a party to an
106 agreement to arbitrate to be represented by a lawyer at any
107 proceeding or hearing under ss. 682.501-682.521. However, an



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108 employer and a labor organization may waive the right to
109 representation by a lawyer in a labor arbitration.

110 (3) A party to an agreement to arbitrate or an arbitration
111 proceeding may not waive, or the parties may not vary the effect
112 of, the requirements of this section, s. 682.503(1) or (3), s.
113 682.505, s. 682.513, s. 682.516, , s. 682.515, , or s. 682.519,
114 except that, if there exists an agreement to arbitrate disputes
115 over insurance obligations by two or more people engaged in the
116 business of insurance, including, but not limited to,
117 reinsurers, self-insurers, or reinsurance intermediaries, or any
118 combination thereof, the parties to the agreement may waive the
119 right to vacate under s. 682.515.

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

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

130 Section 5. Section 682.505, Florida Statutes, is created to
131 read:

132 682.505 Proceedings to compel and to stay arbitration.-- A
133 party to an agreement or provision for arbitration which is
134 subject to this act who claims the neglect or refusal of another
135 party to comply, or who claims that the agreement or provision
136 does not apply, may make application to the court for an order
137 determining applicability of the agreement or provision to the



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138 case or controversy or the application of this act. The court
139 shall summarily hear and determine the issue. If the court is
140 satisfied that no substantial issue exists as to the making of
141 the agreement or provision, that an arbitratable issue exists,
142 that the arbitration agreement is not void as against public
143 policy, or that the right to arbitration has not been waived, it
144 shall grant the application.

145 Section 6. Section 682.506, Florida Statutes, is created to
146 read:

147 682.506 Notice and initiation of arbitration.--

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

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

159 Section 7. Section 682.507, Florida Statutes, is created to
160 read:

161 682.507 Appointment of arbitrators by court.--

162 (1) The parties shall select the arbitrator or arbitrators
163 after the arbitration has been initiated. If the parties are
164 unable to come to an agreement, the court shall appoint one or
165 more arbitrators or an umpire deemed by both parties to be
166 acceptable.

167 (2) An individual may not serve as an arbitrator if the



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168 individual has, at the time of arbitration or at some time in
169 the past, a direct and material interest in the outcome of the
170 arbitration proceeding, an existing relationship with a party,
171 or any other interest more than a de minimis interest which
172 could be affected by the proceeding.

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

177 Section 8. Section 682.508, Florida Statutes, is created to
178 read:

179 682.508 Disclosure by arbitrator.--

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

187 (a) Any personal or financial interest in the outcome of
188 the arbitration proceeding.

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

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



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198 (3) An arbitrator has a continuing obligation to disclose
199 to all parties to the agreement to arbitrate and the arbitration
200 proceeding and to any other arbitrators involved in the
201 proceeding any facts that the arbitrator learns after accepting
202 appointment which might affect, or appear to affect, the
203 impartiality of the arbitrator, including, but not limited to,
204 the information or facts required to be disclosed under
205 subsection (1).

206 (4) If an arbitrator fails to comply with subsection (1)
207 or subsection (3), or if an arbitrator reveals facts that could
208 affect the impartiality of the arbitrator, the party may make a
209 motion to the court for an expedited order to remove the
210 arbitrator and appoint a successor.

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

215 Section 9. Section 682.509, Florida Statutes, is created to
216 read:

217 682.509 Majority action by arbitrators.--The powers of the
218 arbitrators shall be exercised by a majority of their number, but
219 all of them shall conduct the hearing under s. 682.510 and
220 682.511.

221 Section 10. Section 682.510, Florida Statutes, is created
222 to read:

223 682.510 Arbitration process.--

224 (1) An arbitrator must conduct an arbitration in a manner
225 that is fundamentally fair. "Fundamental fairness" includes
226 notice, an opportunity to be heard, an opportunity to present
227 relevant and material evidence, an opportunity for argument



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228 before the decisionmakers, and an unbiased decisionmaker. A
229 party has the right to be represented by an attorney at any
230 arbitration proceeding or hearing subject to this act. A waiver
231 made before the proceeding or hearing has no effect. Any
232 consumer who is a party to an arbitration agreement must be
233 provided with information concerning institutions which might
234 offer assistance in an arbitration proceeding, such as bar
235 associations, legal service associations, civil rights
236 organizations, and trade unions.

237 (2) After the court has made determinations under s.
238 682.505, the authority conferred upon the arbitrator includes
239 the power to hold conferences with the parties to the
240 arbitration proceeding before the hearing and, among other
241 matters, determine the admissibility, relevance, materiality,
242 and weight of any evidence. The scope of discovery and the
243 procedure for any hearings and trials shall be governed by Rule
244 7.020, Florida Small Claims Rules. The parties to an arbitration
245 proceeding may, after the arbitration has been instituted,
246 stipulate in writing to apply arbitration, discovery, or
247 evidentiary rules that vary from this part.

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

252 Section 11. Section 682.511, Florida Statutes, is created
253 to read:

254 682.511 Hearing.--:

255 (1)(a) The arbitrator shall give notice as to the a time
256 and place for the hearing not less than 30 days before the date
257 of the initial hearing, and not less than 10 days before the



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258 date of any subsequent hearings. Notice shall include a
259 statement that a party is entitled to representation. Appearance
260 at the hearing does not waive a party's right to object to the
261 proceeding on the basis of insufficient notice or lack of
262 notice. The hearing shall be conducted by all of the arbitrators
263 and an umpire, if applicable. If, during the course of the
264 hearing, an arbitrator ceases to act for any reason, a
265 replacement arbitrator must be appointed in accordance with s.
266 682.507 for the purpose of continuing the proceeding and
267 resolving the controversy. The arbitrators may adjourn the
268 hearing from time to time upon their own motion and shall do so
269 upon the request of any party to the arbitration for good cause
270 shown. An umpire authorized to hear and decide the cause upon
271 failure of the arbitrators to agree upon an award shall, in the
272 course of his or her jurisdiction, have like powers and be
273 subject to like limitations thereon.

274 (2) The parties are entitled to be heard, present evidence
275 material to the controversy, and cross-examine witnesses
276 appearing at the hearing, unless otherwise stipulated by the
277 parties after the cause of action has arisen and the arbitration
278 proceeding has been instituted.

279 Section 12. Section 682.512, Florida Statutes, is created
280 to read:

281 682.512 Witnesses, subpoenas, depositions, discovery.--

282 (1) An arbitrator, or an umpire authorized to hear and
283 decide the cause upon failure of the arbitrators to agree upon
284 an award, in the course of his or her jurisdiction, may issue
285 subpoenas for the attendance of witnesses and for the production
286 of books, records, documents, and other evidence, and shall have
287 the power to administer oaths. Subpoenas so issued shall be



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288 served and, upon application to the court by a party to the
289 arbitration, the arbitrators, or the umpire, enforced in the
290 manner provided by law for the service and enforcement of
291 subpoenas in a civil action. The issuance of a subpoena must be
292 included in the record of the arbitration.

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

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

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

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

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

315 (7) All materials produced, generated, considered, or in
316 any way referenced as part of an arbitration proceeding shall be
317 maintained by the arbitration company and accessible by any



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318 consumer seeking information as to the arbitration company for 10
319 years after the arbitration proceeding has been fully and finally
320 concluded, including the expiration of all appeals, if any.

321 Section 13. Section 682.513, Florida Statutes, is created
322 to read:

323 682.513 Award, Opinion, and Judgment.--

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

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

344 (3) After a party to an arbitration proceeding receives
345 notice of the filing of the arbitration opinion as required by
346 subsection (2), the court shall confirm the opinion or award



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347 unless the court modifies or vacates an award as provided in ss.
348 682.515 or 682.516.

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

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

355 Section 14. Section 682.514, Florida Statutes, is created
356 to read:

357 682.514 Remedies; fees and expenses of arbitration.--

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

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

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

372 (4) Upon a showing by the consumer, evidenced by an
373 affidavit including a statement of financial resources possessed
374 by the consumer, that the consumer is unable to pay the costs of
375 arbitration, the court may order such costs to be shared between
376 the two parties in an equitable manner. A nonconsumer may be



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377 ordered to pay the entire cost of an arbitration if continuing
378 the arbitration proceeding would create a financial hardship due
379 to a consumer's lack of financial resources. This subsection
380 does not apply to any voluntary arbitration proceeding begun by
381 joint stipulation of the parties after a lawsuit has been
382 instituted or conducted pursuant to s. 44.104.

383 Section 15. Section 682.515, Florida Statutes, is created
384 to read:

385 682.515 Vacating an award.--

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

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

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

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

401 (d) The arbitrator or umpire in the course of his or her
402 jurisdiction refused to postpone the hearing upon sufficient
403 cause shown for such postponement, refused to hear evidence
404 material to the controversy, or otherwise so conducted the
405 hearing contrary to the provisions of this act.

406 (e) No agreement or provision for arbitration subject to



407 this act exists.

408 (f) The arbitration was conducted without proper notice of
409 the initiation of any stage of arbitration as required by this
410 act.

411 (g) The arbitration award is inconsistent with applicable
412 law, violates public policy, is arbitrary or capricious or lacks
413 a rational basis, or is not supported by substantial evidence as
414 reflected in the record.

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

422 (3) In vacating the award on grounds other than those
423 stated in paragraph (1)(e), the court may order a rehearing
424 before new arbitrators chosen as provided in the agreement or
425 provision for arbitration or by the court in accordance with s.
426 682.507, or, if the award is vacated on grounds other than those
427 provided in paragraph (1)(a) or paragraph (1)(e), the court may
428 order a rehearing before the arbitrator or umpire issuing the
429 award or his or her successors appointed in accordance with s.
430 682.507.

431 Section 16. Section 682.516, Florida Statutes, is created
432 to read:

433 682.516 Modification or correction of award.--

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



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437 (a) There is an evident miscalculation of figures or an
438 evident mistake in the description of any person, thing, or
439 property referenced in the award.

440 (b) The arbitrator or umpire has made an award upon a
441 matter not submitted to him or her, and the award may be
442 corrected without affecting the merits of the decision upon the
443 issues actually submitted.

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

446 (2) If the application is granted, the court shall modify
447 and correct the award so as to effect its intent and shall
448 confirm the award as modified and corrected. Otherwise, the
449 court shall confirm the award as made.

450 (3) An application to modify or correct an award may be
451 joined in the alternative with an application to vacate the
452 award.

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

456 Section 17. Section 682.517, Florida Statutes, is created
457 to read:

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



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466 Section 18. Section 682.518, Florida Statutes, is created
467 to read:

468 682.518 Appeals.--

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

472 (a) An order denying or granting an application to compel
473 arbitration made under s. 682.505, pursuant to Rule 9.130,
474 Florida Rules of Appellate Procedure;

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

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

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

482 (e) An order confirming or denying confirmation of an
483 award;

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

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

486 (h) A judgment or decree entered pursuant to ss. 682.501-
487 682.521.

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

489 (a) A ruling concerning evidentiary privileges or
490 confidentiality rights of the parties; or

491 (b) The granting of a protective order preventing the
492 disclosure of privileged information, confidential information,
493 or trade secrets under s. 682.512.

494 (3) The appeal or petition for certiorari shall be taken
495 in the manner and to the same extent as from orders or judgments

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496 in a civil action.

497 Section 19. Section 682.519, Florida Statutes, is created
498 to read:

499 682.519 Relationship to Electronic Signatures in Global and
500 National Commerce Act.--Sections 682.501-682.521 modify, limit,
501 and supersede the federal Electronic Signatures in Global and
502 National Commerce Act, 15 U.S.C. s. 7001, et. seq., but do not
503 modify, limit, or supersede s. 101(c) of that act or authorize
504 electronic delivery of any of the notices described in s. 103(b)
505 of that act.

506 Section 20. Section 682.520, Florida Statutes, is created
507 to read:

508 682.520 Regulation of arbitration service providers.--

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

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

523 (b) The type and subject matter of the transaction giving
524 rise to the dispute involved, including, but not limited to,
525 goods, banking, insurance, health care, debt collection,



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526 employment, and, if the dispute involves employment, the amount
527 of the employee's annual wage divided into the following ranges:

- 528 1. Less than \$100,000.
529 2. From \$100,000 to \$250,000, inclusive.
530 3. More than \$250,000.

531 (c) The name of the prevailing party.

532 (d) The number of occasions, if any, that a corporation or
533 business entity that is a party to an arbitration has previously
534 been a party in an arbitration or mediation administered by the
535 arbitration organization.

536 (e) Whether or not the consumer in each prior arbitration
537 was represented by an attorney and, if so, the identifying
538 information for that attorney, including the attorney's name,
539 law firm affiliation, business telephone number, and the address
540 of the attorney's law firm.

541 (f) The date the arbitration organization received the
542 demand for arbitration, the date the arbitrator was appointed,
543 and the date of disposition by the arbitrator or arbitration
544 organization.

545 (g) The type of disposition of the dispute, if known,
546 including withdrawal, abandonment, settlement, award after
547 hearing, award without hearing, default, or dismissal without
548 hearing.

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

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

554 (2) For information provided by the arbitration
555 organization in a computer-searchable format at the company's



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556 Internet website and which may be downloaded without any fee,
557 the company may charge the actual cost of copying to any person
558 requesting the information on paper.

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

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

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

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

583 (7) An arbitrator or arbitration organization may not
584 administer an arbitration under any agreement or rule requiring
585 that a consumer who is a party to the arbitration pay the fees



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586 and costs incurred by any opposing party if the consumer does
587 not prevail in the arbitration, including, but not limited to,
588 the fees and costs of the arbitrator, provider organization,
589 attorney, or witnesses.

590 (8) An arbitration organization may not administer a
591 consumer arbitration involving any consumer who resides in this
592 state, or provide any other services related to such a consumer
593 arbitration, if:

594 (a) The arbitration organization has, or within the
595 preceding year has had, a financial interest in any party or
596 attorney for a party involved in the arbitration; or

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

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

607 Section 21. Section 682.521, Florida Statutes, is created
608 to read:

609 682.521 Disclosure of arbitration costs.--

610 (1) A party drafting an arbitration agreement shall
611 clearly and conspicuously disclose in the arbitration agreement
612 the following:

613 (a) The filing fee.

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



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616 (c) Other charges that the arbitrator or arbitration
617 service provider will assess in conjunction with an arbitration
618 when the consumer appears in person.

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

621 (2) Failure to provide disclosures pursuant to subsection
622 (1) constitutes a deceptive act pursuant to the Florida
623 Deceptive and Unfair Trade Practices Act. Further, the
624 information provided in the disclosure may be considered in a
625 determination of whether an arbitration agreement is
626 unconscionable or is otherwise not enforceable under applicable
627 law.

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

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

638
639 ===== T I T L E A M E N D M E N T =====

640 And the title is amended as follows:

641 Delete everything before the enacting clause
642 and insert:

643 A bill to be entitled
644 An act relating to (4) This chapter does not apply to
645 any arbitrator or any arbitration organization in an



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646 | arbitration proceeding governed by rules adopted by a
647 | securities self-regulatory organization and approved by
648 | the United States Securities and Exchange Commission under
649 | the Securities and Exchange Act of 1934, 15 U.S.C. s.
650 | 78s.; providing an effective date.