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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/03/2010	.	
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The Committee on Commerce (Gelber) recommended the following:

Senate Amendment

Delete lines 226 - 367

and insert:

684.0006 Waiver of right to object.—A party waives its right to object if it proceeds with the arbitration and fails to object without undue delay or within a provided time limit to:

(1) Noncompliance of any provision of this chapter from which the parties may derogate and have not derogated; or

(2) Noncompliance of any requirement under the arbitration agreement.

Section 7. Section 684.0007, Florida Statutes, is created to read:



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14 684.0007 Extent of court intervention.—In matters governed
15 by this chapter, a court may not intervene except to the extent
16 authorized by this chapter.

17 Section 8. Section 684.0008, Florida Statutes, is created
18 to read:

19 684.0008 Court for certain functions of arbitration
20 assistance and supervision.—The functions referenced in ss.
21 684.0012(3) and (4), 684.0014(3), 684.0015, 684.0017(3), and
22 684.0046(2) shall be performed by the circuit court in the
23 county in which the seat of the arbitration is located.

24 Section 9. Section 684.0009, Florida Statutes, is created
25 to read:

26 684.0009 Arbitration agreement and substantive claim before
27 court.—

28 (1) A court before which an action is brought in a matter
29 that is the subject of an arbitration agreement shall, if a
30 party so requests not later than when submitting its first
31 statement on the substance of the dispute, refer the parties to
32 arbitration unless it finds that the agreement is null and void,
33 inoperative, or incapable of being performed.

34 (2) If an action described in subsection (1) has been
35 brought, arbitral proceedings may nevertheless be commenced or
36 continued, and an award may be made, while the issue is pending
37 before the court.

38 Section 10. Section 684.001, Florida Statutes, is created to
39 read:

40 684.001 Arbitration agreement and interim measures by a
41 court.—It is not incompatible with an arbitration agreement for
42 a party to request from a court, before or during arbitral



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43 proceedings, an interim measure of protection and for a court to
44 grant such a measure.

45 Section 11. Section 684.0011, Florida Statutes, is created
46 to read:

47 684.0011 Number of arbitrators.-

48 (1) The parties may determine the number of arbitrators.

49 (2) If the parties fail to determine the number of
50 arbitrators, the number of arbitrators shall be three.

51 Section 12. Section 684.0012, Florida Statutes, is created
52 to read:

53 684.0012 Appointment of arbitrators.-

54 (1) A person is not precluded by reason of his or her
55 nationality from acting as an arbitrator, unless otherwise
56 agreed by the parties.

57 (2) The parties may agree on a procedure of appointing the
58 arbitrator or arbitrators, subject to subsections (4) and (5).

59 (3) Failing such agreement:

60 (a) In an arbitration having three arbitrators, each party
61 shall appoint one arbitrator, and the two arbitrators thus
62 appointed shall appoint the third arbitrator. If a party fails
63 to appoint the arbitrator within 30 days after receipt of a
64 request to do so from the other party, or if the two arbitrators
65 fail to agree on the third arbitrator within 30 days after their
66 appointment, the appointment shall be made, upon request of a
67 party, by the court specified in s. 684.0008.

68 (b) In an arbitration having a single arbitrator, if the
69 parties are unable to agree on the arbitrator, the arbitrator
70 shall be appointed, upon request of a party, by the court
71 specified in s. 684.0008.



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72 (4) If, under an appointment procedure agreed upon by the
73 parties:

74 (a) A party fails to act as required under such procedure;

75 (b) The parties, or two arbitrators, are unable to reach an
76 agreement under such procedure; or

77 (c) A third party, including an institution, fails to
78 perform any function entrusted to it under such procedure,

79
80 any party may request the court specified in s. 684.0008 to
81 take the necessary measure, unless the agreement on the
82 appointment procedure provides other means for securing the
83 appointment.

84 (5) A decision on a matter entrusted by subsection (3) or
85 subsection (4) to the court specified in s. 684.0008 is not
86 appealable. The court, in appointing an arbitrator, shall have
87 due regard to any qualifications required by the arbitrator by
88 the agreement of the parties and to such considerations that are
89 likely to secure the appointment of an independent and impartial
90 arbitrator. In the case of the appointment of a sole or third
91 arbitrator, the court shall take into account the advisability
92 of appointing an arbitrator of a nationality other than those of
93 the parties.

94 Section 13. Section 684.0013, Florida Statutes, is created
95 to read:

96 684.0013 Grounds for challenge.-

97 (1) When a person is approached in connection with a
98 possible appointment as an arbitrator, the person must disclose
99 any circumstances likely to give rise to justifiable doubts as
100 to the person's impartiality or independence. An arbitrator,



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101 from the time of appointment and throughout the arbitral
102 proceedings, shall disclose any such circumstances to the
103 parties without delay, unless they have already been informed of
104 them by him or her.

105 (2) An arbitrator may be challenged only if circumstances
106 exist that give rise to justifiable doubts as to the
107 arbitrator's impartiality or independence, or if the arbitrator
108 does not possess qualifications agreed to by the parties. A
109 party may challenge an arbitrator appointed by it, or in whose
110 appointment the party participated, only for reasons of which
111 the party became aware after the appointment was made.

112 Section 14. Section 684.0014, Florida Statutes, is created
113 to read:

114 684.0014 Challenge procedure.—

115 (1) The parties may agree on a procedure for challenging an
116 arbitrator, subject to subsection (3).

117 (2) Failing such agreement, a party who intends to
118 challenge an arbitrator shall, within 15 days after becoming
119 aware of the constitution of the arbitral tribunal or after
120 becoming aware of any circumstance described in s. 684.0013(2),
121 send a written statement of the reasons for the challenge to the
122 arbitral tribunal. Unless the challenged arbitrator withdraws
123 from his or her office or the other party agrees to the
124 challenge, the arbitral tribunal shall decide on the challenge.

125 (3) If a challenge under any procedure agreed upon by the
126 parties or pursuant to subsection (2) is not successful, the
127 challenging party may request, within 30 days after having
128 received notice of the decision rejecting the challenge, the
129 court specified in s. 684.0008 to decide on the challenge. The



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130 decision of the court is not appealable. While such a request is
131 pending, the arbitral tribunal, including the challenged
132 arbitrator, may continue the arbitral proceedings and make an
133 award.

134 Section 15. Section 684.0015, Florida Statutes, is created
135 to read:

136 684.0015 Failure or impossibility to act.-

137 (1) If an arbitrator becomes de jure or de facto unable to
138 perform his or her functions or for other reasons fails to act
139 without undue delay, his or her mandate terminates if he or she
140 withdraws from office or if the parties agree on the
141 termination. Otherwise, if a controversy remains concerning any
142 of these grounds, any party may request the court specified in
143 s. 684.0008 to decide on the termination
144