

By Senator Gelber

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1 A bill to be entitled
2 An act relating to international commercial
3 arbitration; creating s. 684.0001, F.S.; providing a
4 short title; creating s. 684.0002, F.S.; defining the
5 scope of application of the Florida International
6 Commercial Arbitration Act; creating s. 684.0003,
7 F.S.; defining terms; providing rules of
8 interpretation for the act; creating s. 684.0004,
9 F.S.; providing intent that the act be applied and
10 interpreted with respect to its purpose; creating s.
11 684.0005, F.S.; specifying when a written
12 communication is received; creating s. 684.0006, F.S.;
13 specifying circumstances that constitute a waiver of
14 the right to object; creating s. 684.0007, F.S.;
15 limiting the ability of a court to intervene in an
16 arbitral proceeding; creating s. 684.0008, F.S.;
17 designating the circuit court in which an arbitration
18 is or will be held as the court that may take certain
19 actions authorized by the act; creating s. 684.0009,
20 F.S.; requiring a court to refer matters governed by
21 an arbitration agreement to arbitration; creating s.
22 684.001, F.S.; authorizing a court to grant an interim
23 measure of protection before or during an arbitral
24 proceeding; creating s. 684.0011, F.S.; authorizing
25 the parties to an arbitration to determine the number
26 of arbitrators; specifying the number of arbitrators
27 for a proceeding if the number of arbitrators is not
28 determined by the parties; creating s. 684.0012, F.S.;
29 specifying procedures for the appointment of an

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30 arbitrator; creating s. 684.0013, F.S.; requiring a
31 person who is approached to be an arbitrator to make
32 disclosures relating to conflicts of interest;
33 authorizing the appointment of an arbitrator to be
34 challenged based on a perceived conflict of interest
35 or qualifications; creating s. 684.0014, F.S.;
36 providing procedures to challenge the appointment of
37 an arbitrator; creating s. 684.0015, F.S.; providing
38 for the termination of the mandate of an arbitrator
39 due to failure or impossibility to act; creating s.
40 684.0016, F.S.; providing a procedure for the
41 appointment of a substitute arbitrator; creating s.
42 684.0017, F.S.; authorizing an arbitral tribunal to
43 determine its jurisdiction; authorizing a court to
44 determine the jurisdiction of an arbitral tribunal;
45 creating s. 684.0018, F.S.; authorizing an arbitral
46 tribunal to grant an interim measure; creating s.
47 684.0019, F.S.; specifying conditions under which an
48 interim measure may be granted; creating s. 684.002,
49 F.S.; specifying conditions under which an interim
50 order may be granted to prevent a party from
51 frustrating the purpose of an interim measure;
52 creating s. 684.0021, F.S.; requiring a party to be
53 notified of information relating to an interim measure
54 or preliminary order; requiring that a party be given
55 an opportunity to object to a preliminary order;
56 creating s. 684.0022, F.S.; authorizing an arbitral
57 tribunal to modify, suspend, or terminate an interim
58 measure or preliminary order under certain

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59 circumstances; creating s. 684.0023, F.S.; authorizing
60 an arbitral tribunal to require security as a
61 condition of granting an interim measure; requiring
62 security as a condition of granting a preliminary
63 order; creating s. 684.0024, F.S.; requiring certain
64 disclosures as a condition of granting or maintaining
65 an interim measure or preliminary order; creating s.
66 684.0025, F.S.; providing for liability and an award
67 of costs and damages; creating s. 684.0026, F.S.;
68 providing for the recognition and enforcement of an
69 interim measure by a court; authorizing the court to
70 require security under certain circumstances; creating
71 s. 684.0027, F.S.; specifying grounds under which a
72 court may refuse to enforce an interim measure;
73 creating s. 684.0028, F.S.; authorizing a court to
74 grant an interim measure; creating s. 684.0029, F.S.;
75 requiring parties to an arbitral proceeding to be
76 treated with equality and given an opportunity to
77 present their cases; creating s. 684.003, F.S.;
78 authorizing parties to an arbitration to agree to
79 arbitration procedures; providing default procedures;
80 creating s. 684.0031, F.S.; authorizing parties to an
81 arbitration to agree on the place of arbitration;
82 providing criteria to determine a default location for
83 the arbitration; creating s. 684.0032, F.S.;
84 specifying the date of commencement of an arbitral
85 proceeding; creating s. 684.0033, F.S.; authorizing
86 parties to an arbitration to agree on the language to
87 be used in the proceeding; authorizing the arbitral

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88 tribunal to determine the language in the absence of a
89 decision by the parties; creating s. 684.0034, F.S.;

90 providing for the submission of claims and defenses to
91 an arbitral tribunal; creating s. 684.0035, F.S.;

92 providing for the determination of the method by which
93 evidence will be presented before an arbitral
94 proceeding; creating s. 684.0036, F.S.; specifying
95 actions that constitute a default by a party to an
96 arbitral proceeding; creating s. 684.0037, F.S.;

97 authorizing an arbitral tribunal to appoint an expert
98 and for the parties to question and present other
99 experts to the tribunal's expert, unless otherwise
100 agreed by the parties; creating s. 684.0038, F.S.;

101 authorizing a party or an arbitral tribunal to request
102 the assistance of a court in taking evidence; creating
103 s. 684.0039, F.S.; providing for the choice of law
104 applicable in an arbitral proceeding; creating s.
105 684.004, F.S.; specifying the number of arbitrators
106 who must make a decision, unless specified otherwise
107 by the parties; creating s. 684.0041, F.S.;

108 authorizing the parties to an arbitral proceeding to
109 enter into a settlement that is recorded as an award
110 by the arbitral tribunal; creating s. 684.0042, F.S.;

111 specifying the form and content of an arbitral award;
112 creating s. 684.0043, F.S.; specifying events that
113 terminate or require an arbitral tribunal to terminate
114 an arbitral proceeding; creating s. 684.0044, F.S.;

115 authorizing an arbitral tribunal to correct and
116 interpret an arbitral award or make an additional

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117 award under certain conditions; creating s. 684.0045,
118 F.S.; providing judicial immunity to arbitrators
119 acting under ch. 684, F.S.; creating s. 684.0046,
120 F.S.; specifying conditions under which a court may
121 set aside an arbitral award; creating s. 684.0047,
122 F.S.; providing for the recognition and enforcement of
123 arbitral awards by a court; creating s. 684.0048,
124 F.S.; specifying grounds under which a court may
125 refuse to recognize or enforce an arbitral award;
126 repealing parts I, II, and III of ch. 684, F.S., which
127 create the Florida International Arbitration Act and
128 provide procedures for the conduct of international
129 arbitrations and authorize court proceedings in
130 connection with such arbitrations; providing an
131 effective date.

132

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

134

135 Section 1. Section 684.0001, Florida Statutes, is created
136 to read:

137 684.0001 Short title.—This chapter may be cited as the
138 “Florida International Commercial Arbitration Act.”

139 Section 2. Section 684.0002, Florida Statutes, is created
140 to read:

141 684.0002 Scope of application.—

142 (1) This chapter applies to international commercial
143 arbitration, subject to any agreement in force between the
144 United States of America and any other country or countries.

145 (2) This chapter, except ss. 684.0009, 684.001, 684.0026,

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146 684.0027, 684.0028, 684.0047, and 684.0048, applies only if the
147 place of arbitration is in this state.

148 (3) An arbitration is international if:

149 (a) The parties to an arbitration agreement have, at the
150 time of the conclusion of that agreement, their places of
151 business in different countries;

152 (b) One of the following places is situated outside the
153 country in which the parties have their places of business:

154 1. The place of arbitration if determined in, or pursuant
155 to, the arbitration agreement; or

156 2. Any place where a substantial part of the obligations of
157 the commercial relationship are to be performed or the place
158 with which the subject matter of the dispute is most closely
159 connected; or

160 (c) The parties have expressly agreed that the subject
161 matter of the arbitration agreement relates to more than one
162 country.

163 (4) For the purposes of subsection (3):

164 (a) If a party has more than one place of business, the
165 place of business is that which has the closest relationship to
166 the arbitration agreement.

167 (b) If a party does not have a place of business, reference
168 shall be made to his or her habitual residence.

169 (5) This chapter does not affect any law that may prohibit
170 a matter from being resolved by arbitration or that specifies
171 the manner in which a specific matter may be submitted or
172 resolved by arbitration.

173 Section 3. Section 684.0003, Florida Statutes, is created
174 to read:

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684.0003 Definitions and rules of interpretation.-

(1) As used in this chapter, the term:

(a) "Arbitral tribunal" means a sole arbitrator or panel of arbitrators.

(b) "Arbitration" means any arbitration whether or not administered by a permanent arbitral institution.

(c) "Arbitration agreement" means an agreement by the parties to submit to arbitration all or certain disputes that have arisen or may arise between them in respect of a defined legal relationship, whether contractual or not.

(d) "Court" means a circuit court of this state.

(2) A provision of this chapter, except s. 684.0038, which leaves the parties free to determine a certain issue, includes the right of the parties to authorize a third party, including an institution, to make that determination.

(3) A provision of this chapter which refers to the fact that the parties have agreed or that they may agree to a procedure refers to an agreement of the parties. The agreement includes any arbitration rules referenced in that agreement.

(4) A provision of this chapter, other than in s. 684.0036(1) or s. 684.0043(2)(a), which refers to a claim also applies to a counter claim, and a provision that refers to a defense also applies to a defense to such counter claim.

Section 4. Section 684.0004, Florida Statutes, is created to read:

684.0004 International origin and general principles.-

(1) This chapter shall be interpreted with regard to its international origin and to the need to promote uniformity in its application and the observance of good faith.

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204 (2) Questions concerning matters governed by this chapter
205 which are not expressly settled pursuant to it shall be settled
206 in conformity with the general principles on which this chapter
207 is based.

208 Section 5. Section 684.0005, Florida Statutes, is created
209 to read:

210 684.0005 Receipt of written communications.—

211 (1) Unless otherwise agreed by the parties, a written
212 communication is deemed to be received if it is delivered to the
213 addressee personally or if it is delivered to the addressee's
214 place of business, habitual residence, or mailing address. If
215 one of these locations cannot be found after a reasonable
216 inquiry, the written communication is deemed to be received if
217 it is sent to the addressee's last known place of business,
218 habitual residence, or mailing address by registered letter or
219 any other means that provides a record of the attempt to deliver
220 it. The communication is deemed to be received on the day it is
221 delivered.

222 (2) This section does not apply to communications in court
223 proceedings.

224 Section 6. Section 684.0006, Florida Statutes, is created
225 to read:

226 684.0006 Waiver of right to object.—A party who knows that
227 any provision of this chapter from which the parties may
228 derogate or any requirement under the arbitration agreement has
229 not been complied with and yet proceeds with the arbitration
230 without stating his or her objection to such noncompliance
231 without undue delay or, if a time limit is provided to object,
232 within such period of time, shall be deemed to have waived his

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233 or her right to object.

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

236 684.0007 Extent of court intervention.—In matters governed
237 by this chapter, a court may not intervene except to the extent
238 authorized by this chapter.

239 Section 8. Section 684.0008, Florida Statutes, is created
240 to read:

241 684.0008 Court or other authority for certain functions of
242 arbitration assistance and supervision.—The functions referenced
243 in ss. 684.0012(3) and (4), 684.0013(3), 684.0014, 684.0015(3),
244 684.0017(3), and 684.0046(2) shall be performed by the circuit
245 court in the county in which the seat of the arbitration is
246 located.

247 Section 9. Section 684.0009, Florida Statutes, is created
248 to read:

249 684.0009 Arbitration agreement and substantive claim before
250 court.—

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

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

261 Section 10. Section 684.001, Florida Statutes, is created to

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262 read:

263 684.001 Arbitration agreement and interim measures by a
264 court.—It is not incompatible with an arbitration agreement for
265 a party to request from a court, before or during arbitral
266 proceedings, an interim measure of protection and for a court to
267 grant such a measure.

268 Section 11. Section 684.0011, Florida Statutes, is created
269 to read:

270 684.0011 Number of arbitrators.—

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

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

274 Section 12. Section 684.0012, Florida Statutes, is created
275 to read:

276 684.0012 Appointment of arbitrators.—

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

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

282 (3) Failing such agreement:

283 (a) In an arbitration having three arbitrators, each party
284 shall appoint one arbitrator, and the two arbitrators thus
285 appointed shall appoint the third arbitrator. If a party fails
286 to appoint the arbitrator within 30 days after receipt of a
287 request to do so from the other party, or if the two arbitrators
288 fail to agree on the third arbitrator within 30 days after their
289 appointment, the appointment shall be made, upon request of a
290 party, by the court or other authority specified in s. 684.0008.

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291 (b) In an arbitration having a single arbitrator, if the
292 parties are unable to agree on the arbitrator, the arbitrator
293 shall be appointed, upon request of a party, by the court or
294 other authority specified in s. 684.0008.

295 (4) If, under an appointment procedure agreed upon by the
296 parties:

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

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

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

302
303 any party may request the court or other authority specified in
304 s. 684.0008 to take the necessary measure, unless the agreement
305 on the appointment procedure provides other means for securing
306 the appointment.

307 (5) A decision on a matter entrusted by subsection (3) or
308 subsection (4) to the court or other authority specified in s.
309 684.0008 is not appealable. The court or other authority, in
310 appointing an arbitrator, shall have due regard to any
311 qualifications required by the arbitrator by the agreement of
312 the parties and to such considerations that are likely to secure
313 the appointment of an independent and impartial arbitrator. In
314 the case of the appointment of a sole or third arbitrator, the
315 court or other authority shall take into account the
316 advisability of appointing an arbitrator of a nationality other
317 than those of the parties.

318 Section 13. Section 684.0013, Florida Statutes, is created
319 to read:

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684.0013 Grounds for challenge.—

(1) When a person is approached in connection with a possible appointment as an arbitrator, the person must disclose any circumstances likely to give rise to justifiable doubts as to the person's impartiality or independence. An arbitrator, from the time of appointment and throughout the arbitral proceedings, shall disclose any such circumstances to the parties without delay, unless they have already been informed of them by him or her.

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

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

684.0014 Challenge procedure.—

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

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

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349 (3) If a challenge under any procedure agreed upon by the
350 parties or pursuant to subsection (2) is not successful, the
351 challenging party may request, within 30 days after having
352 received notice of the decision rejecting the challenge, the
353 court or other authority specified in s. 684.0008 to decide on
354 the challenge. The decision of the court is not appealable.
355 While such a request is pending, the arbitral tribunal,
356 including the challenged arbitrator, may continue the arbitral
357 proceedings and make an award.

358 Section 15. Section 684.0015, Florida Statutes, is created
359 to read:

360 684.0015 Failure or impossibility to act.-

361 (1) If an arbitrator becomes de jure or de facto unable to
362 perform his or her functions or for other reasons fails to act
363 without undue delay, his or her mandate terminates if he or she
364 withdraws from office or if the parties agree on the
365 termination. Otherwise, if a controversy remains concerning any
366 of these grounds, any party may request the court or other
367 authority specified in s. 684.0008 to decide on the termination
368 of the mandate. The decision of the court is not appealable.

369 (2) If, under this section or s. 684.0014(2), an arbitrator
370 withdraws from his or her office or a party agrees to the
371 termination of the mandate of an arbitrator, such actions do not
372 imply the acceptance of the validity of any ground described in
373 this section or in s. 684.0013(2).

374 Section 16. Section 684.0016, Florida Statutes, is created
375 to read:

376 684.0016 Appointment of substitute arbitrator.-If the
377 mandate of an arbitrator terminates pursuant to s. 684.0014 or

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378 s. 684.0015 or because of his or her withdrawal from office for
379 any other reason or because of the revocation of the mandate by
380 agreement of the parties or in any other case of termination of
381 the mandate, a substitute arbitrator shall be appointed pursuant
382 to the rules that applied to the appointment of the arbitrator
383 being replaced.

384 Section 17. Section 684.0017, Florida Statutes, is created
385 to read:

386 684.0017 Competence of arbitral tribunal to rule on its
387 jurisdiction.-

388 (1) The arbitral tribunal may rule on its own jurisdiction,
389 including any objections with respect to the existence or
390 validity of the arbitration agreement. For that purpose, an
391 arbitration clause that forms part of a contract shall be
392 treated as an agreement independent of the other terms of the
393 contract. A decision by the arbitral tribunal that the contract
394 is not valid does not entail ipso jure the invalidity of the
395 arbitration clause.

396 (2) A plea that the arbitral tribunal does not have
397 jurisdiction must be raised not later than the submission of the
398 statement of defense. A party is not precluded from raising such
399 a plea by the fact that the party appointed, or participated in
400 the appointment of, an arbitrator. A plea that the arbitral
401 tribunal is exceeding the scope of its authority must be raised
402 as soon as the matter alleged to be beyond the scope of its
403 authority is raised during the arbitral proceedings. The
404 arbitral tribunal may, in either case, admit a later plea it if
405 considers the delay justified.

406 (3) The arbitral tribunal may rule on a plea referenced in

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407 subsection (2) as a preliminary question or in an award on the
408 merits. If the arbitral tribunal rules as a preliminary question
409 that it has jurisdiction, any party may request, within 30 days
410 after receiving notice of that ruling, that the court specified
411 in s. 684.0008 decide the matter. The decision of the court is
412 not appealable. While such a request is pending, the arbitral
413 tribunal may continue the arbitral proceedings and make an
414 award.

415 Section 18. Section 684.0018, Florida Statutes, is created
416 to read:

417 684.0018 Power of arbitral tribunal to order interim
418 measures.—Unless otherwise agreed by the parties, the arbitral
419 tribunal may, at the request of a party, grant interim measures.
420 An interim measure is any temporary measure, whether in the form
421 of an award or in another form, by which, at any time before the
422 issuance of the award by which the dispute is finally decided,
423 the arbitral tribunal orders a party to:

424 (1) Maintain or restore the status quo pending
425 determination of the dispute;

426 (2) Take action to prevent, or refrain from taking action
427 that is likely to cause, current or imminent harm or prejudice
428 to the arbitral process;

429 (3) Provide a means of preserving assets out of which a
430 subsequent award may be satisfied; or

431 (4) Preserve evidence that may be relevant and material to
432 the resolution of the dispute.

433 Section 19. Section 684.0019, Florida Statutes, is created
434 to read:

435 684.0019 Conditions for granting interim measures.—

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436 (1) The party requesting an interim measure under s.
437 684.0018 must satisfy the arbitral tribunal that:

438 (a) Harm not adequately reparable by an award of damages is
439 likely to result if the measure is not ordered, and such harm
440 substantially outweighs the harm that is likely to result to the
441 party against whom the measure is directed if the measure is
442 granted; and

443 (b) A reasonable possibility exists that the requesting
444 party will succeed on the merits of the claim. The determination
445 on this possibility does not affect the discretion of the
446 arbitral tribunal in making any subsequent determination.

447 (2) With regard to a request for an interim measure under
448 s. 684.0018, the requirements in subsection (1) apply only to
449 the extent the arbitral tribunal considers appropriate.

450 Section 20. Section 684.002, Florida Statutes, is created
451 to read:

452 684.002 Applications for preliminary orders and conditions
453 for granting preliminary orders.-

454 (1) Unless otherwise agreed by the parties, a party may,
455 without notice to any other party, make a request for an interim
456 measure together with an application for a preliminary order
457 prohibiting a party from frustrating the purpose of the interim
458 measure requested.

459 (2) The arbitral tribunal may grant a preliminary order if
460 it considers that prior disclosure of the request for the
461 interim measure to the party against whom it is directed risks
462 frustrating the purpose of the measure.

463 (3) The conditions described in s. 684.0019 apply to any
464 preliminary order if the harm assessed under s. 684.0019(1)(a)

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465 is the harm likely to result from the order being granted or not
466 granted.

467 Section 21. Section 684.0021, Florida Statutes, is created
468 to read:

469 684.0021 Specific regime for preliminary orders.-

470 (1) Immediately after the arbitral tribunal makes a
471 determination in respect of an application for a preliminary
472 order, the arbitral tribunal shall give notice to all parties of
473 the request for the interim measure, the application for the
474 preliminary order, the preliminary order, if any, and all other
475 communications. The notice shall include a description of the
476 content of any oral communication between any party and the
477 arbitral tribunal in relation to any such request or
478 application.

479 (2) At the same time, the arbitral tribunal shall give an
480 opportunity to any party against whom a preliminary order is
481 directed to present its case at the earliest practicable time.

482 (3) The arbitral tribunal must decide promptly on any
483 objection to the preliminary order.

484 (4) A preliminary order expires 20 days after the date on
485 which it was issued by the arbitral tribunal. However, the
486 arbitral tribunal may issue an interim measure adopting or
487 modifying the preliminary order after the party against whom the
488 preliminary order is directed is given notice and an opportunity
489 to present its case.

490 (5) A preliminary order is binding on the parties but is
491 not enforceable by a court. Such a preliminary order does not
492 constitute an award.

493 Section 22. Section 684.0022, Florida Statutes, is created

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494 to read:

495 684.0022 Modification, suspension, or termination; interim
496 measure or preliminary order.—The arbitral tribunal may modify,
497 suspend, or terminate an interim measure or a preliminary order
498 it has granted upon application of any party or, in exceptional
499 circumstances and upon prior notice to the parties, on the
500 arbitral tribunal's own initiative.

501 Section 23. Section 684.0023, Florida Statutes, is created
502 to read:

503 684.0023 Provision of security.—

504 (1) The arbitral tribunal may require the party requesting
505 an interim measure to provide appropriate security in connection
506 with the measure.

507 (2) The arbitral tribunal shall require the party applying
508 for a preliminary order to provide security in connection with
509 the order unless the arbitral tribunal considers it
510 inappropriate or unnecessary to do so.

511 Section 24. Section 684.0024, Florida Statutes, is created
512 to read:

513 684.0024 Disclosure.—

514 (1) The arbitral tribunal may require any party promptly to
515 disclose any material change in the circumstances on the basis
516 of which the interim measure was requested or granted.

517 (2) The party applying for a preliminary order shall
518 disclose to the arbitral tribunal all circumstances that are
519 likely to be relevant to the arbitral tribunal's determination
520 whether to grant or maintain the order, and such obligation
521 continues until the party against whom the order has been
522 requested has had an opportunity to present its case.

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523 Thereafter, subsection (1) applies.

524 Section 25. Section 684.0025, Florida Statutes, is created
525 to read:

526 684.0025 Costs and damages.—The party requesting an interim
527 measure or applying for a preliminary order is liable for any
528 costs and damages caused by the measure or the order to any
529 party if the arbitral tribunal later determines that the measure
530 or the order should not have been granted. The arbitral tribunal
531 may award such costs and damages at any point during the
532 proceedings.

533 Section 26. Section 684.0026, Florida Statutes, is created
534 to read:

535 684.0026 Recognition and enforcement.—

536 (1) An interim measure issued by an arbitral tribunal shall
537 be recognized as binding and, unless otherwise provided by the
538 arbitral tribunal, enforced upon application to the competent
539 court, irrespective of the country in which it was issued,
540 subject to s. 684.0019(1).

541 (2) The party who is seeking or has obtained recognition or
542 enforcement of an interim measure shall promptly inform the
543 court of the termination, suspension, or modification of the
544 interim measure.

545 (3) The court where recognition or enforcement is sought
546 may, if it considers it proper, order the requesting party to
547 provide appropriate security if the arbitral tribunal has not
548 already made a determination with respect to security or if such
549 a decision is necessary to protect the rights of third parties.

550 Section 27. Section 684.0027, Florida Statutes, is created
551 to read:

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684.0027 Grounds for refusing recognition or enforcement.-

(1) Recognition or enforcement of an interim measure may be refused only:

(a) At the request of the party against whom it is invoked if the court is satisfied that:

1. Such refusal is warranted on the grounds set forth in s. 684.0048(1)(a)1., 2., 3., or 4.;

2. The arbitral tribunal's decision with respect to the provision of security in connection with the interim measure issued by the arbitral tribunal has not been complied with; or

3. The interim measure was terminated or suspended by the arbitral tribunal or, if so empowered, by the court of the state or country in which the arbitration takes place or under the law of which that interim measure was granted; or

(b) If the court finds that:

1. The interim measure is incompatible with the powers conferred upon the court, unless the court decides to reformulate the interim measure to the extent necessary to adapt it to its own powers and procedures for the purpose of enforcing that interim measure and without modifying its substance; or

2. Any of the grounds set forth in s. 684.0048(1)(b)1. or 2. apply to the recognition and enforcement of the interim measure.

(2) A determination made by the court on any ground in subsection (1) is effective only for the purposes of the application to recognize and enforce the interim measure. The court may not in making that determination undertake a review of the substance of the interim measure.

Section 28. Section 684.0028, Florida Statutes, is created

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581 to read:

582 684.0028 Court-ordered interim measures.—A court has the
583 same power of issuing an interim measure in relation to
584 arbitration proceedings, irrespective of whether the arbitration
585 proceedings are held in this state, as it has in relation to the
586 proceedings in courts. The court shall exercise such power in
587 accordance with its own procedures and in consideration of the
588 specific features of international arbitration.

589 Section 29. Section 684.0029, Florida Statutes, is created
590 to read:

591 684.0029 Equal treatment of parties.—The parties shall be
592 treated with equality and each party shall be given a full
593 opportunity of presenting its case.

594 Section 30. Section 684.003, Florida Statutes, is created
595 to read:

596 684.003 Determination of rules of procedure.—Subject to the
597 provisions of this chapter, the parties may agree on the
598 procedure to be followed by the arbitral tribunal in conducting
599 the proceedings. Failing such agreement, the arbitral tribunal
600 may, subject to the provisions of this chapter, conduct the
601 arbitration in such manner as it considers appropriate. The
602 power conferred upon the arbitral tribunal includes the power to
603 determine the admissibility, relevance, materiality, and weight
604 of evidence.

605 Section 31. Section 684.0031, Florida Statutes, is created
606 to read:

607 684.0031 Place of arbitration.—

608 (1) The parties may agree on the place of arbitration.
609 Failing such agreement, the place of arbitration shall be

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610 determined by the arbitral tribunal having regard to the
611 circumstances of the case, including the convenience of the
612 parties.

613 (2) Notwithstanding subsection (1), the arbitral tribunal
614 may, unless otherwise agreed by the parties, meet at any place
615 it considers appropriate for consultation among its members, for
616 hearing witnesses, experts, or the parties, or for inspection of
617 goods, other property, or documents.

618 Section 32. Section 684.0032, Florida Statutes, is created
619 to read:

620 684.0032 Commencement of arbitral proceedings.—Unless
621 otherwise agreed by the parties, the arbitral proceedings in
622 respect of a particular dispute commence on the date on which a
623 request for that dispute to be referred to an arbitration is
624 received by the respondent.

625 Section 33. Section 684.0033, Florida Statutes, is created
626 to read:

627 684.0033 Language.—

628 (1) The parties may agree on the language or languages to
629 be used in the arbitral proceedings. Failing such agreement, the
630 arbitral tribunal shall specify the language or languages to be
631 used in the proceedings. This agreement or determination, unless
632 otherwise specified therein, applies to any written statement by
633 a party, any hearing, and any award, decision, or other
634 communication by the arbitral tribunal.

635 (2) The arbitral tribunal may order that any documentary
636 evidence be accompanied by a translation into the language or
637 languages agreed upon by the parties or specified by the
638 arbitral tribunal.

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639 Section 34. Section 684.0034, Florida Statutes, is created
640 to read:

641 684.0034 Statements of claim and defense.-

642 (1) Within the period of time agreed by the parties or
643 specified by the arbitral tribunal, the claimant shall state the
644 facts supporting its claim, the points at issue, and the relief
645 or remedy sought, and the respondent shall state its defense to
646 the claim, unless the parties have otherwise agreed as to the
647 required elements of such statements. The parties may submit
648 with their statements all documents they consider to be relevant
649 or may add a reference to the documents or other evidence they
650 will submit.

651 (2) Unless otherwise agreed by the parties, either party
652 may amend or supplement its claim or defense during the course
653 of the arbitral proceedings, unless the arbitral tribunal
654 considers it inappropriate to allow such amendment having regard
655 to the delay in making it.

656 Section 35. Section 684.0035, Florida Statutes, is created
657 to read:

658 684.0035 Hearings and written proceedings.-

659 (1) Subject to any contrary agreement by the parties, the
660 arbitral tribunal shall decide whether to hold oral hearings for
661 the presentation of evidence or for oral argument, or whether
662 the proceedings shall be conducted on the basis of documents and
663 other materials. However, unless the parties have agreed that no
664 hearings will be held, the arbitral tribunal shall hold such
665 hearings at an appropriate stage of the proceedings, if so
666 requested by a party.

667 (2) The parties shall be given sufficient advance notice of

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668 any hearing and of any meeting of the arbitral tribunal for the
669 purposes of inspection of goods, other property, or documents.

670 (3) All statements, documents, or other information
671 supplied to the arbitral tribunal by one party shall be provided
672 to the other party. Also, any expert report or evidentiary
673 document on which the arbitral tribunal may rely in making its
674 decision shall be provided to the parties.

675 Section 36. Section 684.0036, Florida Statutes, is created
676 to read:

677 684.0036 Default of a party.—Unless otherwise agreed by the
678 parties, if, without showing sufficient cause:

679 (1) The claimant fails to provide its statement of claim
680 pursuant to s. 684.0034(1), the arbitral tribunal shall
681 terminate the proceedings.

682 (2) The respondent fails to communicate its statement of
683 defense pursuant to s. 684.0034(1), the arbitral tribunal shall
684 continue the proceedings without treating such failure in itself
685 as an admission of the claimant's allegations.

686 (3) A party fails to appear at a hearing or to produce
687 documentary evidence, the arbitral tribunal may continue the
688 proceedings and make the award on the evidence before it.

689 Section 37. Section 684.0037, Florida Statutes, is created
690 to read:

691 684.0037 Expert appointed by arbitral tribunal.—

692 (1) Unless otherwise agreed by the parties, the arbitral
693 tribunal may:

694 (a) Appoint one or more experts to report to it on specific
695 issues to be determined by the arbitral tribunal.

696 (b) Require a party to give the expert any relevant

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697 information or produce or provide access to any relevant
698 documents, goods, or other property for inspection by the
699 expert.

700 (2) Unless otherwise agreed by the parties, if a party so
701 requests or if the arbitral tribunal considers it necessary, the
702 expert shall, after delivery of a written or oral report,
703 participate in a hearing in which the parties have the
704 opportunity to question the expert and to present expert
705 witnesses in order to testify on the points at issue.

706 Section 38. Section 684.0038, Florida Statutes, is created
707 to read:

708 684.0038 Court assistance in taking evidence.—The arbitral
709 tribunal, or a party upon the approval of the arbitral tribunal,
710 may request assistance in taking evidence from a competent court
711 of this state. The court may execute the request within its
712 competence and according to its rules on taking evidence.

713 Section 39. Section 684.0039, Florida Statutes, is created
714 to read:

715 684.0039 Rules applicable to substance of dispute.—

716 (1) The arbitral tribunal shall decide the dispute pursuant
717 to the rules of law chosen by the parties to apply to the
718 substance of the dispute. Any designation of the law or legal
719 system of a state or country shall be construed, unless
720 otherwise expressed, as directly referring to the substantive
721 law of that state or country and not to its conflict-of-laws
722 rule.

723 (2) Failing any designation by the parties, the arbitral
724 tribunal shall apply the law determined by the conflict-of-laws
725 rules that it considers applicable.

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726 (3) The arbitral tribunal shall decide ex aequo et bono or
727 as amiable compositeur, only if the parties have expressly
728 authorized it to do so.

729 (4) In all cases, the arbitral tribunal shall decide in
730 accordance with the terms of the contract and shall take into
731 account the usages of the trade which apply to the transaction.

732 Section 40. Section 684.004, Florida Statutes, is created
733 to read:

734 684.004 Decisionmaking by panel of arbitrators.—In arbitral
735 proceedings having more than one arbitrator, any decision of the
736 arbitral tribunal shall be made, unless otherwise agreed by the
737 parties, by a majority of all its members. However, questions of
738 procedure may be decided by a presiding arbitrator, if so
739 authorized by the parties or all members of the arbitral
740 tribunal.

741 Section 41. Section 684.0041, Florida Statutes, is created
742 to read:

743 684.0041 Settlement.—

744 (1) If, during arbitral proceedings, the parties settle the
745 dispute, the arbitral tribunal shall terminate the proceedings
746 and, if requested by the parties and not objected to by the
747 arbitral tribunal, record the settlement in the form of an
748 arbitral award on agreed terms.

749 (2) An award on agreed terms shall be made pursuant to s.
750 684.0042 and shall state that it is an award. Such an award has
751 the same status and effect as any other award on the merits of
752 the case.

753 Section 42. Section 684.0042, Florida Statutes, is created
754 to read:

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684.0042 Form and contents of award.—

(1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings having more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, if the reason for any omitted signature is stated.

(2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under s. 684.0041.

(3) The award shall state its date and the place of arbitration as determined pursuant to s. 684.0031(1). The award shall be deemed to have been made at that place.

(4) After the award is made, a copy signed by the arbitrators pursuant to subsection (1) shall be delivered to each party.

Section 43. Section 684.0043, Florida Statutes, is created to read:

684.0043 Termination of proceedings.—

(1) Arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal pursuant to subsection

(2).

(2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:

(a) The claimant withdraws its claim, unless the respondent objects to the withdrawal of the claim and the arbitral tribunal recognizes that the respondent has a legitimate interest in obtaining a final settlement of the dispute;

(b) The parties agree on the termination of the

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784 proceedings; or

785 (c) The arbitral tribunal finds that the continuation of
786 the proceedings has for any other reason become unnecessary or
787 impossible.

788 (3) The mandate of the arbitral tribunal terminates with
789 the termination of the arbitral proceedings, subject to ss.
790 684.0044 and 684.0046(4).

791 Section 44. Section 684.0044, Florida Statutes, is created
792 to read:

793 684.0044 Correction and interpretation of award; additional
794 award.-

795 (1) Within 30 days after receipt of the award, unless
796 another period of time has been agreed upon by the parties:

797 (a) A party, with notice to the other party, may request
798 the arbitral tribunal to correct in the award any errors in
799 computation, any clerical or typographical errors, or any errors
800 of similar nature.

801 (b) If so agreed by the parties, a party, with notice to
802 the other party, may request the arbitral tribunal to give an
803 interpretation of a specific point or part of the award.

804
805 If the arbitral tribunal considers the request to be justified,
806 it shall make the correction or give the interpretation within
807 30 days after the request. The interpretation becomes part of
808 the award.

809 (2) The arbitral tribunal may correct any error described
810 in paragraph (1)(a) on its own initiative within 30 days after
811 the date of the award.

812 (3) Unless otherwise agreed by the parties, a party, with

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813 notice to the other party, may request, within 30 days after the
814 receipt of the award, the arbitral tribunal to make an
815 additional award as to claims presented in the arbitral
816 proceedings but omitted from the award. If the arbitral tribunal
817 considers the request to be justified, it shall make the
818 additional award within 60 days.

819 (4) The arbitral tribunal may extend, if necessary, the
820 period of time within which it shall make a correction,
821 interpretation, or additional award pursuant to subsection (1)
822 or subsection (3).

823 (5) Section 684.0042, specifying the form and contents of
824 an award, applies to a correction or interpretation of the award
825 or to an additional award.

826 Section 45. Section 684.0045, Florida Statutes, is created
827 to read:

828 684.0045 Immunity for arbitrators.—An arbitrator serving
829 under this chapter shall have judicial immunity in the same
830 manner and to the same extent as a judge.

831 Section 46. Section 684.0046, Florida Statutes, is created
832 to read:

833 684.0046 Application to set aside as exclusive recourse
834 against arbitral award.—

835 (1) Recourse to a court against an arbitral award may be
836 made only by an application to set aside an arbitral award
837 pursuant to subsections (2) and (3).

838 (2) An arbitral award may be set aside by the court
839 specified in s. 684.0008 only if:

840 (a) The party making the application furnishes proof that:

841 1. A party to the arbitration agreement defined in s.

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842 684.0003(1)(c) was under some incapacity; the arbitration
843 agreement is not valid under the law to which the parties have
844 subjected it; or failing any indication thereon, under the law
845 of this state;

846 2. The party making the application was not given proper
847 notice of the appointment of an arbitrator or of the arbitral
848 proceedings or was otherwise unable to present its case;

849 3. The award deals with a dispute not contemplated by or
850 not falling within the terms of the submissions to arbitration,
851 or contains decisions on matters beyond the scope of the
852 submission to arbitration. However, if the decisions on matters
853 submitted to arbitration can be separated from those not so
854 submitted, only that part of the award which contains decisions
855 on matters not submitted to arbitration may be set aside; or

856 4. The composition of the arbitral tribunal or the arbitral
857 procedure was not in accordance with the agreement of the
858 parties, unless such agreement was in conflict with a provision
859 of this chapter from which the parties may not derogate, or,
860 failing such agreement, was not in accordance with this chapter;
861 or

862 (b) The court finds that:

863 1. The subject matter of the dispute is not capable of
864 settlement by arbitration under the law of this state; or

865 2. The award is in conflict with the public policy of this
866 state.

867 (3) An application to set aside an arbitral award may not
868 be made after 3 months have elapsed after the date on which the
869 party making that application receives the award or, if a
870 request had been made under s. 684.0044, after the date on which

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871 that request had been disposed of by the arbitral tribunal.

872 (4) The court, when asked to set aside an award, may, if
873 appropriate and so requested by a party, suspend the proceedings
874 to set aside the award for a period of time determined by it in
875 order to give the arbitral tribunal an opportunity to resume the
876 arbitral proceedings or to take such other action as in the
877 arbitral tribunal's opinion will eliminate the grounds to set
878 aside the award.

879 Section 47. Section 684.0047, Florida Statutes, is created
880 to read:

881 684.0047 Recognition and enforcement.-

882 (1) An arbitral award, irrespective of the country in which
883 it was made, shall be recognized as binding and, upon
884 application in writing to the competent court, shall be enforced
885 subject to this section and s. 684.0048.

886 (2) The party relying on an award or applying for its
887 enforcement shall supply the original or copy of the award. If
888 the award is not made in the English language, the court may
889 request the party to supply a translation of the award.

890 Section 48. Section 684.0048, Florida Statutes, is created
891 to read:

892 684.0048 Grounds for refusing recognition or enforcement.-

893 (1) Recognition or enforcement of an arbitral award,
894 irrespective of the country in which it was made, may be refused
895 only:

896 (a) At the request of the party against whom it is invoked,
897 if that party furnishes to the competent court where recognition
898 or enforcement is sought proof that:

899 1. A party to the arbitration agreement defined in s.

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900 684.0003(1)(c) was under some incapacity; the arbitration
901 agreement is not valid under the law to which the parties have
902 subjected it; or failing any indication thereon, under the law
903 of the country where the award was made;

904 2. The party against whom the award is invoked was not
905 given proper notice of the appointment of an arbitrator or of
906 the arbitral proceedings or was otherwise unable to present its
907 case;

908 3. The award deals with a dispute not contemplated by or
909 not falling within the terms of the submission to arbitration,
910 or it contains decisions on matters beyond the scope of the
911 submission to arbitration. However, if the decisions on matters
912 submitted to arbitration can be separated from those not so
913 submitted, that part of the award which contains decisions on
914 matters submitted to arbitration may be recognized and enforced;

915 4. The composition of the arbitral tribunal or the arbitral
916 procedure was not in accordance with the agreement of the
917 parties or, failing such agreement, was not in accordance with
918 the law of the country where the arbitration took place; or

919 5. The award has not yet become binding on the parties or
920 has been set aside or suspended by a court of the country in
921 which, or under the law of which, that award was made; or

922 (b) If the court finds that:

923 1. The subject matter of the dispute is not capable of
924 settlement by arbitration under the laws of this state; or

925 2. The recognition or enforcement of the award would be
926 contrary to the public policy of this state.

927 (2) If an application for setting aside or suspension of an
928 award has been made to a court referenced in subparagraph

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929 (1)(a)5., the court where recognition or enforcement is sought
930 may, if it considers it proper, adjourn its decision and may
931 also, on the application of the party claiming recognition or
932 enforcement of the award, order the other party to provide
933 appropriate security.

934 Section 49. Parts I, II, and III of chapter 684, Florida
935 Statutes, consisting of sections 684.01, 684.02, 684.03, 684.04,
936 684.05, 684.06, 684.07, 684.08, 684.09, 684.10, 684.11, 684.12,
937 684.13, 684.14, 684.15, 684.16, 684.17, 684.18, 684.19, 684.20,
938 684.21, 684.22, 684.23, 684.24, 684.25, 684.26, 684.27, 684.28,
939 684.29, 684.30, 684.31, 684.32, 684.33, 684.34, and 684.35, are
940 repealed.

941 Section 50. This act shall take effect July 1, 2010.