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1 A bill to be entitled
2 An act relating to international commercial
3 arbitration; amending s. 48.196, F.S.; conforming a
4 reference to changes made by the act; creating s.
5 684.0001, F.S.; providing a short title; creating s.
6 684.0002, F.S.; defining the scope of application of
7 the Florida International Commercial Arbitration Act;
8 creating s. 684.0003, F.S.; defining terms; providing
9 rules of interpretation for the act; creating s.
10 684.0004, F.S.; providing intent that the act be
11 applied and interpreted with respect to its purpose;
12 creating s. 684.0005, F.S.; specifying when a written
13 communication is received; creating s. 684.0006, F.S.;
14 specifying circumstances that constitute a waiver of
15 the right to object; creating s. 684.0007, F.S.;
16 limiting the ability of a court to intervene in an
17 arbitral proceeding; creating s. 684.0008, F.S.;
18 designating the circuit court in which an arbitration
19 is or will be held as the court that may take certain
20 actions authorized by the act; creating s. 684.0009,
21 F.S.; requiring a court to refer matters governed by
22 an arbitration agreement to arbitration; creating s.
23 684.001, F.S.; authorizing a court to grant an interim
24 measure of protection before or during an arbitral
25 proceeding; creating s. 684.0011, F.S.; authorizing
26 the parties to an arbitration to determine the number
27 of arbitrators; specifying the number of arbitrators
28 for a proceeding if the number of arbitrators is not
29 determined by the parties; creating s. 684.0012, F.S.;

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

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

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88 be used in the proceeding; authorizing the arbitral
89 tribunal to determine the language in the absence of a
90 decision by the parties; creating s. 684.0034, F.S.;
91 providing for the submission of claims and defenses to
92 an arbitral tribunal; creating s. 684.0035, F.S.;
93 providing for the determination of the method by which
94 evidence will be presented before an arbitral
95 proceeding; creating s. 684.0036, F.S.; specifying
96 actions that constitute a default by a party to an
97 arbitral proceeding; creating s. 684.0037, F.S.;
98 authorizing an arbitral tribunal to appoint an expert
99 and for the parties to question and present other
100 experts to the tribunal's expert, unless otherwise
101 agreed by the parties; creating s. 684.0038, F.S.;
102 authorizing a party or an arbitral tribunal to request
103 the assistance of a court in taking evidence; creating
104 s. 684.0039, F.S.; providing for the choice of law
105 applicable in an arbitral proceeding; creating s.
106 684.004, F.S.; specifying the number of arbitrators
107 who must make a decision, unless specified otherwise
108 by the parties; creating s. 684.0041, F.S.;
109 authorizing the parties to an arbitral proceeding to
110 enter into a settlement that is recorded as an award
111 by the arbitral tribunal; creating s. 684.0042, F.S.;
112 specifying the form and content of an arbitral award;
113 creating s. 684.0043, F.S.; specifying events that
114 terminate or require an arbitral tribunal to terminate
115 an arbitral proceeding; creating s. 684.0044, F.S.;
116 authorizing an arbitral tribunal to correct and

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

133

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

135

136 Section 1. Subsection (1) of section 48.196, Florida
137 Statutes, is amended to read:

138 48.196 Service of process in connection with actions under
139 the Florida International Commercial Arbitration Act.—

140 (1) Any process in connection with the commencement of an
141 action before the courts of this state under chapter 684, the
142 Florida International Commercial Arbitration Act, shall be
143 served:

144 (a) In the case of a natural person, by service upon:
145 1. That person;

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146 2. Any agent for service of process appointed in, or
147 pursuant to, any applicable agreement or by operation of any law
148 of this state; or

149 3. Any person authorized by the law of the jurisdiction
150 where process is being served to accept service for that person.

151 (b) In the case of any person other than a natural person,
152 by service upon:

153 1. Any agent for service of process appointed in, or
154 pursuant to, any applicable agreement or by operation of any law
155 of this state;

156 2. Any person authorized by the law of the jurisdiction
157 where process is being served to accept service for that person;
158 or

159 3. Any person, whether natural or otherwise and wherever
160 located, who by operation of law or internal action is an
161 officer, business agent, director, general partner, or managing
162 agent or director of the person being served; or

163 4. Any partner, joint venturer, member or controlling
164 shareholder, wherever located, of the person being served, if
165 the person being served does not by law or internal action have
166 any officer, business agent, director, general partner, or
167 managing agent or director.

168 Section 2. Section 684.0001, Florida Statutes, is created
169 to read:

170 684.0001 Short title.—This chapter may be cited as the
171 “Florida International Commercial Arbitration Act.”

172 Section 3. Section 684.0002, Florida Statutes, is created
173 to read:

174 684.0002 Scope of application.—

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

178 (2) This chapter, except ss. 684.0009, 684.001, 684.0026,
179 684.0027, 684.0028, 684.0047, and 684.0048, applies only if the
180 place of arbitration is in this state.

181 (3) An arbitration is international if:

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

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

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

189 2. Any place where a substantial part of the obligations of
190 the commercial relationship are to be performed or the place
191 with which the subject matter of the dispute is most closely
192 connected; or

193 (c) The parties have expressly agreed that the subject
194 matter of the arbitration agreement relates to more than one
195 country.

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

197 (a) If a party has more than one place of business, the
198 place of business is that which has the closest relationship to
199 the arbitration agreement.

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

202 (5) This chapter does not affect any law that may prohibit
203 a matter from being resolved by arbitration or that specifies

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204 the manner in which a specific matter may be submitted or
205 resolved by arbitration.

206 Section 4. Section 684.0003, Florida Statutes, is created
207 to read:

208 684.0003 Definitions and rules of interpretation.—

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

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

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

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

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

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

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

227 (4) A provision of this chapter, other than in s.

228 684.0036(1) or s. 684.0043(2)(a), which refers to a claim also
229 applies to a counter claim, and a provision that refers to a
230 defense also applies to a defense to such counter claim.

231 Section 5. Section 684.0004, Florida Statutes, is created
232 to read:

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233 684.0004 International origin and general principles.—

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

237 (2) Questions concerning matters governed by this chapter
238 which are not expressly settled pursuant to it shall be settled
239 in conformity with the general principles on which this chapter
240 is based.

241 Section 6. Section 684.0005, Florida Statutes, is created
242 to read:

243 684.0005 Receipt of written communications.—

244 (1) Unless otherwise agreed by the parties, a written
245 communication is deemed to be received if it is delivered to the
246 addressee personally or if it is delivered to the addressee's
247 place of business, habitual residence, or mailing address. If
248 one of these locations cannot be found after a reasonable
249 inquiry, the written communication is deemed to be received if
250 it is sent to the addressee's last known place of business,
251 habitual residence, or mailing address by registered letter or
252 any other means that provides a record of the attempt to deliver
253 it. The communication is deemed to be received on the day it is
254 delivered.

255 (2) This section does not apply to communications in court
256 proceedings.

257 Section 7. Section 684.0006, Florida Statutes, is created
258 to read:

259 684.0006 Waiver of right to object.—A party waives its
260 right to object if it proceeds with the arbitration and fails to
261 object without undue delay or within a provided time limit to:

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262 (1) Noncompliance of any provision of this chapter from
263 which the parties may derogate and have not derogated; or
264 (2) Noncompliance of any requirement under the arbitration
265 agreement.

266 Section 8. Section 684.0007, Florida Statutes, is created
267 to read:

268 684.0007 Extent of court intervention.—In matters governed
269 by this chapter, a court may not intervene except to the extent
270 authorized by this chapter.

271 Section 9. Section 684.0008, Florida Statutes, is created
272 to read:

273 684.0008 Court for certain functions of arbitration
274 assistance and supervision.—The functions referenced in ss.
275 684.0012(3) and (4), 684.0014(3), 684.0015, 684.0017(3), and
276 684.0046(2) shall be performed by the circuit court in the
277 county in which the seat of the arbitration is located.

278 Section 10. Section 684.0009, Florida Statutes, is created
279 to read:

280 684.0009 Arbitration agreement and substantive claim before
281 court.—

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

288 (2) If an action described in subsection (1) has been
289 brought, arbitral proceedings may nevertheless be commenced or
290 continued, and an award may be made, while the issue is pending

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291 before the court.

292 Section 11. Section 684.001, Florida Statues, is created to
293 read:

294 684.001 Arbitration agreement and interim measures by a
295 court.—It is not incompatible with an arbitration agreement for
296 a party to request from a court, before or during arbitral
297 proceedings, an interim measure of protection and for a court to
298 grant such a measure.

299 Section 12. Section 684.0011, Florida Statutes, is created
300 to read:

301 684.0011 Number of arbitrators.—

302 (1) The parties may determine the number of arbitrators.
303 (2) If the parties fail to determine the number of
304 arbitrators, the number of arbitrators shall be three.

305 Section 13. Section 684.0012, Florida Statutes, is created
306 to read:

307 684.0012 Appointment of arbitrators.—

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

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

313 (3) Failing such agreement:

314 (a) In an arbitration having three arbitrators, each party
315 shall appoint one arbitrator, and the two arbitrators thus
316 appointed shall appoint the third arbitrator. If a party fails
317 to appoint the arbitrator within 30 days after receipt of a
318 request to do so from the other party, or if the two arbitrators
319 fail to agree on the third arbitrator within 30 days after their

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320 appointment, the appointment shall be made, upon request of a
321 party, by the court specified in s. 684.0008.

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

326 (4) If, under an appointment procedure agreed upon by the
327 parties:

328 (a) A party fails to act as required under such procedure;
329 (b) The parties, or two arbitrators, are unable to reach an
330 agreement under such procedure; or
331 (c) A third party, including an institution, fails to
332 perform any function entrusted to it under such procedure,

333
334 any party may request the court specified in s. 684.0008 to take
335 the necessary measure, unless the agreement on the appointment
336 procedure provides other means for securing the appointment.

337 (5) A decision on a matter entrusted by subsection (3) or
338 subsection (4) to the court specified in s. 684.0008 is not
339 appealable. The court, in appointing an arbitrator, shall have
340 due regard to any qualifications required by the arbitrator by
341 the agreement of the parties and to such considerations that are
342 likely to secure the appointment of an independent and impartial
343 arbitrator. In the case of the appointment of a sole or third
344 arbitrator, the court shall take into account the advisability
345 of appointing an arbitrator of a nationality other than those of
346 the parties.

347 Section 14. Section 684.0013, Florida Statutes, is created
348 to read:

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349 684.0013 Grounds for challenge.—
350 (1) When a person is approached in connection with a
351 possible appointment as an arbitrator, the person must disclose
352 any circumstances likely to give rise to justifiable doubts as
353 to the person's impartiality or independence. An arbitrator,
354 from the time of appointment and throughout the arbitral
355 proceedings, shall disclose any such circumstances to the
356 parties without delay, unless they have already been informed of
357 them by him or her.

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

365 Section 15. Section 684.0014, Florida Statutes, is created
366 to read:

367 684.0014 Challenge procedure.—

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

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

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378 (3) If a challenge under any procedure agreed upon by the
379 parties or pursuant to subsection (2) is not successful, the
380 challenging party may request, within 30 days after having
381 received notice of the decision rejecting the challenge, the
382 court specified in s. 684.0008 to decide on the challenge. The
383 decision of the court is not appealable. While such a request is
384 pending, the arbitral tribunal, including the challenged
385 arbitrator, may continue the arbitral proceedings and make an
386 award.

387 Section 16. Section 684.0015, Florida Statutes, is created
388 to read:

389 684.0015 Failure or impossibility to act.—

390 (1) If an arbitrator becomes de jure or de facto unable to
391 perform his or her functions or for other reasons fails to act
392 without undue delay, his or her mandate terminates if he or she
393 withdraws from office or if the parties agree on the
394 termination. Otherwise, if a controversy remains concerning any
395 of these grounds, any party may request the court specified in
396 s. 684.0008 to decide on the termination of the mandate. The
397 decision of the court is not appealable.

398 (2) If, under this section or s. 684.0014(2), an arbitrator
399 withdraws from his or her office or a party agrees to the
400 termination of the mandate of an arbitrator, such actions do not
401 imply the acceptance of the validity of any ground described in
402 this section or in s. 684.0013(2).

403 Section 17. Section 684.0016, Florida Statutes, is created
404 to read:

405 684.0016 Appointment of substitute arbitrator.—If the
406 mandate of an arbitrator terminates pursuant to s. 684.0014 or

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407 s. 684.0015 or because of his or her withdrawal from office for
408 any other reason or because of the revocation of the mandate by
409 agreement of the parties or in any other case of termination of
410 the mandate, a substitute arbitrator shall be appointed pursuant
411 to the rules that applied to the appointment of the arbitrator
412 being replaced.

413 Section 18. Section 684.0017, Florida Statutes, is created
414 to read:

415 684.0017 Competence of arbitral tribunal to rule on its
416 jurisdiction.—

417 (1) The arbitral tribunal may rule on its own jurisdiction,
418 including any objections with respect to the existence or
419 validity of the arbitration agreement. For that purpose, an
420 arbitration clause that forms part of a contract shall be
421 treated as an agreement independent of the other terms of the
422 contract. A decision by the arbitral tribunal that the contract
423 is not valid does not entail ipso jure the invalidity of the
424 arbitration clause.

425 (2) A plea that the arbitral tribunal does not have
426 jurisdiction must be raised not later than the submission of the
427 statement of defense. A party is not precluded from raising such
428 a plea by the fact that the party appointed, or participated in
429 the appointment of, an arbitrator. A plea that the arbitral
430 tribunal is exceeding the scope of its authority must be raised
431 as soon as the matter alleged to be beyond the scope of its
432 authority is raised during the arbitral proceedings. The
433 arbitral tribunal may, in either case, admit a later plea if
434 considers the delay justified.

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

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436 subsection (2) as a preliminary question or in an award on the
437 merits. If the arbitral tribunal rules as a preliminary question
438 that it has jurisdiction, any party may request, within 30 days
439 after receiving notice of that ruling, that the court specified
440 in s. 684.0008 decide the matter. The decision of the court is
441 not appealable. While such a request is pending, the arbitral
442 tribunal may continue the arbitral proceedings and make an
443 award.

444 Section 19. Section 684.0018, Florida Statutes, is created
445 to read:

446 684.0018 Power of arbitral tribunal to order interim
447 measures.—Unless otherwise agreed by the parties, the arbitral
448 tribunal may, at the request of a party, grant interim measures.
449 An interim measure is any temporary measure, whether in the form
450 of an award or in another form, by which, at any time before the
451 issuance of the award by which the dispute is finally decided,
452 the arbitral tribunal orders a party to:

453 (1) Maintain or restore the status quo pending
454 determination of the dispute;

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

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

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

462 Section 20. Section 684.0019, Florida Statutes, is created
463 to read:

464 684.0019 Conditions for granting interim measures.—

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465 (1) The party requesting an interim measure under s.
466 684.0018 must satisfy the arbitral tribunal that:
467 (a) Harm not adequately reparable by an award of damages is
468 likely to result if the measure is not ordered, and such harm
469 substantially outweighs the harm that is likely to result to the
470 party against whom the measure is directed if the measure is
471 granted; and
472 (b) A reasonable possibility exists that the requesting
473 party will succeed on the merits of the claim. The determination
474 on this possibility does not affect the discretion of the
475 arbitral tribunal in making any subsequent determination.

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

479 Section 21. Section 684.002, Florida Statutes, is created
480 to read:

481 684.002 Applications for preliminary orders and conditions
482 for granting preliminary orders.—

483 (1) Unless otherwise agreed by the parties, a party may,
484 without notice to any other party, make a request for an interim
485 measure together with an application for a preliminary order
486 prohibiting a party from frustrating the purpose of the interim
487 measure requested.

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

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

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494 is the harm likely to result from the order being granted or not
495 granted.

496 Section 22. Section 684.0021, Florida Statutes, is created
497 to read:

498 684.0021 Specific regime for preliminary orders.—

499 (1) Immediately after the arbitral tribunal makes a
500 determination in respect of an application for a preliminary
501 order, the arbitral tribunal shall give notice to all parties of
502 the request for the interim measure, the application for the
503 preliminary order, the preliminary order, if any, and all other
504 communications. The notice shall include a description of the
505 content of any oral communication between any party and the
506 arbitral tribunal in relation to any such request or
507 application.

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

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

513 (4) A preliminary order expires 20 days after the date on
514 which it was issued by the arbitral tribunal. However, the
515 arbitral tribunal may issue an interim measure adopting or
516 modifying the preliminary order after the party against whom the
517 preliminary order is directed is given notice and an opportunity
518 to present its case.

519 (5) A preliminary order is binding on the parties but is
520 not enforceable by a court. Such a preliminary order does not
521 constitute an award.

522 Section 23. Section 684.0022, Florida Statutes, is created

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523 to read:

524 684.0022 Modification, suspension, or termination; interim
525 measure or preliminary order.—The arbitral tribunal may modify,
526 suspend, or terminate an interim measure or a preliminary order
527 it has granted upon application of any party or, in exceptional
528 circumstances and upon prior notice to the parties, on the
529 arbitral tribunal's own initiative.

530 Section 24. Section 684.0023, Florida Statutes, is created
531 to read:

532 684.0023 Provision of security.—

533 (1) The arbitral tribunal may require the party requesting
534 an interim measure to provide appropriate security in connection
535 with the measure.

536 (2) The arbitral tribunal shall require the party applying
537 for a preliminary order to provide security in connection with
538 the order unless the arbitral tribunal considers it
539 inappropriate or unnecessary to do so.

540 Section 25. Section 684.0024, Florida Statutes, is created
541 to read:

542 684.0024 Disclosure.—

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

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

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552 Thereafter, subsection (1) applies.

553 Section 26. Section 684.0025, Florida Statutes, is created
554 to read:

555 684.0025 Costs and damages.—The party requesting an interim
556 measure or applying for a preliminary order is liable for any
557 costs and damages caused by the measure or the order to any
558 party if the arbitral tribunal later determines that the measure
559 or the order should not have been granted. The arbitral tribunal
560 may award such costs and damages at any point during the
561 proceedings.

562 Section 27. Section 684.0026, Florida Statutes, is created
563 to read:

564 684.0026 Recognition and enforcement.—

565 (1) An interim measure issued by an arbitral tribunal shall
566 be recognized as binding and, unless otherwise provided by the
567 arbitral tribunal, enforced upon application to the competent
568 court, irrespective of the country in which it was issued,
569 subject to s. 684.0019(1).

570 (2) The party who is seeking or has obtained recognition or
571 enforcement of an interim measure shall promptly inform the
572 court of the termination, suspension, or modification of the
573 interim measure.

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

579 Section 28. Section 684.0027, Florida Statutes, is created
580 to read:

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581 684.0027 Grounds for refusing recognition or enforcement.—

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

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

586 1. Such refusal is warranted on the grounds set forth in s.

587 684.0048(1)(a)1., 2., 3., or 4.;

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

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

595 (b) If the court finds that:

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

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

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

609 Section 29. Section 684.0028, Florida Statutes, is created

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610 to read:

611 684.0028 Court-ordered interim measures.—A court has the
612 same power of issuing an interim measure in relation to
613 arbitration proceedings, irrespective of whether the arbitration
614 proceedings are held in this state, as it has in relation to the
615 proceedings in courts. The court shall exercise such power in
616 accordance with its own procedures and in consideration of the
617 specific features of international arbitration.

618 Section 30. Section 684.0029, Florida Statutes, is created
619 to read:

620 684.0029 Equal treatment of parties.—The parties shall be
621 treated with equality and each party shall be given a full
622 opportunity of presenting its case.

623 Section 31. Section 684.003, Florida Statutes, is created
624 to read:

625 684.003 Determination of rules of procedure.—Subject to the
626 provisions of this chapter, the parties may agree on the
627 procedure to be followed by the arbitral tribunal in conducting
628 the proceedings. Failing such agreement, the arbitral tribunal
629 may, subject to the provisions of this chapter, conduct the
630 arbitration in such manner as it considers appropriate. The
631 power conferred upon the arbitral tribunal includes the power to
632 determine the admissibility, relevance, materiality, and weight
633 of evidence.

634 Section 32. Section 684.0031, Florida Statutes, is created
635 to read:

636 684.0031 Place of arbitration.—
637 (1) The parties may agree on the place of arbitration.
638 Failing such agreement, the place of arbitration shall be

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639 determined by the arbitral tribunal having regard to the
640 circumstances of the case, including the convenience of the
641 parties.

642 (2) Notwithstanding subsection (1), the arbitral tribunal
643 may, unless otherwise agreed by the parties, meet at any place
644 it considers appropriate for consultation among its members, for
645 hearing witnesses, experts, or the parties, or for inspection of
646 goods, other property, or documents.

647 Section 33. Section 684.0032, Florida Statutes, is created
648 to read:

649 684.0032 Commencement of arbitral proceedings.—Unless
650 otherwise agreed by the parties, the arbitral proceedings in
651 respect of a particular dispute commence on the date on which a
652 request for that dispute to be referred to an arbitration is
653 received by the respondent.

654 Section 34. Section 684.0033, Florida Statutes, is created
655 to read:

656 684.0033 Language.—

657 (1) The parties may agree on the language or languages to
658 be used in the arbitral proceedings. Failing such agreement, the
659 arbitral tribunal shall specify the language or languages to be
660 used in the proceedings. This agreement or determination, unless
661 otherwise specified therein, applies to any written statement by
662 a party, any hearing, and any award, decision, or other
663 communication by the arbitral tribunal.

664 (2) The arbitral tribunal may order that any documentary
665 evidence be accompanied by a translation into the language or
666 languages agreed upon by the parties or specified by the
667 arbitral tribunal.

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668 Section 35. Section 684.0034, Florida Statutes, is created
669 to read:

670 684.0034 Statements of claim and defense.—

671 (1) Within the period of time agreed by the parties or
672 specified by the arbitral tribunal, the claimant shall state the
673 facts supporting its claim, the points at issue, and the relief
674 or remedy sought, and the respondent shall state its defense to
675 the claim, unless the parties have otherwise agreed as to the
676 required elements of such statements. The parties may submit
677 with their statements all documents they consider to be relevant
678 or may add a reference to the documents or other evidence they
679 will submit.

680 (2) Unless otherwise agreed by the parties, either party
681 may amend or supplement its claim or defense during the course
682 of the arbitral proceedings, unless the arbitral tribunal
683 considers it inappropriate to allow such amendment having regard
684 to the delay in making it.

685 Section 36. Section 684.0035, Florida Statutes, is created
686 to read:

687 684.0035 Hearings and written proceedings.—

688 (1) Subject to any contrary agreement by the parties, the
689 arbitral tribunal shall decide whether to hold oral hearings for
690 the presentation of evidence or for oral argument, or whether
691 the proceedings shall be conducted on the basis of documents and
692 other materials. However, unless the parties have agreed that no
693 hearings will be held, the arbitral tribunal shall hold such
694 hearings at an appropriate stage of the proceedings, if so
695 requested by a party.

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

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

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

Section 37. Section 684.0036, Florida Statutes, is created to read:

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

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

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

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

Section 38. Section 684.0037, Florida Statutes, is created to read:

684.0037 Expert appointed by arbitral tribunal.—

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

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

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

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726 information or produce or provide access to any relevant
727 documents, goods, or other property for inspection by the
728 expert.

729 (2) Unless otherwise agreed by the parties, if a party so
730 requests or if the arbitral tribunal considers it necessary, the
731 expert shall, after delivery of a written or oral report,
732 participate in a hearing in which the parties have the
733 opportunity to question the expert and to present expert
734 witnesses in order to testify on the points at issue.

735 Section 39. Section 684.0038, Florida Statutes, is created
736 to read:

737 684.0038 Court assistance in taking evidence.—The arbitral
738 tribunal, or a party upon the approval of the arbitral tribunal,
739 may request assistance in taking evidence from a competent court
740 of this state. The court may execute the request within its
741 competence and according to its rules on taking evidence.

742 Section 40. Section 684.0039, Florida Statutes, is created
743 to read:

744 684.0039 Rules applicable to substance of dispute.—

745 (1) The arbitral tribunal shall decide the dispute pursuant
746 to the rules of law chosen by the parties to apply to the
747 substance of the dispute. Any designation of the law or legal
748 system of a state or country shall be construed, unless
749 otherwise expressed, as directly referring to the substantive
750 law of that state or country and not to its conflict-of-laws
751 rule.

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

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

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

761 Section 41. Section 684.004, Florida Statutes, is created
762 to read:

763 684.004 Decisionmaking by panel of arbitrators.—In arbitral
764 proceedings having more than one arbitrator, any decision of the
765 arbitral tribunal shall be made, unless otherwise agreed by the
766 parties, by a majority of all its members. However, questions of
767 procedure may be decided by a presiding arbitrator, if so
768 authorized by the parties or all members of the arbitral
769 tribunal.

770 Section 42. Section 684.0041, Florida Statutes, is created
771 to read:

772 684.0041 Settlement.—

773 (1) If, during arbitral proceedings, the parties settle the
774 dispute, the arbitral tribunal shall terminate the proceedings
775 and, if requested by the parties and not objected to by the
776 arbitral tribunal, record the settlement in the form of an
777 arbitral award on agreed terms.

778 (2) An award on agreed terms shall be made pursuant to s.
779 684.0042 and shall state that it is an award. Such an award has
780 the same status and effect as any other award on the merits of
781 the case.

782 Section 43. Section 684.0042, Florida Statutes, is created
783 to read:

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784 684.0042 Form and contents of award.—

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

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

793 684.0041.

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

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

800 Section 44. Section 684.0043, Florida Statutes, is created
801 to read:

802 684.0043 Termination of proceedings.—

803 (1) Arbitral proceedings are terminated by the final award
804 or by an order of the arbitral tribunal pursuant to subsection
805 (2).

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

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

812 (b) The parties agree on the termination of the

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813 proceedings; or

814 (c) The arbitral tribunal finds that the continuation of
815 the proceedings has for any other reason become unnecessary or
816 impossible.

817 (3) The mandate of the arbitral tribunal terminates with
818 the termination of the arbitral proceedings, subject to ss.
819 684.0044 and 684.0046(4).

820 Section 45. Section 684.0044, Florida Statutes, is created
821 to read:

822 684.0044 Correction and interpretation of award; additional
823 award.—

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

826 (a) A party, with notice to the other party, may request
827 the arbitral tribunal to correct in the award any errors in
828 computation, any clerical or typographical errors, or any errors
829 of similar nature.

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

833

834 If the arbitral tribunal considers the request to be justified,
835 it shall make the correction or give the interpretation within
836 30 days after the request. The interpretation becomes part of
837 the award.

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

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

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842 notice to the other party, may request, within 30 days after the
843 receipt of the award, the arbitral tribunal to make an
844 additional award as to claims presented in the arbitral
845 proceedings but omitted from the award. If the arbitral tribunal
846 considers the request to be justified, it shall make the
847 additional award within 60 days after the request.

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

852 (5) Section 684.0042, specifying the form and contents of
853 an award, applies to a correction or interpretation of the award
854 or to an additional award.

855 Section 46. Section 684.0045, Florida Statutes, is created
856 to read:

857 684.0045 Immunity for arbitrators.—An arbitrator serving
858 under this chapter shall have judicial immunity in the same
859 manner and to the same extent as a judge.

860 Section 47. Section 684.0046, Florida Statutes, is created
861 to read:

862 684.0046 Application to set aside as exclusive recourse
863 against arbitral award.—

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

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

869 (a) The party making the application furnishes proof that:
870 1. A party to the arbitration agreement defined in s.

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871 684.0003(1)(c) was under some incapacity; the arbitration
872 agreement is not valid under the law to which the parties have
873 subjected it; or failing any indication thereon, under the law
874 of this state;

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

878 3. The award deals with a dispute not contemplated by or
879 not falling within the terms of the submissions to arbitration,
880 or contains decisions on matters beyond the scope of the
881 submission to arbitration. However, if the decisions on matters
882 submitted to arbitration can be separated from those not so
883 submitted, only that part of the award which contains decisions
884 on matters not submitted to arbitration may be set aside; or

885 4. The composition of the arbitral tribunal or the arbitral
886 procedure was not in accordance with the agreement of the
887 parties, unless such agreement was in conflict with a provision
888 of this chapter from which the parties may not derogate, or,
889 failing such agreement, was not in accordance with this chapter;
890 or

891 (b) The court finds that:

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

894 2. The award is in conflict with the public policy of this
895 state.

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

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900 elapsed after the date on which that request had been disposed
901 of by the arbitral tribunal.

902 (4) The court, when asked to set aside an award, may, if
903 appropriate and so requested by a party, suspend the proceedings
904 to set aside the award for a period of time determined by it in
905 order to give the arbitral tribunal an opportunity to resume the
906 arbitral proceedings or to take such other action as in the
907 arbitral tribunal's opinion will eliminate the grounds to set
908 aside the award.

909 Section 48. Section 684.0047, Florida Statutes, is created
910 to read:

911 684.0047 Recognition and enforcement.—

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

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

920 Section 49. Section 684.0048, Florida Statutes, is created
921 to read:

922 684.0048 Grounds for refusing recognition or enforcement.—

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

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

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929 1. A party to the arbitration agreement defined in s.
930 684.0003(1)(c) was under some incapacity; the arbitration
931 agreement is not valid under the law to which the parties have
932 subjected it; or failing any indication thereon, under the law
933 of the country where the award was made;

934 2. The party against whom the award is invoked was not
935 given proper notice of the appointment of an arbitrator or of
936 the arbitral proceedings or was otherwise unable to present its
937 case;

938 3. The award deals with a dispute not contemplated by or
939 not falling within the terms of the submission to arbitration,
940 or it contains decisions on matters beyond the scope of the
941 submission to arbitration. However, if the decisions on matters
942 submitted to arbitration can be separated from those not so
943 submitted, that part of the award which contains decisions on
944 matters submitted to arbitration may be recognized and enforced;

945 4. The composition of the arbitral tribunal or the arbitral
946 procedure was not in accordance with the agreement of the
947 parties or, failing such agreement, was not in accordance with
948 the law of the country where the arbitration took place; or

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

952 (b) If the court finds that:

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

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

957 (2) If an application for setting aside or suspension of an

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award has been made to a court referenced in subparagraph
(1) (a)5., the court where recognition or enforcement is sought
may, if it considers it proper, adjourn its decision and may
also, on the application of the party claiming recognition or
enforcement of the award, order the other party to provide
appropriate security.

Section 50. Parts I, II, and III of chapter 684, Florida Statutes, consisting of sections 684.01, 684.02, 684.03, 684.04, 684.05, 684.06, 684.07, 684.08, 684.09, 684.10, 684.11, 684.12, 684.13, 684.14, 684.15, 684.16, 684.17, 684.18, 684.19, 684.20, 684.21, 684.22, 684.23, 684.24, 684.25, 684.26, 684.27, 684.28, 684.29, 684.30, 684.31, 684.32, 684.33, 684.34, and 684.35, are repealed.

Section 51. This act shall take effect July 1, 2010.