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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2012	.	
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The Committee on Judiciary (Flores) recommended the following:

1           **Senate Substitute for Amendment (141064) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 682.01, Florida Statutes, is amended to  
7 read:

8           682.01 Short title ~~Florida Arbitration Code.~~ —This chapter  
9 ~~Sections 682.01–682.22~~ may be cited as the "Revised Florida  
10 Arbitration Code."

11           Section 2. Section 682.011, Florida Statutes, is created to  
12 read:

13           682.011 Definitions.—As used in this chapter, the term:



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14           (1) "Arbitration organization" means an association,  
15 agency, board, commission, or other entity that is neutral and  
16 initiates, sponsors, or administers an arbitration proceeding or  
17 is involved in the appointment of an arbitrator.

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

21           (3) "Court" means a court of competent jurisdiction in this  
22 state.

23           (4) "Knowledge" means actual knowledge.

24           (5) "Person" means an individual, corporation, business  
25 trust, estate, trust, partnership, limited liability company,  
26 association, joint venture, or government; governmental  
27 subdivision, agency, or instrumentality; public corporation; or  
28 any other legal or commercial entity.

29           (6) "Record" means information that is inscribed on a  
30 tangible medium or that is stored in an electronic or other  
31 medium and is retrievable in perceivable form.

32           Section 3. Section 682.012, Florida Statutes, is created to  
33 read:

34           682.012 Notice.—

35           (1) Except as otherwise provided in this chapter, a person  
36 gives notice to another person by taking action that is  
37 reasonably necessary to inform the other person in ordinary  
38 course, whether or not the other person acquires knowledge of  
39 the notice.

40           (2) A person has notice if the person has knowledge of the  
41 notice or has received notice.

42           (3) A person receives notice when it comes to the person's



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43 attention or the notice is delivered at the person's place of  
44 residence or place of business, or at another location held out  
45 by the person as a place of delivery of such communications.

46 Section 4. Section 682.013, Florida Statutes, is created to  
47 read:

48 682.013 Applicability of revised code.-

49 (1) The Revised Florida Arbitration Code governs an  
50 agreement to arbitrate made on or after July 1, 2012.

51 (2) The Revised Florida Arbitration Code governs an  
52 agreement to arbitrate made before July 1, 2012, if all the  
53 parties to the agreement or to the arbitration proceeding so  
54 agree in a record. Otherwise, such agreements shall be governed  
55 by the applicable law existing at the time the parties entered  
56 into the agreement.

57 (3) The Revised Florida Arbitration Code does not affect an  
58 action or proceeding commenced or right accrued before July 1,  
59 2012.

60 (4) Beginning July 1, 2015, an agreement to arbitrate shall  
61 be subject to the then applicable law governing agreements to  
62 arbitrate.

63 Section 5. Section 682.014, Florida Statutes, is created to  
64 read:

65 682.014 Effect of agreement to arbitrate; nonwaivable  
66 provisions.-

67 (1) Except as otherwise provided in subsections (2) and  
68 (3), a party to an agreement to arbitrate or to an arbitration  
69 proceeding may waive, or the parties may vary the effect of, the  
70 requirements of this chapter to the extent permitted by law.

71 (2) Before a controversy arises that is subject to an



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72 agreement to arbitrate, a party to the agreement may not:

73 (a) Waive or agree to vary the effect of the requirements  
74 of:

75 1. Commencing a petition for judicial relief under s.  
76 682.015(1);

77 2. Making agreements to arbitrate valid, enforceable, and  
78 irrevocable under s. 682.02(1);

79 3. Permitting provisional remedies under s. 682.031;

80 4. Conferring authority on arbitrators to issue subpoenas  
81 and permit depositions under s. 682.08(1) or (2);

82 5. Conferring jurisdiction under s. 682.181; or

83 6. Stating the bases for appeal under s. 682.20;

84 (b) Agree to unreasonably restrict the right under s.  
85 682.032 to notice of the initiation of an arbitration  
86 proceeding;

87 (c) Agree to unreasonably restrict the right under s.  
88 682.041 to disclosure of any facts by a neutral arbitrator; or

89 (d) Waive the right under s. 682.07 of a party to an  
90 agreement to arbitrate to be represented by an attorney at any  
91 proceeding or hearing under this chapter, but an employer and a  
92 labor organization may waive the right to representation by an  
93 attorney in a labor arbitration.

94 (3) A party to an agreement to arbitrate or arbitration  
95 proceeding may not waive, or the parties may not vary the effect  
96 of, the requirements in this section or:

97 (a) The applicability of this chapter, the Revised Florida  
98 Arbitration Code under s. 682.013(1) or (4);

99 (b) The availability of proceedings to compel or stay  
100 arbitration under s. 682.03;



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101 (c) The immunity conferred on arbitrators and arbitration  
102 organizations under s. 682.051;

103 (d) A party's right to seek judicial enforcement of an  
104 arbitration preaward ruling under s. 682.081;

105 (e) The authority conferred on an arbitrator to change an  
106 award under s. 682.10(4) or (5);

107 (f) The remedies provided under s. 682.12;

108 (g) The grounds for vacating an arbitration award under s.  
109 682.13;

110 (h) The grounds for modifying an arbitration award under s.  
111 682.14;

112 (i) The validity and enforceability of a judgment or decree  
113 based on an award under s. 682.15(1) or (2);

114 (j) The validity of the Electronic Signatures in Global and  
115 National Commerce Act under s. 682.23; or

116 (k) The excluded disputes involving child custody,  
117 visitation, or child support under s. 682.25.

118 Section 6. Section 682.015, Florida Statutes, is created to  
119 read:

120 682.015 Petition for judicial relief.—

121 (1) Except as otherwise provided in s. 682.20, a petition  
122 for judicial relief under this chapter must be made to the court  
123 and heard in the manner provided by law or rule of court for  
124 making and hearing motions.

125 (2) Unless a civil action involving the agreement to  
126 arbitrate is pending, notice of an initial petition to the court  
127 under this chapter must be served in the manner provided by law  
128 for the service of a summons in a civil action. Otherwise,  
129 notice of the motion must be given in the manner provided by law



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130 or rule of court for serving motions in pending cases.

131 Section 7. Section 682.02, Florida Statutes, is amended to  
132 read:

133 682.02 Arbitration agreements made valid, irrevocable, and  
134 enforceable; scope.—

135 (1) An agreement contained in a record to submit to  
136 arbitration any existing or subsequent controversy arising  
137 between the parties to the agreement is valid, enforceable, and  
138 irrevocable except upon a ground that exists at law or in equity  
139 for the revocation of a contract.

140 (2) The court shall decide whether an agreement to  
141 arbitrate exists or a controversy is subject to an agreement to  
142 arbitrate.

143 (3) An arbitrator shall decide whether a condition  
144 precedent to arbitrability has been fulfilled and whether a  
145 contract containing a valid agreement to arbitrate is  
146 enforceable.

147 (4) If a party to a judicial proceeding challenges the  
148 existence of, or claims that a controversy is not subject to, an  
149 agreement to arbitrate, the arbitration proceeding may continue  
150 pending final resolution of the issue by the court, unless the  
151 court otherwise orders.

152 ~~(5) Two or more parties may agree in writing to submit to~~  
153 ~~arbitration any controversy existing between them at the time of~~  
154 ~~the agreement, or they may include in a written contract a~~  
155 ~~provision for the settlement by arbitration of any controversy~~  
156 ~~thereafter arising between them relating to such contract or the~~  
157 ~~failure or refusal to perform the whole or any part thereof.~~

158 This section also applies to written interlocal agreements under



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159 ss. 163.01 and 373.713 in which two or more parties agree to  
160 submit to arbitration any controversy between them concerning  
161 water use permit motions ~~applications~~ and other matters,  
162 regardless of whether or not the water management district with  
163 jurisdiction over the subject motion ~~application~~ is a party to  
164 the interlocal agreement or a participant in the arbitration.  
165 ~~Such agreement or provision shall be valid, enforceable, and~~  
166 ~~irrevocable without regard to the justiciable character of the~~  
167 ~~controversy; provided that this act shall not apply to any such~~  
168 ~~agreement or provision to arbitrate in which it is stipulated~~  
169 ~~that this law shall not apply or to any arbitration or award~~  
170 ~~thereunder.~~

171 Section 8. Section 682.03, Florida Statutes, is amended to  
172 read:

173 682.03 Proceedings to compel and to stay arbitration.—

174 (1) On motion of a person showing an agreement to arbitrate  
175 and alleging another person's refusal to arbitrate pursuant to  
176 the agreement:

177 (a) If the refusing party does not appear or does not  
178 oppose the motion, the court shall order the parties to  
179 arbitrate.

180 (b) If the refusing party opposes the motion, the court  
181 shall proceed summarily to decide the issue and order the  
182 parties to arbitrate unless it finds that there is no  
183 enforceable agreement to arbitrate. ~~A party to an agreement or~~  
184 ~~provision for arbitration subject to this law claiming the~~  
185 ~~neglect or refusal of another party thereto to comply therewith~~  
186 ~~may make application to the court for an order directing the~~  
187 ~~parties to proceed with arbitration in accordance with the terms~~



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188 ~~thereof. If the court is satisfied that no substantial issue~~  
189 ~~exists as to the making of the agreement or provision, it shall~~  
190 ~~grant the application. If the court shall find that a~~  
191 ~~substantial issue is raised as to the making of the agreement or~~  
192 ~~provision, it shall summarily hear and determine the issue and,~~  
193 ~~according to its determination, shall grant or deny the~~  
194 ~~application.~~

195       (2) On motion of a person alleging that an arbitration  
196 proceeding has been initiated or threatened but that there is no  
197 agreement to arbitrate, the court shall proceed summarily to  
198 decide the issue. If the court finds that there is an  
199 enforceable agreement to arbitrate, it shall order the parties  
200 to arbitrate. ~~If an issue referable to arbitration under an~~  
201 ~~agreement or provision for arbitration subject to this law~~  
202 ~~becomes involved in an action or proceeding pending in a court~~  
203 ~~having jurisdiction to hear an application under subsection (1),~~  
204 ~~such application shall be made in said court. Otherwise and~~  
205 ~~subject to s. 682.19, such application may be made in any court~~  
206 ~~of competent jurisdiction.~~

207       (3) If the court finds that there is no enforceable  
208 agreement to arbitrate, it may not order the parties to  
209 arbitrate pursuant to subsection (1) or subsection (2). ~~Any~~  
210 ~~action or proceeding involving an issue subject to arbitration~~  
211 ~~under this law shall be stayed if an order for arbitration or an~~  
212 ~~application therefor has been made under this section or, if the~~  
213 ~~issue is severable, the stay may be with respect thereto only.~~  
214 ~~When the application is made in such action or proceeding, the~~  
215 ~~order for arbitration shall include such stay.~~

216       (4) The court may not refuse to order arbitration because





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217 the claim subject to arbitration lacks merit or grounds for the  
218 claim have not been established. On application the court may  
219 stay an arbitration proceeding commenced or about to be  
220 commenced, if it shall find that no agreement or provision for  
221 arbitration subject to this law exists between the party making  
222 the application and the party causing the arbitration to be had.  
223 The court shall summarily hear and determine the issue of the  
224 making of the agreement or provision and, according to its  
225 determination, shall grant or deny the application.

226 (5) If a proceeding involving a claim referable to  
227 arbitration under an alleged agreement to arbitrate is pending  
228 in court, a motion under this section must be made in that  
229 court. Otherwise, a motion under this section may be made in any  
230 court as provided in s. 682.19. An order for arbitration shall  
231 not be refused on the ground that the claim in issue lacks merit  
232 or bona fides or because any fault or grounds for the claim  
233 sought to be arbitrated have not been shown.

234 (6) If a party makes a motion to the court to order  
235 arbitration, the court on just terms shall stay any judicial  
236 proceeding that involves a claim alleged to be subject to the  
237 arbitration until the court renders a final decision under this  
238 section.

239 (7) If the court orders arbitration, the court on just  
240 terms shall stay any judicial proceeding that involves a claim  
241 subject to the arbitration. If a claim subject to the  
242 arbitration is severable, the court may limit the stay to that  
243 claim.

244 Section 9. Section 682.031, Florida Statutes, is created to  
245 read:



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246 682.031 Provisional remedies.-

247 (1) Before an arbitrator is appointed and is authorized and  
248 able to act, the court, upon motion of a party to an arbitration  
249 proceeding and for good cause shown, may enter an order for  
250 provisional remedies to protect the effectiveness of the  
251 arbitration proceeding to the same extent and under the same  
252 conditions as if the controversy were the subject of a civil  
253 action.

254 (2) After an arbitrator is appointed and is authorized and  
255 able to act:

256 (a) The arbitrator may issue such orders for provisional  
257 remedies, including interim awards, as the arbitrator finds  
258 necessary to protect the effectiveness of the arbitration  
259 proceeding and to promote the fair and expeditious resolution of  
260 the controversy, to the same extent and under the same  
261 conditions as if the controversy were the subject of a civil  
262 action.

263 (b) A party to an arbitration proceeding may move the court  
264 for a provisional remedy only if the matter is urgent and the  
265 arbitrator is not able to act timely or the arbitrator cannot  
266 provide an adequate remedy.

267 (3) A party does not waive a right of arbitration by making  
268 a motion under this section.

269 Section 10. Section 682.032, Florida Statutes, is created  
270 to read:

271 682.032 Initiation of arbitration.-

272 (1) A person initiates an arbitration proceeding by giving  
273 notice in a record to the other parties to the agreement to  
274 arbitrate in the agreed manner between the parties or, in the



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275 absence of agreement, by certified or registered mail, return  
276 receipt requested and obtained, or by service as authorized for  
277 the commencement of a civil action. The notice must describe the  
278 nature of the controversy and the remedy sought.

279 (2) Unless a person objects for lack or insufficiency of  
280 notice under s. 682.06(3) not later than the beginning of the  
281 arbitration hearing, the person by appearing at the hearing  
282 waives any objection to lack of or insufficiency of notice.

283 Section 11. Section 682.033, Florida Statutes, is created  
284 to read:

285 682.033 Consolidation of separate arbitration proceedings.-

286 (1) Except as otherwise provided in subsection (3), upon  
287 motion of a party to an agreement to arbitrate or to an  
288 arbitration proceeding, the court may order consolidation of  
289 separate arbitration proceedings as to all or some of the claims  
290 if:

291 (a) There are separate agreements to arbitrate or separate  
292 arbitration proceedings between the same persons or one of them  
293 is a party to a separate agreement to arbitrate or a separate  
294 arbitration proceeding with a third person;

295 (b) The claims subject to the agreements to arbitrate arise  
296 in substantial part from the same transaction or series of  
297 related transactions;

298 (c) The existence of a common issue of law or fact creates  
299 the possibility of conflicting decisions in the separate  
300 arbitration proceedings; and

301 (d) Prejudice resulting from a failure to consolidate is  
302 not outweighed by the risk of undue delay or prejudice to the  
303 rights of or hardship to parties opposing consolidation.



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304           (2) The court may order consolidation of separate  
305 arbitration proceedings as to some claims and allow other claims  
306 to be resolved in separate arbitration proceedings.

307           (3) The court may not order consolidation of the claims of  
308 a party to an agreement to arbitrate if the agreement prohibits  
309 consolidation.

310           Section 12. Section 682.04, Florida Statutes, is amended to  
311 read:

312           682.04 Appointment of arbitrators by court.—

313           (1) If the parties to an agreement to arbitrate agree on ~~or~~  
314 ~~provision for arbitration subject to this law provides a method~~  
315 ~~for appointing the appointment of arbitrators or an umpire,~~ this  
316 method ~~must shall~~ be followed, unless the method fails.

317           (2) The court, on application of a party to an arbitration  
318 agreement, shall appoint one or more arbitrators, if:

319           (a) The parties have not agreed on a method;

320           (b) The agreed method fails;

321           (c) One or more of the parties failed to respond to the  
322 demand for arbitration; or

323           (d) An arbitrator fails to act and a successor has not been  
324 appointed.

325           (3) ~~In the absence thereof, or if the agreed method fails~~  
326 ~~or for any reason cannot be followed, or if an arbitrator or~~  
327 ~~umpire who has been appointed fails to act and his or her~~  
328 ~~successor has not been duly appointed, the court, on application~~  
329 ~~of a party to such agreement or provision shall appoint one or~~  
330 ~~more arbitrators or an umpire. An arbitrator or umpire so~~  
331 appointed ~~has all the shall have like powers of an arbitrator~~  
332 ~~designated as if named or provided for in the agreement to~~



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333 arbitrate appointed pursuant to the agreed method ~~or provision.~~

334 (4) An individual who has a known, direct, and material  
335 interest in the outcome of the arbitration proceeding or a  
336 known, existing, and substantial relationship with a party may  
337 not serve as an arbitrator required by an agreement to be  
338 neutral.

339 Section 13. Section 682.041, Florida Statutes, is created  
340 to read:

341 682.041 Disclosure by arbitrator.—

342 (1) Before accepting appointment, an individual who is  
343 requested to serve as an arbitrator, after making a reasonable  
344 inquiry, shall disclose to all parties to the agreement to  
345 arbitrate and arbitration proceeding and to any other  
346 arbitrators any known facts that a reasonable person would  
347 consider likely to affect the person's impartiality as an  
348 arbitrator in the arbitration proceeding, including:

349 (a) A financial or personal interest in the outcome of the  
350 arbitration proceeding.

351 (b) An existing or past relationship with any of the  
352 parties to the agreement to arbitrate or the arbitration  
353 proceeding, their counsel or representative, a witness, or  
354 another arbitrator.

355 (2) An arbitrator has a continuing obligation to disclose  
356 to all parties to the agreement to arbitrate and arbitration  
357 proceeding and to any other arbitrators any facts that the  
358 arbitrator learns after accepting appointment that a reasonable  
359 person would consider likely to affect the impartiality of the  
360 arbitrator.

361 (3) If an arbitrator discloses a fact required by



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362 subsection (1) or subsection (2) to be disclosed and a party  
363 timely objects to the appointment or continued service of the  
364 arbitrator based upon the fact disclosed, the objection may be a  
365 ground under s. 682.13(1)(b) for vacating an award made by the  
366 arbitrator.

367 (4) If the arbitrator did not disclose a fact as required  
368 by subsection (1) or subsection (2), upon timely objection by a  
369 party, the court may vacate an award under s. 682.13(1)(b).

370 (5) An arbitrator appointed as a neutral arbitrator who  
371 does not disclose a known, direct, and material interest in the  
372 outcome of the arbitration proceeding or a known, existing, and  
373 substantial relationship with a party is presumed to act with  
374 evident partiality under s. 682.13(1)(b).

375 (6) If the parties to an arbitration proceeding agree to  
376 the procedures of an arbitration organization or any other  
377 procedures for challenges to arbitrators before an award is  
378 made, substantial compliance with those procedures is a  
379 condition precedent to a motion to vacate an award on that  
380 ground under s. 682.13(1)(b).

381 Section 14. Section 682.05, Florida Statutes, is amended to  
382 read:

383 682.05 Majority action by arbitrators.—If there is more  
384 than one arbitrator, the powers of an arbitrator must be  
385 exercised by a majority of the arbitrators, but all of the  
386 arbitrators shall conduct the hearing under s. 682.06(3). ~~The~~  
387 ~~powers of the arbitrators may be exercised by a majority of~~  
388 ~~their number unless otherwise provided in the agreement or~~  
389 ~~provision for arbitration.~~

390 Section 15. Section 682.051, Florida Statutes, is created



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391 to read:

392 682.051 Immunity of arbitrator; competency to testify;  
393 attorney fees and costs.—

394 (1) An arbitrator or an arbitration organization acting in  
395 that capacity is immune from civil liability to the same extent  
396 as a judge of a court of this state acting in a judicial  
397 capacity.

398 (2) The immunity afforded under this section supplements  
399 any immunity under other law.

400 (3) The failure of an arbitrator to make a disclosure  
401 required by s. 682.041 does not cause any loss of immunity under  
402 this section.

403 (4) In a judicial, administrative, or similar proceeding,  
404 an arbitrator or representative of an arbitration organization  
405 is not competent to testify, and may not be required to produce  
406 records as to any statement, conduct, decision, or ruling  
407 occurring during the arbitration proceeding, to the same extent  
408 as a judge of a court of this state acting in a judicial  
409 capacity. This subsection does not apply:

410 (a) To the extent necessary to determine the claim of an  
411 arbitrator, arbitration organization, or representative of the  
412 arbitration organization against a party to the arbitration  
413 proceeding; or

414 (b) To a hearing on a motion to vacate an award under s.  
415 682.13(1) (a) or (b) if the movant establishes prima facie that a  
416 ground for vacating the award exists.

417 (5) If a person commences a civil action against an  
418 arbitrator, arbitration organization, or representative of an  
419 arbitration organization arising from the services of the



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420 arbitrator, organization, or representative or if a person seeks  
421 to compel an arbitrator or a representative of an arbitration  
422 organization to testify or produce records in violation of  
423 subsection (4), and the court decides that the arbitrator,  
424 arbitration organization, or representative of an arbitration  
425 organization is immune from civil liability or that the  
426 arbitrator or representative of the organization is not  
427 competent to testify, the court shall award to the arbitrator,  
428 organization, or representative reasonable attorney fees and  
429 other reasonable expenses of litigation.

430 Section 16. Section 682.06, Florida Statutes, is amended to  
431 read:

432 682.06 Hearing.—

433 (1) An arbitrator may conduct an arbitration in such manner  
434 as the arbitrator considers appropriate for a fair and  
435 expeditious disposition of the proceeding. The arbitrator's  
436 authority includes the power to hold conferences with the  
437 parties to the arbitration proceeding before the hearing and,  
438 among other matters, determine the admissibility, relevance,  
439 materiality, and weight of any evidence. Unless otherwise  
440 provided by the agreement or provision for arbitration:

441 ~~(1)(a) The arbitrators shall appoint a time and place for~~  
442 ~~the hearing and cause notification to the parties to be served~~  
443 ~~personally or by registered or certified mail not less than 5~~  
444 ~~days before the hearing. Appearance at the hearing waives a~~  
445 ~~party's right to such notice. The arbitrators may adjourn their~~  
446 ~~hearing from time to time upon their own motion and shall do so~~  
447 ~~upon the request of any party to the arbitration for good cause~~  
448 ~~shown, provided that no adjournment or postponement of their~~





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449 ~~hearing shall extend beyond the date fixed in the agreement or~~  
450 ~~provision for making the award unless the parties consent to a~~  
451 ~~later date. An umpire authorized to hear and decide the cause~~  
452 ~~upon failure of the arbitrators to agree upon an award shall, in~~  
453 ~~the course of his or her jurisdiction, have like powers and be~~  
454 ~~subject to like limitations thereon.~~

455 ~~(b) The arbitrators, or umpire in the course of his or her~~  
456 ~~jurisdiction, may hear and decide the controversy upon the~~  
457 ~~evidence produced notwithstanding the failure or refusal of a~~  
458 ~~party duly notified of the time and place of the hearing to~~  
459 ~~appear. The court on application may direct the arbitrators, or~~  
460 ~~the umpire in the course of his or her jurisdiction, to proceed~~  
461 ~~promptly with the hearing and making of the award.~~

462 (2) An arbitrator may decide a request for summary  
463 disposition of a claim or particular issue:

464 (a) If all interested parties agree; or

465 (b) Upon request of one party to the arbitration  
466 proceeding, if that party gives notice to all other parties to  
467 the proceeding and the other parties have a reasonable  
468 opportunity to respond. The parties are entitled to be heard, to  
469 present evidence material to the controversy and to cross-  
470 examine witnesses appearing at the hearing.

471 (3) If an arbitrator orders a hearing, the arbitrator shall  
472 set a time and place and give notice of the hearing not less  
473 than 5 days before the hearing begins. Unless a party to the  
474 arbitration proceeding makes an objection to lack or  
475 insufficiency of notice not later than the beginning of the  
476 hearing, the party's appearance at the hearing waives the  
477 objection. Upon request of a party to the arbitration proceeding



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478 and for good cause shown, or upon the arbitrator's own  
479 initiative, the arbitrator may adjourn the hearing from time to  
480 time as necessary but may not postpone the hearing to a time  
481 later than that fixed by the agreement to arbitrate for making  
482 the award unless the parties to the arbitration proceeding  
483 consent to a later date. The arbitrator may hear and decide the  
484 controversy upon the evidence produced although a party who was  
485 duly notified of the arbitration proceeding did not appear. The  
486 court, on request, may direct the arbitrator to conduct the  
487 hearing promptly and render a timely decision. ~~The hearing shall~~  
488 ~~be conducted by all of the arbitrators but a majority may~~  
489 ~~determine any question and render a final award. An umpire~~  
490 ~~authorized to hear and decide the cause upon the failure of the~~  
491 ~~arbitrators to agree upon an award shall sit with the~~  
492 ~~arbitrators throughout their hearing but shall not be counted as~~  
493 ~~a part of their quorum or in the making of their award. If,~~  
494 ~~during the course of the hearing, an arbitrator for any reason~~  
495 ~~ceases to act, the remaining arbitrator, arbitrators or umpire~~  
496 ~~appointed to act as neutrals may continue with the hearing and~~  
497 ~~determination of the controversy.~~

498 (4) At a hearing under subsection (3), a party to the  
499 arbitration proceeding has a right to be heard, to present  
500 evidence material to the controversy, and to cross-examine  
501 witnesses appearing at the hearing.

502 (5) If an arbitrator ceases or is unable to act during the  
503 arbitration proceeding, a replacement arbitrator must be  
504 appointed in accordance with s. 682.04 to continue the  
505 proceeding and to resolve the controversy.

506 Section 17. Section 682.07, Florida Statutes, is amended to



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507 read:

508       682.07 Representation by attorney.—A party to an  
509 arbitration proceeding may ~~has the right to~~ be represented by an  
510 attorney ~~at any arbitration proceeding or hearing under this~~  
511 ~~law. A waiver thereof prior to the proceeding or hearing is~~  
512 ~~ineffective.~~

513       Section 18. Section 682.08, Florida Statutes, is amended to  
514 read:

515       682.08 Witnesses, subpoenas, depositions.—

516       (1) An arbitrator may issue a subpoena for the attendance  
517 of a witness and for the production of records and other  
518 evidence at any hearing and may administer oaths. A subpoena  
519 must be served in the manner for service of subpoenas in a civil  
520 action and, upon motion to the court by a party to the  
521 arbitration proceeding or the arbitrator, enforced in the manner  
522 for enforcement of subpoenas in a civil action. ~~Arbitrators, or~~  
523 ~~an umpire authorized to hear and decide the cause upon failure~~  
524 ~~of the arbitrators to agree upon an award, in the course of her~~  
525 ~~or his jurisdiction, may issue subpoenas for the attendance of~~  
526 ~~witnesses and for the production of books, records, documents~~  
527 ~~and other evidence, and shall have the power to administer~~  
528 ~~oaths. Subpoenas so issued shall be served, and upon application~~  
529 ~~to the court by a party to the arbitration or the arbitrators,~~  
530 ~~or the umpire, enforced in the manner provided by law for the~~  
531 ~~service and enforcement of subpoenas in a civil action.~~

532       (2) In order to make the proceedings fair, expeditious, and  
533 cost effective, upon request of a party to, or a witness in, an  
534 arbitration proceeding, an arbitrator may permit a deposition of  
535 any witness to be taken for use as evidence at the hearing,



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536 including a witness who cannot be subpoenaed for or is unable to  
537 attend a hearing. The arbitrator shall determine the conditions  
538 under which the deposition is taken. ~~On application of a party~~  
539 ~~to the arbitration and for use as evidence, the arbitrators, or~~  
540 ~~the umpire in the course of her or his jurisdiction, may permit~~  
541 ~~a deposition to be taken, in the manner and upon the terms~~  
542 ~~designated by them or her or him of a witness who cannot be~~  
543 ~~subpoenaed or is unable to attend the hearing.~~

544 (3) An arbitrator may permit such discovery as the  
545 arbitrator decides is appropriate in the circumstances, taking  
546 into account the needs of the parties to the arbitration  
547 proceeding and other affected persons and the desirability of  
548 making the proceeding fair, expeditious, and cost effective. ~~All~~  
549 ~~provisions of law compelling a person under subpoena to testify~~  
550 ~~are applicable.~~

551 (4) If an arbitrator permits discovery under subsection  
552 (3), the arbitrator may order a party to the arbitration  
553 proceeding to comply with the arbitrator's discovery-related  
554 orders, issue subpoenas for the attendance of a witness and for  
555 the production of records and other evidence at a discovery  
556 proceeding, and take action against a noncomplying party to the  
557 extent a court could if the controversy were the subject of a  
558 civil action in this state.

559 (5) An arbitrator may issue a protective order to prevent  
560 the disclosure of privileged information, confidential  
561 information, trade secrets, and other information protected from  
562 disclosure to the extent a court could if the controversy were  
563 the subject of a civil action in this state.

564 (6) All laws compelling a person under subpoena to testify



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565 and all fees for attending a judicial proceeding, a deposition,  
566 or a discovery proceeding as a witness apply to an arbitration  
567 proceeding as if the controversy were the subject of a civil  
568 action in this state.

569 (7) The court may enforce a subpoena or discovery-related  
570 order for the attendance of a witness within this state and for  
571 the production of records and other evidence issued by an  
572 arbitrator in connection with an arbitration proceeding in  
573 another state upon conditions determined by the court so as to  
574 make the arbitration proceeding fair, expeditious, and cost  
575 effective. A subpoena or discovery-related order issued by an  
576 arbitrator in another state must be served in the manner  
577 provided by law for service of subpoenas in a civil action in  
578 this state and, upon motion to the court by a party to the  
579 arbitration proceeding or the arbitrator, enforced in the manner  
580 provided by law for enforcement of subpoenas in a civil action  
581 in this state.

582 (8)-(4) Fees for attendance as a witness shall be the same  
583 as for a witness in the circuit court.

584 Section 19. Section 682.081, Florida Statutes, is created  
585 to read:

586 682.081 Judicial enforcement of preaward ruling by  
587 arbitrator.—If an arbitrator makes a preaward ruling in favor of  
588 a party to the arbitration proceeding, the party may request  
589 that the arbitrator incorporate the ruling into an award under  
590 s. 682.12. A prevailing party may make a motion to the court for  
591 an expedited order to confirm the award under s. 682.12, in  
592 which case the court shall summarily decide the motion. The  
593 court shall issue an order to confirm the award unless the court



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594 vacates, modifies, or corrects the award under s. 682.13 or s.  
595 682.14.

596 Section 20. Section 682.09, Florida Statutes, is amended to  
597 read:

598 682.09 Award.—

599 (1) An arbitrator shall make a record of an award. The  
600 record must be signed or otherwise authenticated by any  
601 arbitrator who concurs with the award. The arbitrator or the  
602 arbitration organization shall give notice of the award,  
603 including a copy of the award, to each party to the arbitration  
604 proceeding. The award shall be in writing and shall be signed by  
605 the arbitrators joining in the award or by the umpire in the  
606 course of his or her jurisdiction. They or he or she shall  
607 deliver a copy to each party to the arbitration either  
608 personally or by registered or certified mail, or as provided in  
609 the agreement or provision.

610 (2) An award must be made within the time specified by the  
611 agreement to arbitrate or, if not specified therein, within the  
612 time ordered by the court. The court may extend, or the parties  
613 to the arbitration proceeding may agree in a record to extend,  
614 the time. The court or the parties may do so within or after the  
615 time specified or ordered. A party waives any objection that an  
616 award was not timely made unless the party gives notice of the  
617 objection to the arbitrator before receiving notice of the  
618 award. An award shall be made within the time fixed therefor by  
619 the agreement or provision for arbitration or, if not so fixed,  
620 within such time as the court may order on application of a  
621 party to the arbitration. The parties may, by written agreement,  
622 extend the time either before or after the expiration thereof.



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623 ~~Any objection that an award was not made within the time~~  
624 ~~required is waived unless the objecting party notifies the~~  
625 ~~arbitrators or umpire in writing of his or her objection prior~~  
626 ~~to the delivery of the award to him or her.~~

627 Section 21. Section 682.10, Florida Statutes, is amended to  
628 read:

629 682.10 Change of award by arbitrators ~~or umpire.~~-

630 (1) On motion to an arbitrator by a party to an arbitration  
631 proceeding, the arbitrator may modify or correct an award:

632 (a) Upon a ground stated in s. 682.14(1) (a) or (c);

633 (b) Because the arbitrator has not made a final and  
634 definite award upon a claim submitted by the parties to the  
635 arbitration proceeding; or

636 (c) To clarify the award.

637 (2) A motion under subsection (1) must be made and notice  
638 given to all parties within 20 days after the movant receives  
639 notice of the award.

640 (3) A party to the arbitration proceeding must give notice  
641 of any objection to the motion within 10 days after receipt of  
642 the notice.

643 (4) If a motion to the court is pending under s. 682.12, s.  
644 682.13, or s. 682.14, the court may submit the claim to the  
645 arbitrator to consider whether to modify or correct the award:

646 (a) Upon a ground stated in s. 682.14(1) (a) or (c);

647 (b) Because the arbitrator has not made a final and  
648 definite award upon a claim submitted by the parties to the  
649 arbitration proceeding; or

650 (c) To clarify the award.

651 (5) An award modified or corrected pursuant to this section



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652 is subject to ss. 682.09(1), 682.12, 682.13, and 682.14. ~~On~~  
653 ~~application of a party to the arbitration, or if an application~~  
654 ~~to the court is pending under s. 682.12, s. 682.13 or s. 682.14,~~  
655 ~~on submission to the arbitrators, or to the umpire in the case~~  
656 ~~of an umpire's award, by the court under such conditions as the~~  
657 ~~court may order, the arbitrators or umpire may modify or correct~~  
658 ~~the award upon the grounds stated in s. 682.14(1)(a) and (c) or~~  
659 ~~for the purpose of clarifying the award. The application shall~~  
660 ~~be made within 20 days after delivery of the award to the~~  
661 ~~applicant. Written notice thereof shall be given forthwith to~~  
662 ~~the other party to the arbitration, stating that he or she must~~  
663 ~~serve his or her objections thereto, if any, within 10 days from~~  
664 ~~the notice. The award so modified or corrected is subject to the~~  
665 ~~provisions of ss. 682.12-682.14.~~

666 Section 22. Section 682.11, Florida Statutes, is amended to  
667 read:

668 682.11 Remedies; fees and expenses of arbitration  
669 proceeding.-

670 (1) An arbitrator may award punitive damages or other  
671 exemplary relief if such an award is authorized by law in a  
672 civil action involving the same claim and the evidence produced  
673 at the hearing justifies the award under the legal standards  
674 otherwise applicable to the claim.

675 (2) An arbitrator may award reasonable attorney fees and  
676 other reasonable expenses of arbitration if such an award is  
677 authorized by law in a civil action involving the same claim or  
678 by the agreement of the parties to the arbitration proceeding.

679 (3) As to all remedies other than those authorized by  
680 subsections (1) and (2), an arbitrator may order such remedies





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681 as the arbitrator considers just and appropriate under the  
682 circumstances of the arbitration proceeding. The fact that such  
683 a remedy could not or would not be granted by the court is not a  
684 ground for refusing to confirm an award under s. 682.12 or for  
685 vacating an award under s. 682.13.

686 (4) An arbitrator's expenses and fees, together with other  
687 expenses, must be paid as provided in the award.

688 (5) If an arbitrator awards punitive damages or other  
689 exemplary relief under subsection (1), the arbitrator shall  
690 specify in the award the basis in fact justifying and the basis  
691 in law authorizing the award and state separately the amount of  
692 the punitive damages or other exemplary relief. ~~Unless otherwise~~  
693 ~~provided in the agreement or provision for arbitration, the~~  
694 ~~arbitrators' and umpire's expenses and fees, together with other~~  
695 ~~expenses, not including counsel fees, incurred in the conduct of~~  
696 ~~the arbitration, shall be paid as provided in the award.~~

697 Section 23. Section 682.12, Florida Statutes, is amended to  
698 read:

699 682.12 Confirmation of an award.—After a party to an  
700 arbitration proceeding receives notice of an award, the party  
701 may make a motion to the court for an order confirming the award  
702 at which time the court shall issue a confirming order unless  
703 the award is modified or corrected pursuant to s. 682.10 or s.  
704 682.14 or is vacated pursuant to s. 682.13. ~~Upon application of~~  
705 ~~a party to the arbitration, the court shall confirm an award,~~  
706 ~~unless within the time limits hereinafter imposed grounds are~~  
707 ~~urged for vacating or modifying or correcting the award, in~~  
708 ~~which case the court shall proceed as provided in ss. 682.13 and~~  
709 ~~682.14.~~



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710 Section 24. Section 682.13, Florida Statutes, is amended to  
711 read:

712 682.13 Vacating an award.—

713 (1) Upon motion ~~application~~ of a party to an arbitration  
714 proceeding, the court shall vacate an arbitration award if when:

715 (a) The award was procured by corruption, fraud, or other  
716 undue means;—

717 (b) There was:

718 1. Evident partiality by an arbitrator appointed as a  
719 neutral arbitrator;

720 2. Corruption by an arbitrator; or

721 3. Misconduct by an arbitrator prejudicing the rights of a  
722 party to the arbitration proceeding; or corruption in any of the  
723 arbitrators or umpire or misconduct prejudicing the rights of  
724 any party.

725 (c) An arbitrator refused to postpone the hearing upon  
726 showing of sufficient cause for postponement, refused to  
727 consider evidence material to the controversy, or otherwise  
728 conducted the hearing contrary to s. 682.06, so as to prejudice  
729 substantially the rights of a party to the arbitration  
730 proceeding; The arbitrators or the umpire in the course of her  
731 or his jurisdiction exceeded their powers.

732 (d) An arbitrator exceeded the arbitrator's powers; The  
733 arbitrators or the umpire in the course of her or his  
734 jurisdiction refused to postpone the hearing upon sufficient  
735 cause being shown therefor or refused to hear evidence material  
736 to the controversy or otherwise so conducted the hearing,  
737 contrary to the provisions of s. 682.06, as to prejudice  
738 substantially the rights of a party.



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739           (e) There was no agreement to arbitrate, unless the person  
740 participated in the arbitration proceeding without raising the  
741 objection under s. 682.06(3) not later than the beginning of the  
742 arbitration hearing; or ~~There was no agreement or provision for~~  
743 ~~arbitration subject to this law, unless the matter was~~  
744 ~~determined in proceedings under s. 682.03 and unless the party~~  
745 ~~participated in the arbitration hearing without raising the~~  
746 ~~objection.~~

747           (f) The arbitration was conducted without proper notice of  
748 the initiation of an arbitration as required in s. 682.032 so as  
749 to prejudice substantially the rights of a party to the  
750 arbitration proceeding.

751  
752 ~~But the fact that the relief was such that it could not or would~~  
753 ~~not be granted by a court of law or equity is not ground for~~  
754 ~~vacating or refusing to confirm the award.~~

755           (2) A motion under this section must be filed within 90  
756 days after the movant receives notice of the award pursuant to  
757 s. 682.09 or within 90 days after the movant receives notice of  
758 a modified or corrected award pursuant to s. 682.10, unless the  
759 movant alleges that the award was procured by corruption, fraud,  
760 or other undue means, in which case the motion must be made  
761 within 90 days after the ground is known or by the exercise of  
762 reasonable care would have been known by the movant. An  
763 ~~application under this section shall be made within 90 days~~  
764 ~~after delivery of a copy of the award to the applicant, except~~  
765 ~~that, if predicated upon corruption, fraud or other undue means,~~  
766 ~~it shall be made within 90 days after such grounds are known or~~  
767 ~~should have been known.~~



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768           (3) If the court vacates an award on a ground other than  
769 that set forth in paragraph (1)(e), it may order a rehearing. If  
770 the award is vacated on a ground stated in paragraph (1)(a) or  
771 paragraph (1)(b), the rehearing must be before a new arbitrator.  
772 If the award is vacated on a ground stated in paragraph (1)(c),  
773 paragraph (1)(d), or paragraph (1)(f), the rehearing may be  
774 before the arbitrator who made the award or the arbitrator's  
775 successor. The arbitrator must render the decision in the  
776 rehearing within the same time as that provided in s. 682.09(2)  
777 for an award. In vacating the award on grounds other than those  
778 stated in paragraph (1)(e), the court may order a rehearing  
779 before new arbitrators chosen as provided in the agreement or  
780 provision for arbitration or by the court in accordance with s.  
781 682.04, or, if the award is vacated on grounds set forth in  
782 paragraphs (1)(c) and (d), the court may order a rehearing  
783 before the arbitrators or umpire who made the award or their  
784 successors appointed in accordance with s. 682.04. The time  
785 within which the agreement or provision for arbitration requires  
786 the award to be made is applicable to the rehearing and  
787 commences from the date of the order therefor.

788           (4) If a motion ~~the application~~ to vacate is denied and no  
789 motion to modify or correct the award is pending, the court  
790 shall confirm the award.

791           Section 25. Section 682.14, Florida Statutes, is amended to  
792 read:

793           682.14 Modification or correction of award.—

794           (1) Upon motion made within 90 days after the movant  
795 receives notice of the award pursuant to s. 682.09 or within 90  
796 days after the movant receives notice of a modified or corrected



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797 award pursuant to s. 682.10, the court shall modify or correct  
798 the award if ~~Upon application made within 90 days after delivery~~  
799 ~~of a copy of the award to the applicant, the court shall modify~~  
800 ~~or correct the award when:~~

801 (a) There is an evident miscalculation of figures or an  
802 evident mistake in the description of any person, thing, or  
803 property referred to in the award.

804 (b) The arbitrators ~~or umpire~~ have awarded upon a matter  
805 not submitted in the arbitration ~~to them or him or her~~ and the  
806 award may be corrected without affecting the merits of the  
807 decision upon the issues submitted.

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

810 (2) If the application is granted, the court shall modify  
811 and correct the award ~~so as to effect its intent and shall~~  
812 confirm the award as so modified and corrected. Otherwise,  
813 unless a motion to vacate the award under s. 682.13 is pending,  
814 the court shall confirm the award as made.

815 (3) An application to modify or correct an award may be  
816 joined in the alternative with an application to vacate the  
817 award under s. 682.13.

818 Section 26. Section 682.15, Florida Statutes, is amended to  
819 read:

820 682.15 Judgment or decree on award.—

821 (1) Upon granting an order confirming, vacating without  
822 directing a rehearing, modifying, or correcting an award, the  
823 court shall enter a judgment in conformity therewith. The  
824 judgment may be recorded, docketed, and enforced as any other  
825 judgment in a civil action.



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826           (2) A court may allow reasonable costs of the motion and  
827 subsequent judicial proceedings.

828           (3) On motion of a prevailing party to a contested judicial  
829 proceeding under s. 682.12, s. 682.13, or s. 682.14, the court  
830 may add reasonable attorney fees and other reasonable expenses  
831 of litigation incurred in a judicial proceeding after the award  
832 is made to a judgment confirming, vacating without directing a  
833 rehearing, modifying, or correcting an award. ~~Upon the granting~~  
834 ~~of an order confirming, modifying or correcting an award,~~  
835 ~~judgment or decree shall be entered in conformity therewith and~~  
836 ~~be enforced as any other judgment or decree. Costs of the~~  
837 ~~application and of the proceedings subsequent thereto, and~~  
838 ~~disbursements may be awarded by the court.~~

839           Section 27. Section 682.16, Florida Statutes, is repealed.

840           Section 28. Section 682.17, Florida Statutes, is repealed.

841           Section 29. Section 682.18, Florida Statutes, is repealed.

842           Section 30. Section 682.181, Florida Statutes, is created  
843 to read:

844           682.181 Jurisdiction.-

845           (1) A court of this state having jurisdiction over the  
846 controversy and the parties may enforce an agreement to  
847 arbitrate.

848           (2) An agreement to arbitrate providing for arbitration in  
849 this state confers exclusive jurisdiction on the court to enter  
850 judgment on an award under this chapter.

851           Section 31. Section 682.19, Florida Statutes, is amended to  
852 read:

853           682.19 Venue.-A petition pursuant to s. 682.015 must be  
854 filed in the court of the county in which the agreement to



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855 arbitrate specifies the arbitration hearing is to be held or, if  
856 the hearing has been held, in the court of the county in which  
857 it was held. Otherwise, the petition may be made in the court of  
858 any county in which an adverse party resides or has a place of  
859 business or, if no adverse party has a residence or place of  
860 business in this state, in the court of any county in this  
861 state. All subsequent petitions must be made in the court  
862 hearing the initial petition unless the court otherwise directs.

863 ~~Any application under this law may be made to the court of the~~  
864 ~~county in which the other party to the agreement or provision~~  
865 ~~for arbitration resides or has a place of business, or, if she~~  
866 ~~or he has no residence or place of business in this state, then~~  
867 ~~to the court of any county. All applications under this law~~  
868 ~~subsequent to an initial application shall be made to the court~~  
869 ~~hearing the initial application unless it shall order otherwise.~~

870 Section 32. Section 682.20, Florida Statutes, is amended to  
871 read:

872 682.20 Appeals.—

873 (1) An appeal may be taken from:

874 (a) An order denying an application to compel arbitration  
875 made under s. 682.03.

876 (b) An order granting a motion ~~an application~~ to stay  
877 arbitration pursuant to ~~made under~~ s. 682.03(2)-(4).

878 (c) An order confirming ~~or denying confirmation of~~ an  
879 award.

880 (d) An order denying confirmation of an award unless the  
881 court has entered an order under s. 682.10(4) or s. 682.13. All  
882 other orders denying confirmation of an award are final orders.

883 (e)-(d) An order modifying or correcting an award.



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884            ~~(f)(e)~~ An order vacating an award without directing a  
885 rehearing.

886            ~~(g)(f)~~ A judgment or decree entered pursuant to this  
887 chapter ~~the provisions of this law.~~

888            (2) The appeal shall be taken in the manner and to the same  
889 extent as from orders or judgments in a civil action.

890            Section 33. Section 682.21, Florida Statutes, is repealed.

891            Section 34. Section 682.22, Florida Statutes, is repealed.

892            Section 35. Section 682.23, Florida Statutes, is created to  
893 read:

894            682.23 Relationship to Electronic Signatures in Global and  
895 National Commerce Act.—The provisions of this chapter governing  
896 the legal effect, validity, and enforceability of electronic  
897 records or electronic signatures and of contracts performed with  
898 the use of such records or signatures conform to the  
899 requirements of s. 102 of the Electronic Signatures in Global  
900 and National Commerce Act, 15 U.S.C. s. 7002.

901            Section 36. Section 682.25, Florida Statutes, is created to  
902 read:

903            682.25 Disputes excluded.—This chapter does not apply to  
904 any dispute involving child custody, visitation, or child  
905 support.

906            Section 37. Section 44.104, Florida Statutes, is amended to  
907 read:

908            ~~44.104 Voluntary binding arbitration and voluntary trial~~  
909 ~~resolution.—~~

910            (1) Two or more opposing parties who are involved in a  
911 civil dispute may agree in writing to submit the controversy to  
912 ~~voluntary binding arbitration, or voluntary trial resolution, in~~





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913 lieu of judicial litigation of the issues involved, prior to or  
914 after a lawsuit has been filed, ~~provided no constitutional issue~~  
915 ~~is involved.~~

916 (2) If the parties have entered into such an agreement and  
917 the agreement ~~which provides in voluntary binding arbitration~~  
918 ~~for a method for appointing of one or more arbitrators, or which~~  
919 ~~provides in voluntary trial resolution~~ a method for appointing  
920 ~~the~~ a member of The Florida Bar in good standing for more than 5  
921 ~~years to act as trial resolution judge, that method shall be~~  
922 followed ~~the court shall proceed with the appointment as~~  
923 ~~prescribed. However, in voluntary binding arbitration at least~~  
924 ~~one of the arbitrators, who shall serve as the chief arbitrator,~~  
925 ~~shall meet the qualifications and training requirements adopted~~  
926 ~~pursuant to s. 44.106.~~ In the absence of an agreement on a  
927 method for appointing the trial resolution judge, or if the  
928 agreement method fails or for any reason cannot be followed, and  
929 the parties fail to agree on the person to serve as the trial  
930 resolution judge, the court, on application of a party, shall  
931 appoint ~~one or more qualified arbitrators, or the trial~~  
932 ~~resolution judge, as the case requires. A trial resolution judge~~  
933 must be a member of The Florida Bar in good standing for 5 years  
934 or more who has agreed to serve.

935 (3) The ~~arbitrators or~~ trial resolution judge shall be  
936 compensated by the parties according to their agreement with the  
937 trial resolution judge.

938 (4) Within 10 days after the submission of the request for  
939 ~~binding arbitration, or~~ voluntary trial resolution, the court  
940 shall provide for the appointment of the ~~arbitrator or~~  
941 ~~arbitrators, or~~ trial resolution judge, as the case requires.



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942 Once appointed, the ~~arbitrators or~~ trial resolution judge shall  
943 notify the parties of the time and place for the hearing.

944 (5) Application for ~~voluntary binding arbitration or~~  
945 voluntary trial resolution shall be filed and fees paid to the  
946 clerk of court as if for complaints initiating civil actions.  
947 The clerk of the court shall handle and account for these  
948 matters in all respects as if they were civil actions, except  
949 that the clerk of court shall keep separate ~~the records of the~~  
950 ~~applications for voluntary binding arbitration and~~ the records  
951 of the applications for voluntary trial resolution from all  
952 other civil actions.

953 (6) Filing of the application for ~~binding arbitration or~~  
954 voluntary trial resolution tolls ~~will toll~~ the running of the  
955 applicable statutes of limitation.

956 (7) The ~~chief arbitrator or~~ trial resolution judge may  
957 administer oaths or affirmations and conduct the proceedings as  
958 the rules of court shall provide. At the request of any party,  
959 the ~~chief arbitrator or~~ trial resolution judge shall issue  
960 subpoenas for the attendance of witnesses and for the production  
961 of books, records, documents, and other evidence and may apply  
962 to the court for orders compelling attendance and production.  
963 Subpoenas shall be served and shall be enforceable in the manner  
964 provided by law. The trial resolution judge may order temporary  
965 relief in the same manner, and to the same extent, as in civil  
966 actions generally. Any party may enforce such an order by filing  
967 a petition in the court. Orders entered by the court are  
968 reviewable by the appellate court in the same manner, and to the  
969 same extent, as orders in civil actions generally.

970 (8) ~~A voluntary binding arbitration hearing shall be~~



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971 ~~conducted by all of the arbitrators, but a majority may~~  
972 ~~determine any question and render a final decision.~~ A trial  
973 resolution judge shall conduct a voluntary trial resolution  
974 hearing. The trial resolution judge may determine any question  
975 and render a final decision.

976 (9) The Florida Evidence Code and Florida Rules of Civil  
977 Procedure shall apply to all proceedings under this section,  
978 except that voluntary trial resolution is not governed by  
979 procedural rules regulating general and special magistrates, and  
980 rulings of the trial resolution judge are not reviewable by  
981 filing exceptions with the court.

982 ~~(10) An appeal of a voluntary binding arbitration decision~~  
983 ~~shall be taken to the circuit court and shall be limited to~~  
984 ~~review on the record and not de novo, of:~~

985 ~~(a) Any alleged failure of the arbitrators to comply with~~  
986 ~~the applicable rules of procedure or evidence.~~

987 ~~(b) Any alleged partiality or misconduct by an arbitrator~~  
988 ~~prejudicing the rights of any party.~~

989 ~~(c) Whether the decision reaches a result contrary to the~~  
990 ~~Constitution of the United States or of the State of Florida.~~

991 ~~(10)~~(11) Any party may enforce a final decision rendered in  
992 a voluntary trial by filing a petition for final judgment in the  
993 circuit court in the circuit in which the voluntary trial took  
994 place. Upon entry of final judgment by the circuit court, any  
995 party may appeal to the appropriate appellate court. The  
996 judgment is reviewable by the appellate court in the same  
997 manner, and to the same extent, as a judgment in a civil action.  
998 ~~Factual findings determined in the voluntary trial are not~~  
999 ~~subject to appeal.~~



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1000           ~~(12) The harmless error doctrine shall apply in all~~  
1001 ~~appeals. No further review shall be permitted unless a~~  
1002 ~~constitutional issue is raised.~~

1003           (11)~~(13)~~ If no appeal is taken within the time provided by  
1004 rules promulgated by the Supreme Court, ~~then~~ the decision shall  
1005 be referred to the presiding judge in the case, or if one has  
1006 not been assigned, then to the chief judge of the circuit for  
1007 assignment to a circuit judge, who shall enter such orders and  
1008 judgments as are required to carry out the terms of the  
1009 decision. Equitable remedies are, ~~which orders shall be~~  
1010 ~~enforceable by the contempt powers of the court~~ to the same  
1011 extent as in civil actions generally. When a judgment provides  
1012 for execution, and for which judgments execution shall issue on  
1013 request of a party.

1014           (12)~~(14)~~ This section does ~~shall~~ not apply ~~to any dispute~~  
1015 ~~involving child custody, visitation, or child support, or to any~~  
1016 ~~dispute~~ that ~~which~~ involves the rights of a third party not a  
1017 party to the ~~arbitration or~~ voluntary trial resolution when the  
1018 third party would be an indispensable party if the dispute were  
1019 resolved in court or when the third party notifies ~~the chief~~  
1020 ~~arbitrator or~~ the trial resolution judge that the third party  
1021 would be a proper party if the dispute were resolved in court,  
1022 that the third party intends to intervene in the action in  
1023 court, and that the third party does not agree to proceed under  
1024 this section.

1025           (13) A trial resolution judge does not have jurisdiction to  
1026 declare unconstitutional a statute, ordinance, or provision of a  
1027 constitution. If any such claim is made in the voluntary trial  
1028 resolution proceeding, that claim shall be severed and



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1029 adjudicated by a judge of the court.

1030 (14) (a) The parties may agree to a trial by a privately  
1031 selected jury. The court's jury pool may not be used for this  
1032 purpose. In all other cases, the trial resolution judge shall  
1033 conduct a bench trial.

1034 (b) The trial resolution judge may wear a judicial robe and  
1035 use the title "Trial Resolution Judge" when acting in that  
1036 capacity.

1037 Section 38. Subsection (1) of section 44.107, Florida  
1038 Statutes, is amended to read:

1039 44.107 Immunity for arbitrators, voluntary trial resolution  
1040 judges, mediators, and mediator trainees.-

1041 (1) Arbitrators serving under s. 44.103, voluntary trial  
1042 resolution judges serving under ~~or~~ s. 44.104, mediators serving  
1043 under s. 44.102, and trainees fulfilling the mentorship  
1044 requirements for certification by the Supreme Court as a  
1045 mediator ~~shall~~ have judicial immunity in the same manner and to  
1046 the same extent as a judge and are entitled to the same immunity  
1047 and remedies provided in s. 682.051.

1048 Section 39. Section 440.1926, Florida Statutes, is amended  
1049 to read:

1050 440.1926 Alternate dispute resolution; claim arbitration.-  
1051 Notwithstanding any other provision of this chapter, the  
1052 employer, carrier, and employee may mutually agree to seek  
1053 consent from a judge of compensation claims to enter into  
1054 binding claim arbitration in lieu of any other remedy provided  
1055 for in this chapter to resolve all issues in dispute regarding  
1056 an injury. Arbitrations agreed to pursuant to this section shall  
1057 be governed by chapter 682, the Revised Florida Arbitration



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1058 Code, except that, notwithstanding any provision in chapter 682,  
1059 the term "court" shall mean a judge of compensation claims. An  
1060 arbitration award in accordance with this section is ~~shall be~~  
1061 enforceable in the same manner and with the same powers as any  
1062 final compensation order.

1063 Section 40. Paragraph (a) of subsection (1) of section  
1064 489.1402, Florida Statutes, is amended to read:

1065 489.1402 Homeowners' Construction Recovery Fund;  
1066 definitions.—

1067 (1) The following definitions apply to ss. 489.140-489.144:

1068 (a) "Arbitration" means alternative dispute resolution  
1069 entered into between a claimant and a contractor either pursuant  
1070 to a construction contract that contains a mandatory arbitration  
1071 clause or through any binding arbitration under chapter 682, the  
1072 Revised Florida Arbitration Code.

1073 Section 41. Subsection (2) of section 731.401, Florida  
1074 Statutes, is amended to read:

1075 731.401 Arbitration of disputes.—

1076 (2) Unless otherwise specified in the will or trust, a will  
1077 or trust provision requiring arbitration shall be presumed to  
1078 require binding arbitration under chapter 682, the Revised  
1079 Florida Arbitration Code ~~s. 44.104~~.

1080 Section 42. The Division of Statutory Revision is directed  
1081 to redesignate the title of chapter 44, Florida Statutes, as  
1082 "Alternative Dispute Resolution."

1083 Section 43. This act shall take effect July 1, 2012.

1084  
1085 ===== T I T L E A M E N D M E N T =====

1086 And the title is amended as follows:



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1087 Delete everything before the enacting clause  
1088 and insert:

1089 A bill to be entitled  
1090 An act relating to dispute resolution; amending s.  
1091 682.01, F.S.; revising the short title of the "Florida  
1092 Arbitration Code" to the "Revised Florida Arbitration  
1093 Code"; creating s. 682.011, F.S.; providing  
1094 definitions; creating s. 682.012, F.S.; specifying how  
1095 a person gives notice to another person and how a  
1096 person receives notice; creating s. 682.013, F.S.;  
1097 specifying the applicability of the revised code;  
1098 creating s. 682.014, F.S.; providing that an agreement  
1099 may waive or vary the effect of statutory arbitration  
1100 provisions; providing exceptions; creating s. 682.015,  
1101 F.S.; providing for petitions for judicial relief;  
1102 providing for service of notice of an initial petition  
1103 for such relief; amending s. 682.02, F.S.; revising  
1104 provisions relating to the making of arbitration  
1105 agreements; requiring a court to decide whether an  
1106 agreement to arbitrate exists or a controversy is  
1107 subject to an agreement to arbitrate; providing for  
1108 determination of specified issues by an arbitrator;  
1109 providing for continuation of an arbitration  
1110 proceeding pending resolution of certain issues by a  
1111 court; revising provisions relating to applicability  
1112 of provisions to certain interlocal agreements;  
1113 amending s. 682.03, F.S.; revising provisions relating  
1114 to proceedings to compel and to stay arbitration;  
1115 creating s. 682.031, F.S.; providing for a court to



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1116 order provisional remedies before an arbitrator is  
1117 appointed and is authorized and able to act; providing  
1118 for orders for provisional remedies by an arbitrator;  
1119 providing that a party does not waive a right of  
1120 arbitration by seeking provisional remedies in court;  
1121 creating s. 682.032, F.S.; providing for initiation of  
1122 arbitration; providing that a person waives any  
1123 objection to lack of or insufficiency of notice by  
1124 appearing at the arbitration hearing; providing an  
1125 exception; creating s. 682.033, F.S.; providing for  
1126 consolidation of separate arbitration proceedings as  
1127 to all or some of the claims in certain circumstances;  
1128 prohibiting consolidation if the agreement prohibits  
1129 consolidation; amending s. 682.04, F.S.; revising  
1130 provisions relating to appointment of an arbitrator;  
1131 prohibiting an individual with an interest in the  
1132 outcome of an arbitration from serving as a neutral  
1133 arbitrator; creating s. 682.041, F.S.; requiring  
1134 certain disclosures of interests and relationships by  
1135 a person before accepting appointment as an  
1136 arbitrator; providing a continuing obligation to make  
1137 such disclosures; providing for objections to an  
1138 arbitrator based on information disclosed; providing  
1139 for vacation of an award if an arbitrator failed to  
1140 disclose a fact as required; providing that an  
1141 arbitrator appointed as a neutral arbitrator who does  
1142 not disclose certain interests or relationships is  
1143 presumed to act with partiality for specified  
1144 purposes; requiring parties to substantially comply





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1145 with agreed to procedures of an arbitration  
1146 organization or any other procedures for challenges to  
1147 arbitrators before an award is made in order to seek  
1148 vacation of an award on specified grounds; amending s.  
1149 682.05, F.S.; requiring that if there is more than one  
1150 arbitrator, the powers of an arbitrator must be  
1151 exercised by a majority of the arbitrators; requiring  
1152 all arbitrators to conduct the arbitration hearing;  
1153 creating s. 682.051, F.S.; providing immunity from  
1154 civil liability for an arbitrator or an arbitration  
1155 organization acting in that capacity; providing that  
1156 this immunity is supplemental to any immunity under  
1157 other law; providing that failure to make a required  
1158 disclosure does not remove immunity; providing that an  
1159 arbitrator or representative of an arbitration  
1160 organization is not competent to testify and may not  
1161 be required to produce records concerning the  
1162 arbitration; providing exceptions; providing for  
1163 awarding an arbitrator, arbitration organization, or  
1164 representative of an arbitration organization with  
1165 reasonable attorney fees and expenses of litigation  
1166 under certain circumstances; amending s. 682.06, F.S.;  
1167 revising provisions relating to the conduct of  
1168 arbitration hearings; providing for summary  
1169 disposition, notice of hearings, adjournment, and  
1170 rights of a party to the arbitration proceeding;  
1171 requiring appointment of a replacement arbitrator in  
1172 certain circumstances; amending s. 682.07, F.S.;  
1173 providing that a party to an arbitration proceeding



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1174 may be represented by an attorney; amending s. 682.08,  
1175 F.S.; revising provisions relating to the issuance,  
1176 service, and enforcement of subpoenas; revising  
1177 provisions relating to depositions; authorizing an  
1178 arbitrator to permit discovery in certain  
1179 circumstances; authorizing an arbitrator to order  
1180 compliance with discovery; authorizing protective  
1181 orders by an arbitrator; providing for applicability  
1182 of laws compelling a person under subpoena to testify  
1183 and all fees for attending a judicial proceeding, a  
1184 deposition, or a discovery proceeding as a witness;  
1185 providing for court enforcement of a subpoena or  
1186 discovery-related order; providing for witness fees;  
1187 creating s. 682.081, F.S.; providing for judicial  
1188 enforcement of a preaward ruling by an arbitrator in  
1189 certain circumstances; amending s. 682.09, F.S.;  
1190 revising provisions relating to the record needed for  
1191 an award; revising provisions relating to the time  
1192 within which an award must be made; amending s.  
1193 682.10, F.S.; revising provisions relating to  
1194 requirements for a motion to modify or correct an  
1195 award; amending s. 682.11, F.S.; revising provisions  
1196 relating to fees and expenses of arbitration;  
1197 authorizing punitive damages and other exemplary  
1198 relief and remedies; amending s. 682.12, F.S.;  
1199 revising provisions relating to confirmation of an  
1200 award; amending s. 682.13, F.S.; revising provisions  
1201 relating to grounds for vacating an award; revising  
1202 provisions relating to a motion for vacating an award;



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1203 providing for a rehearing in certain circumstances;  
1204 amending s. 682.14, F.S.; revising provisions relating  
1205 to the time for moving to modify or correct an award;  
1206 deleting references to the term "umpire"; revising a  
1207 provision concerning confirmation of awards; amending  
1208 s. 682.15, F.S.; revising provisions relating to a  
1209 court order confirming, vacating without directing a  
1210 rehearing, modifying, or correcting an award;  
1211 providing for award of costs and attorney fees in  
1212 certain circumstances; repealing s. 682.16, F.S.,  
1213 relating to judgment roll and docketing of certain  
1214 orders; repealing s. 682.17, F.S., relating to  
1215 application to court; repealing s. 682.18, F.S.,  
1216 relating to the definition of the term "court" and  
1217 jurisdiction; creating s. 682.181, F.S.; providing for  
1218 jurisdiction relating to the revised code; amending s.  
1219 682.19, F.S.; revising provisions relating to venue  
1220 for actions relating to the code; amending s. 682.20,  
1221 F.S.; providing that an appeal may be taken from an  
1222 order denying confirmation of an award unless the  
1223 court has entered an order under specified provisions;  
1224 providing that all other orders denying confirmation  
1225 of an award are final orders; repealing s. 682.21,  
1226 F.S., relating to the previous code not applying  
1227 retroactively; repealing s. 682.22, F.S., relating to  
1228 conflict of laws; creating s. 682.23, F.S.; specifying  
1229 the relationship of the code to the Electronic  
1230 Signatures in Global and National Commerce Act;  
1231 providing for applicability; creating s. 682.25, F.S.;



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1232 providing that the revised code does not apply to any  
1233 dispute involving child custody, visitation, or child  
1234 support; amending s. 44.104, F.S.; deleting references  
1235 to binding arbitration from provisions providing for  
1236 voluntary trial resolution; providing for temporary  
1237 relief; revising provisions relating to procedures in  
1238 voluntary trial resolution; providing that a judgment  
1239 is reviewable in the same manner as a judgment in a  
1240 civil action; deleting provisions relating to  
1241 applicability of the harmless error doctrine;  
1242 providing limitations on the jurisdiction of a trial  
1243 resolution judge; providing for the use of juries;  
1244 providing for the title of a trial resolution judge  
1245 and the use of judicial robes; amending s. 44.107,  
1246 F.S.; providing immunity for voluntary trial  
1247 resolution judges serving under specified provisions;  
1248 amending ss. 440.1926, 489.1402, and 731.401, F.S.;  
1249 conforming cross-references; providing a directive to  
1250 the Division of Statutory Revision to redesignate the  
1251 title of chapter 44, Florida Statutes, as "Alternative  
1252 Dispute Resolution"; providing an effective date.