

By Senator Diaz de la Portilla

36-01261-12

20121458

1                   A bill to be entitled  
2           An act relating to dispute resolution; amending s.  
3           682.01, F.S.; revising the short title of the "Florida  
4           Arbitration Code" to the "Revised Florida Arbitration  
5           Code"; creating s. 682.011, F.S.; providing  
6           definitions; creating s. 682.012, F.S.; specifying how  
7           a person gives notice to another person and how a  
8           person receives notice; creating s. 682.013, F.S.;  
9           specifying the applicability of the revised code;  
10          creating s. 682.014, F.S.; providing that an agreement  
11          may waive or vary the effect of statutory arbitration  
12          provisions; providing exceptions; creating s. 682.015,  
13          F.S.; providing for petitions for judicial relief;  
14          providing for service of notice of an initial petition  
15          for such relief; amending s. 682.02, F.S.; revising  
16          provisions relating to the making of arbitration  
17          agreements; requiring a court to decide whether an  
18          agreement to arbitrate exists or a controversy is  
19          subject to an agreement to arbitrate; providing for  
20          determination of specified issues by an arbitrator;  
21          providing for continuation of an arbitration  
22          proceeding pending resolution of certain issues by a  
23          court; revising provisions relating to applicability  
24          of provisions to certain interlocal agreements;  
25          amending s. 682.03, F.S.; revising provisions relating  
26          to proceedings to compel and to stay arbitration;  
27          creating s. 682.031, F.S.; providing for a court to  
28          order provisional remedies before an arbitrator is  
29          appointed and is authorized and able to act; providing

36-01261-12

20121458

30 for orders for provisional remedies by an arbitrator;  
31 providing that a party does not waive a right of  
32 arbitration by seeking provisional remedies in court;  
33 creating s. 682.032, F.S.; providing for initiation of  
34 arbitration; providing that a person waives any  
35 objection to lack of or insufficiency of notice by  
36 appearing at the arbitration hearing; providing an  
37 exception; creating s. 682.033, F.S.; providing for  
38 consolidation of separate arbitration proceedings as  
39 to all or some of the claims in certain circumstances;  
40 prohibiting consolidation if the agreement prohibits  
41 consolidation; amending s. 682.04, F.S.; revising  
42 provisions relating to appointment of an arbitrator;  
43 prohibiting an individual with an interest in the  
44 outcome of an arbitration from serving as a neutral  
45 arbitrator; creating s. 682.041, F.S.; requiring  
46 certain disclosures of interests and relationships by  
47 a person before accepting appointment as an  
48 arbitrator; providing a continuing obligation to make  
49 such disclosures; providing for objections to an  
50 arbitrator based on information disclosed; providing  
51 for vacation of an award if an arbitrator failed to  
52 disclose a fact as required; providing that an  
53 arbitrator appointed as a neutral arbitrator who does  
54 not disclose certain interests or relationships is  
55 presumed to act with partiality for specified  
56 purposes; requiring parties to substantially comply  
57 with agreed to procedures of an arbitration  
58 organization or any other procedures for challenges to

36-01261-12

20121458

59 arbitrators before an award is made in order to seek  
60 vacation of an award on specified grounds; amending s.  
61 682.05, F.S.; requiring that if there is more than one  
62 arbitrator, the powers of an arbitrator must be  
63 exercised by a majority of the arbitrators; requiring  
64 all arbitrators to conduct the arbitration hearing;  
65 creating s. 682.051, F.S.; providing immunity from  
66 civil liability for an arbitrator or an arbitration  
67 organization acting in the capacity of an arbitrator;  
68 providing that this immunity is supplemental to any  
69 immunity under other law; providing that failure to  
70 make a required disclosure does not remove immunity;  
71 providing that an arbitrator or representative of an  
72 arbitration organization is not competent to testify  
73 and may not be required to produce records concerning  
74 the arbitration; providing exceptions; providing for  
75 awarding an arbitrator, arbitration organization, or  
76 representative of an arbitration organization with  
77 reasonable attorney fees and expenses of litigation  
78 under certain circumstances; amending s. 682.06, F.S.;  
79 revising provisions relating to the conduct of  
80 arbitration hearings; providing for summary  
81 disposition, notice of hearings, adjournment, and  
82 rights of a party to the arbitration proceeding;  
83 requiring appointment of a replacement arbitrator in  
84 certain circumstances; amending s. 682.07, F.S.;  
85 providing that a party to an arbitration proceeding  
86 may be represented by an attorney; amending s. 682.08,  
87 F.S.; revising provisions relating to the issuance,

36-01261-12

20121458

88 service, and enforcement of subpoenas; revising  
89 provisions relating to depositions; authorizing an  
90 arbitrator to permit discovery in certain  
91 circumstances; authorizing an arbitrator to order  
92 compliance with discovery; authorizing protective  
93 orders by an arbitrator; providing for applicability  
94 of laws compelling a person under subpoena to testify  
95 and all fees for attending a judicial proceeding, a  
96 deposition, or a discovery proceeding as a witness;  
97 providing for court enforcement of a subpoena or  
98 discovery-related order; providing for witness fees;  
99 creating s. 682.081, F.S.; providing for judicial  
100 enforcement of a preaward ruling by an arbitrator in  
101 certain circumstances; amending s. 682.09, F.S.;

102 revising provisions relating to the record needed for  
103 an award; revising provisions relating to the time  
104 within which an award must be made; amending s.  
105 682.10, F.S.; revising provisions relating to  
106 requirements for a motion to modify or correct an  
107 award; amending s. 682.11, F.S.; revising provisions  
108 relating to fees and expenses of arbitration;  
109 authorizing punitive damages and other exemplary  
110 relief and remedies; amending s. 682.12, F.S.;

111 revising provisions relating to confirmation of an  
112 award; amending s. 682.13, F.S.; revising provisions  
113 relating to grounds for vacating an award; revising  
114 provisions relating to a motion for vacating an award;  
115 providing for a rehearing in certain circumstances;  
116 amending s. 682.14, F.S.; revising provisions relating

36-01261-12

20121458

117 to the time for moving to modify or correct an award;  
118 deleting references to the term "umpire"; revising a  
119 provision concerning confirmation of awards; amending  
120 s. 682.15, F.S.; revising provisions relating to a  
121 court order confirming, vacating without directing a  
122 rehearing, modifying, or correcting an award;  
123 providing for award of costs and attorney fees in  
124 certain circumstances; repealing s. 682.16, F.S.,  
125 relating to judgment roll and docketing of certain  
126 orders; repealing s. 682.17, F.S., relating to  
127 application to court; repealing s. 682.18, F.S.,  
128 relating to the definition of the term "court" and  
129 jurisdiction; creating s. 682.181, F.S.; providing for  
130 jurisdiction relating to the revised code; amending s.  
131 682.19, F.S.; revising provisions relating to venue  
132 for actions relating to the code; amending s. 682.20,  
133 F.S.; providing that an appeal may be taken from an  
134 order denying confirmation of an award unless the  
135 court has entered an order under specified provisions;  
136 providing that all other orders denying confirmation  
137 of an award are final orders; repealing s. 682.21,  
138 F.S., relating to the previous code not applying  
139 retroactively; repealing s. 682.22, F.S., relating to  
140 conflict of laws; creating s. 682.23, F.S.; specifying  
141 the relationship of the code to the Electronic  
142 Signatures in Global and National Commerce Act;  
143 creating s. 682.24, F.S.; specifying the effective  
144 date of the revised code; providing for applicability;  
145 creating s. 682.25, F.S.; providing that the revised

36-01261-12

20121458

146 code does not apply to any dispute involving child  
147 custody, visitation, or child support; amending s.  
148 44.104, F.S.; deleting references to binding  
149 arbitration from provisions providing for voluntary  
150 trial resolution; providing for temporary relief;  
151 revising provisions relating to procedures in  
152 voluntary trial resolution; providing that a judgment  
153 is reviewable in the same manner as a judgment in a  
154 civil action; deleting provisions relating to  
155 applicability of the harmless error doctrine;  
156 providing limitations on the jurisdiction of a trial  
157 resolution judge; providing for the use of juries;  
158 providing for the title of a trial resolution judge  
159 and the use of judicial robes; amending s. 44.107,  
160 F.S.; providing immunity for voluntary trial  
161 resolution judges serving under specified provisions;  
162 amending ss. 440.1926 and 489.1402, F.S.; conforming  
163 cross-references; amending s. 731.401, F.S.; revising  
164 a reference to binding arbitration under a specified  
165 provision; providing directives to the Division of  
166 Statutory Revision, including redesignating the title  
167 of chapter 44, Florida Statutes, as "Alternative  
168 Dispute Resolution"; providing an effective date.

169  
170 Be It Enacted by the Legislature of the State of Florida:

171  
172 Section 1. Section 682.01, Florida Statutes, is amended to  
173 read:

174 682.01 Short title ~~Florida Arbitration Code.~~ This chapter

36-01261-12

20121458

175 ~~Sections 682.01-682.22~~ may be cited as the "Revised Florida  
176 Arbitration Code."

177 Section 2. Section 682.011, Florida Statutes, is created to  
178 read:

179 682.011 Definitions.—As used in this chapter, the term:

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

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

187 (3) "Court" means a court of competent jurisdiction in this  
188 state.

189 (4) "Knowledge" means actual knowledge.

190 (5) "Person" means an individual, corporation, business  
191 trust, estate, trust, partnership, limited liability company,  
192 association, joint venture, or government; governmental  
193 subdivision, agency, or instrumentality; public corporation; or  
194 any other legal or commercial entity.

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

198 Section 3. Section 682.012, Florida Statutes, is created to  
199 read:

200 682.012 Notice.—

201 (1) Except as otherwise provided in the Revised Florida  
202 Arbitration Code, a person gives notice to another person by  
203 taking action that is reasonably necessary to inform the other

36-01261-12

20121458

204 person in ordinary course, whether or not the other person  
205 acquires knowledge of the notice.

206 (2) A person has notice if the person has knowledge of the  
207 notice or has received notice.

208 (3) A person receives notice when it comes to the person's  
209 attention or the notice is delivered at the person's place of  
210 residence or place of business, or at another location held out  
211 by the person as a place of delivery of such communications.

212 Section 4. Section 682.013, Florida Statutes, is created to  
213 read:

214 682.013 Applicability of revised code.-

215 (1) The Revised Florida Arbitration Code governs an  
216 agreement to arbitrate made on or after the effective date of  
217 this act.

218 (2) The Revised Florida Arbitration Code governs an  
219 agreement to arbitrate made before the effective date of this  
220 act if all the parties to the agreement or to the arbitration  
221 proceeding so agree in a record.

222 (3) Beginning July 1, 2015, the Revised Florida Arbitration  
223 Code governs an agreement to arbitrate whenever made.

224 Section 5. Section 682.014, Florida Statutes, is created to  
225 read:

226 682.014 Effect of agreement to arbitrate; nonwaivable  
227 provisions.-

228 (1) Except as otherwise provided in subsections (2) and  
229 (3), a party to an agreement to arbitrate or to an arbitration  
230 proceeding may waive, or the parties may vary the effect of, the  
231 requirements of the Revised Florida Arbitration Code to the  
232 extent permitted by law.



36-01261-12

20121458

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

235 (a) Waive or agree to vary the effect of the requirements  
236 of s. 682.015(1), s. 682.02(1), s. 682.031, s. 682.08(1) or (2),  
237 s. 682.181, or s. 682.20;

238 (b) Agree to unreasonably restrict the right under s.  
239 682.032 to notice of the initiation of an arbitration  
240 proceeding;

241 (c) Agree to unreasonably restrict the right under s.  
242 682.041 to disclosure of any facts by a neutral arbitrator; or

243 (d) Waive the right under s. 682.07 of a party to an  
244 agreement to arbitrate to be represented by an attorney at any  
245 proceeding or hearing under the Revised Florida Arbitration  
246 Code, but an employer and a labor organization may waive the  
247 right to representation by an attorney in a labor arbitration.

248 (3) A party to an agreement to arbitrate or arbitration  
249 proceeding may not waive, or the parties may not vary the effect  
250 of, the requirements in this section or s. 682.013(1) or (3), s.  
251 682.03, s. 682.051, s. 682.081, s. 682.10(4) or (5), s. 682.12,  
252 s. 682.13, s. 682.14, s. 682.15(1) or (2), s. 682.23, s. 682.24,  
253 or s. 682.25.

254 Section 6. Section 682.015, Florida Statutes, is created to  
255 read:

256 682.015 Petition for judicial relief.—

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

261 (2) Unless a civil action involving the agreement to

36-01261-12

20121458

262 arbitrate is pending, notice of an initial petition to the court  
263 under this chapter must be served in the manner provided by law  
264 for the service of a summons in a civil action. Otherwise,  
265 notice of the motion must be given in the manner provided by law  
266 or rule of court for serving motions in pending cases.

267 Section 7. Section 682.02, Florida Statutes, is amended to  
268 read:

269 682.02 Arbitration agreements made valid, irrevocable, and  
270 enforceable; scope.—

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

276 (2) The court shall decide whether an agreement to  
277 arbitrate exists or a controversy is subject to an agreement to  
278 arbitrate.

279 (3) An arbitrator shall decide whether a condition  
280 precedent to arbitrability has been fulfilled and whether a  
281 contract containing a valid agreement to arbitrate is  
282 enforceable.

283 (4) If a party to a judicial proceeding challenges the  
284 existence of, or claims that a controversy is not subject to, an  
285 agreement to arbitrate, the arbitration proceeding may continue  
286 pending final resolution of the issue by the court, unless the  
287 court otherwise orders.

288 ~~(5) Two or more parties may agree in writing to submit to~~  
289 ~~arbitration any controversy existing between them at the time of~~  
290 ~~the agreement, or they may include in a written contract a~~

36-01261-12

20121458

291 ~~provision for the settlement by arbitration of any controversy~~  
292 ~~thereafter arising between them relating to such contract or the~~  
293 ~~failure or refusal to perform the whole or any part thereof.~~

294 This section also applies to written interlocal agreements under  
295 ss. 163.01 and 373.713 in which two or more parties agree to  
296 submit to arbitration any controversy between them concerning  
297 water use permit motions ~~applications~~ and other matters,  
298 regardless of whether or not the water management district with  
299 jurisdiction over the subject motion ~~application~~ is a party to  
300 the interlocal agreement or a participant in the arbitration.  
301 ~~Such agreement or provision shall be valid, enforceable, and~~  
302 ~~irrevocable without regard to the justiciable character of the~~  
303 ~~controversy; provided that this act shall not apply to any such~~  
304 ~~agreement or provision to arbitrate in which it is stipulated~~  
305 ~~that this law shall not apply or to any arbitration or award~~  
306 ~~thereunder.~~

307 Section 8. Section 682.03, Florida Statutes, is amended to  
308 read:

309 682.03 Proceedings to compel and to stay arbitration.-

310 (1) On motion of a person showing an agreement to arbitrate  
311 and alleging another person's refusal to arbitrate pursuant to  
312 the agreement:

313 (a) If the refusing party does not appear or does not  
314 oppose the motion, the court shall order the parties to  
315 arbitrate.

316 (b) If the refusing party opposes the motion, the court  
317 shall proceed summarily to decide the issue and order the  
318 parties to arbitrate unless it finds that there is no  
319 enforceable agreement to arbitrate. ~~A party to an agreement or~~

36-01261-12

20121458

320 ~~provision for arbitration subject to this law claiming the~~  
321 ~~neglect or refusal of another party thereto to comply therewith~~  
322 ~~may make application to the court for an order directing the~~  
323 ~~parties to proceed with arbitration in accordance with the terms~~  
324 ~~thereof. If the court is satisfied that no substantial issue~~  
325 ~~exists as to the making of the agreement or provision, it shall~~  
326 ~~grant the application. If the court shall find that a~~  
327 ~~substantial issue is raised as to the making of the agreement or~~  
328 ~~provision, it shall summarily hear and determine the issue and,~~  
329 ~~according to its determination, shall grant or deny the~~  
330 ~~application.~~

331 (2) On motion of a person alleging that an arbitration  
332 proceeding has been initiated or threatened but that there is no  
333 agreement to arbitrate, the court shall proceed summarily to  
334 decide the issue. If the court finds that there is an  
335 enforceable agreement to arbitrate, it shall order the parties  
336 to arbitrate. ~~If an issue referable to arbitration under an~~  
337 ~~agreement or provision for arbitration subject to this law~~  
338 ~~becomes involved in an action or proceeding pending in a court~~  
339 ~~having jurisdiction to hear an application under subsection (1),~~  
340 ~~such application shall be made in said court. Otherwise and~~  
341 ~~subject to s. 682.19, such application may be made in any court~~  
342 ~~of competent jurisdiction.~~

343 (3) If the court finds that there is no enforceable  
344 agreement to arbitrate, it may not order the parties to  
345 arbitrate pursuant to subsection (1) or subsection (2). ~~Any~~  
346 ~~action or proceeding involving an issue subject to arbitration~~  
347 ~~under this law shall be stayed if an order for arbitration or an~~  
348 ~~application therefor has been made under this section or, if the~~

36-01261-12

20121458

349 ~~issue is severable, the stay may be with respect thereto only.~~  
350 ~~When the application is made in such action or proceeding, the~~  
351 ~~order for arbitration shall include such stay.~~

352 (4) The court may not refuse to order arbitration because  
353 the claim subject to arbitration lacks merit or grounds for the  
354 claim have not been established. ~~On application the court may~~  
355 ~~stay an arbitration proceeding commenced or about to be~~  
356 ~~commenced, if it shall find that no agreement or provision for~~  
357 ~~arbitration subject to this law exists between the party making~~  
358 ~~the application and the party causing the arbitration to be had.~~  
359 ~~The court shall summarily hear and determine the issue of the~~  
360 ~~making of the agreement or provision and, according to its~~  
361 ~~determination, shall grant or deny the application.~~

362 (5) If a proceeding involving a claim referable to  
363 arbitration under an alleged agreement to arbitrate is pending  
364 in court, a motion under this section must be made in that  
365 court. Otherwise, a motion under this section may be made in any  
366 court as provided in s. 682.19. ~~An order for arbitration shall~~  
367 ~~not be refused on the ground that the claim in issue lacks merit~~  
368 ~~or bona fides or because any fault or grounds for the claim~~  
369 ~~sought to be arbitrated have not been shown.~~

370 (6) If a party makes a motion to the court to order  
371 arbitration, the court on just terms shall stay any judicial  
372 proceeding that involves a claim alleged to be subject to the  
373 arbitration until the court renders a final decision under this  
374 section.

375 (7) If the court orders arbitration, the court on just  
376 terms shall stay any judicial proceeding that involves a claim  
377 subject to the arbitration. If a claim subject to the

36-01261-12

20121458

378 arbitration is severable, the court may limit the stay to that  
379 claim.

380 Section 9. Section 682.031, Florida Statutes, is created to  
381 read:

382 682.031 Provisional remedies.—

383 (1) Before an arbitrator is appointed and is authorized and  
384 able to act, the court, upon motion of a party to an arbitration  
385 proceeding and for good cause shown, may enter an order for  
386 provisional remedies to protect the effectiveness of the  
387 arbitration proceeding to the same extent and under the same  
388 conditions as if the controversy were the subject of a civil  
389 action.

390 (2) After an arbitrator is appointed and is authorized and  
391 able to act:

392 (a) The arbitrator may issue such orders for provisional  
393 remedies, including interim awards, as the arbitrator finds  
394 necessary to protect the effectiveness of the arbitration  
395 proceeding and to promote the fair and expeditious resolution of  
396 the controversy, to the same extent and under the same  
397 conditions as if the controversy were the subject of a civil  
398 action.

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

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

405 Section 10. Section 682.032, Florida Statutes, is created  
406 to read:

36-01261-12

20121458

682.032 Initiation of arbitration.-

(1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.

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

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

682.033 Consolidation of separate arbitration proceedings.-

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

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

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

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate

36-01261-12

20121458

436 arbitration proceedings; and

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

440 (2) The court may order consolidation of separate  
441 arbitration proceedings as to some claims and allow other claims  
442 to be resolved in separate arbitration proceedings.

443 (3) The court may not order consolidation of the claims of  
444 a party to an agreement to arbitrate if the agreement prohibits  
445 consolidation.

446 Section 12. Section 682.04, Florida Statutes, is amended to  
447 read:

448 682.04 Appointment of arbitrators by court.—

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

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

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

456 (b) The agreed method fails;

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

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

461 (3) ~~In the absence thereof, or if the agreed method fails~~  
462 ~~or for any reason cannot be followed, or if an arbitrator or~~  
463 ~~umpire who has been appointed fails to act and his or her~~  
464 ~~successor has not been duly appointed, the court, on application~~



36-01261-12

20121458

465 ~~of a party to such agreement or provision shall appoint one or~~  
466 ~~more arbitrators or an umpire.~~ An arbitrator ~~or umpire~~ so  
467 appointed has all the shall have like powers of an arbitrator  
468 designated as if named or provided for in the agreement to  
469 arbitrate appointed pursuant to the agreed method or provision.

470 (4) An individual who has a known, direct, and material  
471 interest in the outcome of the arbitration proceeding or a  
472 known, existing, and substantial relationship with a party may  
473 not serve as an arbitrator required by an agreement to be  
474 neutral.

475 Section 13. Section 682.041, Florida Statutes, is created  
476 to read:

477 682.041 Disclosure by arbitrator.—

478 (1) Before accepting appointment, an individual who is  
479 requested to serve as an arbitrator, after making a reasonable  
480 inquiry, shall disclose to all parties to the agreement to  
481 arbitrate and arbitration proceeding and to any other  
482 arbitrators any known facts that a reasonable person would  
483 consider likely to affect the person's impartiality as an  
484 arbitrator in the arbitration proceeding, including:

485 (a) A financial or personal interest in the outcome of the  
486 arbitration proceeding.

487 (b) An existing or past relationship with any of the  
488 parties to the agreement to arbitrate or the arbitration  
489 proceeding, their counsel or representative, a witness, or  
490 another arbitrator.

491 (2) An arbitrator has a continuing obligation to disclose  
492 to all parties to the agreement to arbitrate and arbitration  
493 proceeding and to any other arbitrators any facts that the

36-01261-12

20121458

494 arbitrator learns after accepting appointment that a reasonable  
495 person would consider likely to affect the impartiality of the  
496 arbitrator.

497 (3) If an arbitrator discloses a fact required by  
498 subsection (1) or subsection (2) to be disclosed and a party  
499 timely objects to the appointment or continued service of the  
500 arbitrator based upon the fact disclosed, the objection may be a  
501 ground under s. 682.13(1)(b) for vacating an award made by the  
502 arbitrator.

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

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

511 (6) If the parties to an arbitration proceeding agree to  
512 the procedures of an arbitration organization or any other  
513 procedures for challenges to arbitrators before an award is  
514 made, substantial compliance with those procedures is a  
515 condition precedent to a motion to vacate an award on that  
516 ground under s. 682.13(1)(b).

517 Section 14. Section 682.05, Florida Statutes, is amended to  
518 read:

519 682.05 Majority action by arbitrators.—If there is more  
520 than one arbitrator, the powers of an arbitrator must be  
521 exercised by a majority of the arbitrators, but all of the  
522 arbitrators shall conduct the hearing under s. 682.06(3). The

36-01261-12

20121458

523 ~~powers of the arbitrators may be exercised by a majority of~~  
524 ~~their number unless otherwise provided in the agreement or~~  
525 ~~provision for arbitration.~~

526 Section 15. Section 682.051, Florida Statutes, is created  
527 to read:

528 682.051 Immunity of arbitrator; competency to testify;  
529 attorney fees and costs.—

530 (1) An arbitrator or an arbitration organization acting in  
531 the capacity of an arbitrator is immune from civil liability to  
532 the same extent as a judge of a court of this state acting in a  
533 judicial capacity.

534 (2) The immunity afforded under this section supplements  
535 any immunity under other law.

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

539 (4) In a judicial, administrative, or similar proceeding,  
540 an arbitrator or representative of an arbitration organization  
541 is not competent to testify, and may not be required to produce  
542 records as to any statement, conduct, decision, or ruling  
543 occurring during the arbitration proceeding, to the same extent  
544 as a judge of a court of this state acting in a judicial  
545 capacity. This subsection does not apply:

546 (a) To the extent necessary to determine the claim of an  
547 arbitrator, arbitration organization, or representative of the  
548 arbitration organization against a party to the arbitration  
549 proceeding; or

550 (b) To a hearing on a motion to vacate an award under s.  
551 682.13(1)(a) or (b) if the movant establishes prima facie that a

36-01261-12

20121458

552 ground for vacating the award exists.

553 (5) If a person commences a civil action against an  
554 arbitrator, arbitration organization, or representative of an  
555 arbitration organization arising from the services of the  
556 arbitrator, organization, or representative or if a person seeks  
557 to compel an arbitrator or a representative of an arbitration  
558 organization to testify or produce records in violation of  
559 subsection (4), and the court decides that the arbitrator,  
560 arbitration organization, or representative of an arbitration  
561 organization is immune from civil liability or that the  
562 arbitrator or representative of the organization is not  
563 competent to testify, the court shall award to the arbitrator,  
564 organization, or representative reasonable attorney fees and  
565 other reasonable expenses of litigation.

566 Section 16. Section 682.06, Florida Statutes, is amended to  
567 read:

568 682.06 Hearing.—

569 (1) An arbitrator may conduct an arbitration in such manner  
570 as the arbitrator considers appropriate for a fair and  
571 expeditious disposition of the proceeding. The arbitrator's  
572 authority includes the power to hold conferences with the  
573 parties to the arbitration proceeding before the hearing and,  
574 among other matters, determine the admissibility, relevance,  
575 materiality, and weight of any evidence. Unless otherwise  
576 provided by the agreement or provision for arbitration:

577 ~~(1) (a) The arbitrators shall appoint a time and place for~~  
578 ~~the hearing and cause notification to the parties to be served~~  
579 ~~personally or by registered or certified mail not less than 5~~  
580 ~~days before the hearing. Appearance at the hearing waives a~~

36-01261-12

20121458

581 ~~party's right to such notice. The arbitrators may adjourn their~~  
582 ~~hearing from time to time upon their own motion and shall do so~~  
583 ~~upon the request of any party to the arbitration for good cause~~  
584 ~~shown, provided that no adjournment or postponement of their~~  
585 ~~hearing shall extend beyond the date fixed in the agreement or~~  
586 ~~provision for making the award unless the parties consent to a~~  
587 ~~later date. An umpire authorized to hear and decide the cause~~  
588 ~~upon failure of the arbitrators to agree upon an award shall, in~~  
589 ~~the course of his or her jurisdiction, have like powers and be~~  
590 ~~subject to like limitations thereon.~~

591 ~~(b) The arbitrators, or umpire in the course of his or her~~  
592 ~~jurisdiction, may hear and decide the controversy upon the~~  
593 ~~evidence produced notwithstanding the failure or refusal of a~~  
594 ~~party duly notified of the time and place of the hearing to~~  
595 ~~appear. The court on application may direct the arbitrators, or~~  
596 ~~the umpire in the course of his or her jurisdiction, to proceed~~  
597 ~~promptly with the hearing and making of the award.~~

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

600 (a) If all interested parties agree; or

601 (b) Upon request of one party to the arbitration  
602 proceeding, if that party gives notice to all other parties to  
603 the proceeding and the other parties have a reasonable  
604 opportunity to respond. The parties are entitled to be heard, to  
605 present evidence material to the controversy and to cross-  
606 examine witnesses appearing at the hearing.

607 (3) If an arbitrator orders a hearing, the arbitrator shall  
608 set a time and place and give notice of the hearing not less  
609 than 5 days before the hearing begins. Unless a party to the

36-01261-12

20121458

610 arbitration proceeding makes an objection to lack or  
611 insufficiency of notice not later than the beginning of the  
612 hearing, the party's appearance at the hearing waives the  
613 objection. Upon request of a party to the arbitration proceeding  
614 and for good cause shown, or upon the arbitrator's own  
615 initiative, the arbitrator may adjourn the hearing from time to  
616 time as necessary but may not postpone the hearing to a time  
617 later than that fixed by the agreement to arbitrate for making  
618 the award unless the parties to the arbitration proceeding  
619 consent to a later date. The arbitrator may hear and decide the  
620 controversy upon the evidence produced although a party who was  
621 duly notified of the arbitration proceeding did not appear. The  
622 court, on request, may direct the arbitrator to conduct the  
623 hearing promptly and render a timely decision. ~~The hearing shall~~  
624 ~~be conducted by all of the arbitrators but a majority may~~  
625 ~~determine any question and render a final award. An umpire~~  
626 ~~authorized to hear and decide the cause upon the failure of the~~  
627 ~~arbitrators to agree upon an award shall sit with the~~  
628 ~~arbitrators throughout their hearing but shall not be counted as~~  
629 ~~a part of their quorum or in the making of their award. If,~~  
630 ~~during the course of the hearing, an arbitrator for any reason~~  
631 ~~ceases to act, the remaining arbitrator, arbitrators or umpire~~  
632 ~~appointed to act as neutrals may continue with the hearing and~~  
633 ~~determination of the controversy.~~

634 (4) At a hearing under subsection (3), a party to the  
635 arbitration proceeding has a right to be heard, to present  
636 evidence material to the controversy, and to cross-examine  
637 witnesses appearing at the hearing.

638 (5) If an arbitrator ceases or is unable to act during the

36-01261-12

20121458

639 arbitration proceeding, a replacement arbitrator must be  
640 appointed in accordance with s. 682.04 to continue the  
641 proceeding and to resolve the controversy.

642 Section 17. Section 682.07, Florida Statutes, is amended to  
643 read:

644 682.07 Representation by attorney.—A party to an  
645 arbitration proceeding may ~~has the right to~~ be represented by an  
646 attorney ~~at any arbitration proceeding or hearing under this~~  
647 ~~law. A waiver thereof prior to the proceeding or hearing is~~  
648 ~~ineffective.~~

649 Section 18. Section 682.08, Florida Statutes, is amended to  
650 read:

651 682.08 Witnesses, subpoenas, depositions.—

652 (1) An arbitrator may issue a subpoena for the attendance  
653 of a witness and for the production of records and other  
654 evidence at any hearing and may administer oaths. A subpoena  
655 must be served in the manner for service of subpoenas in a civil  
656 action and, upon motion to the court by a party to the  
657 arbitration proceeding or the arbitrator, enforced in the manner  
658 for enforcement of subpoenas in a civil action. ~~Arbitrators, or~~  
659 ~~an umpire authorized to hear and decide the cause upon failure~~  
660 ~~of the arbitrators to agree upon an award, in the course of her~~  
661 ~~or his jurisdiction, may issue subpoenas for the attendance of~~  
662 ~~witnesses and for the production of books, records, documents~~  
663 ~~and other evidence, and shall have the power to administer~~  
664 ~~oaths. Subpoenas so issued shall be served, and upon application~~  
665 ~~to the court by a party to the arbitration or the arbitrators,~~  
666 ~~or the umpire, enforced in the manner provided by law for the~~  
667 ~~service and enforcement of subpoenas in a civil action.~~

36-01261-12

20121458

668           (2) In order to make the proceedings fair, expeditious, and  
669 cost effective, upon request of a party to, or a witness in, an  
670 arbitration proceeding, an arbitrator may permit a deposition of  
671 any witness to be taken for use as evidence at the hearing,  
672 including a witness who cannot be subpoenaed for or is unable to  
673 attend a hearing. The arbitrator shall determine the conditions  
674 under which the deposition is taken. ~~On application of a party~~  
675 ~~to the arbitration and for use as evidence, the arbitrators, or~~  
676 ~~the umpire in the course of her or his jurisdiction, may permit~~  
677 a deposition to be taken, in the manner and upon the terms  
678 designated by them or her or him of a witness who cannot be  
679 subpoenaed or is unable to attend the hearing.

680           (3) An arbitrator may permit such discovery as the  
681 arbitrator decides is appropriate in the circumstances, taking  
682 into account the needs of the parties to the arbitration  
683 proceeding and other affected persons and the desirability of  
684 making the proceeding fair, expeditious, and cost effective. ~~All~~  
685 ~~provisions of law compelling a person under subpoena to testify~~  
686 ~~are applicable.~~

687           (4) If an arbitrator permits discovery under subsection  
688 (3), the arbitrator may order a party to the arbitration  
689 proceeding to comply with the arbitrator's discovery-related  
690 orders, issue subpoenas for the attendance of a witness and for  
691 the production of records and other evidence at a discovery  
692 proceeding, and take action against a noncomplying party to the  
693 extent a court could if the controversy were the subject of a  
694 civil action in this state.

695           (5) An arbitrator may issue a protective order to prevent  
696 the disclosure of privileged information, confidential



36-01261-12

20121458

697 information, trade secrets, and other information protected from  
698 disclosure to the extent a court could if the controversy were  
699 the subject of a civil action in this state.

700 (6) All laws compelling a person under subpoena to testify  
701 and all fees for attending a judicial proceeding, a deposition,  
702 or a discovery proceeding as a witness apply to an arbitration  
703 proceeding as if the controversy were the subject of a civil  
704 action in this state.

705 (7) The court may enforce a subpoena or discovery-related  
706 order for the attendance of a witness within this state and for  
707 the production of records and other evidence issued by an  
708 arbitrator in connection with an arbitration proceeding in  
709 another state upon conditions determined by the court so as to  
710 make the arbitration proceeding fair, expeditious, and cost  
711 effective. A subpoena or discovery-related order issued by an  
712 arbitrator in another state must be served in the manner  
713 provided by law for service of subpoenas in a civil action in  
714 this state and, upon motion to the court by a party to the  
715 arbitration proceeding or the arbitrator, enforced in the manner  
716 provided by law for enforcement of subpoenas in a civil action  
717 in this state.

718 (8)-(4) Fees for attendance as a witness shall be the same  
719 as for a witness in the circuit court.

720 Section 19. Section 682.081, Florida Statutes, is created  
721 to read:

722 682.081 Judicial enforcement of preaward ruling by  
723 arbitrator.—If an arbitrator makes a preaward ruling in favor of  
724 a party to the arbitration proceeding, the party may request  
725 that the arbitrator incorporate the ruling into an award under

36-01261-12

20121458

726 s. 682.12. A prevailing party may make a motion to the court for  
727 an expedited order to confirm the award under s. 682.12, in  
728 which case the court shall summarily decide the motion. The  
729 court shall issue an order to confirm the award unless the court  
730 vacates, modifies, or corrects the award under s. 682.13 or s.  
731 682.14.

732 Section 20. Section 682.09, Florida Statutes, is amended to  
733 read:

734 682.09 Award.—

735 (1) An arbitrator shall make a record of an award. The  
736 record must be signed or otherwise authenticated by any  
737 arbitrator who concurs with the award. The arbitrator or the  
738 arbitration organization shall give notice of the award,  
739 including a copy of the award, to each party to the arbitration  
740 proceeding. ~~The award shall be in writing and shall be signed by~~  
741 ~~the arbitrators joining in the award or by the umpire in the~~  
742 ~~course of his or her jurisdiction. They or he or she shall~~  
743 ~~deliver a copy to each party to the arbitration either~~  
744 ~~personally or by registered or certified mail, or as provided in~~  
745 ~~the agreement or provision.~~

746 (2) An award must be made within the time specified by the  
747 agreement to arbitrate or, if not specified therein, within the  
748 time ordered by the court. The court may extend, or the parties  
749 to the arbitration proceeding may agree in a record to extend,  
750 the time. The court or the parties may do so within or after the  
751 time specified or ordered. A party waives any objection that an  
752 award was not timely made unless the party gives notice of the  
753 objection to the arbitrator before receiving notice of the  
754 award. ~~An award shall be made within the time fixed therefor by~~

36-01261-12

20121458

755 ~~the agreement or provision for arbitration or, if not so fixed,~~  
756 ~~within such time as the court may order on application of a~~  
757 ~~party to the arbitration. The parties may, by written agreement,~~  
758 ~~extend the time either before or after the expiration thereof.~~  
759 ~~Any objection that an award was not made within the time~~  
760 ~~required is waived unless the objecting party notifies the~~  
761 ~~arbitrators or umpire in writing of his or her objection prior~~  
762 ~~to the delivery of the award to him or her.~~

763 Section 21. Section 682.10, Florida Statutes, is amended to  
764 read:

765 682.10 Change of award by arbitrators ~~or umpire.~~-

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

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

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

772 (c) To clarify the award.

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

776 (3) A party to the arbitration proceeding must give notice  
777 of any objection to the motion within 10 days after receipt of  
778 the notice.

779 (4) If a motion to the court is pending under s. 682.12, s.  
780 682.13, or s. 682.14, the court may submit the claim to the  
781 arbitrator to consider whether to modify or correct the award:

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

783 (b) Because the arbitrator has not made a final and

36-01261-12

20121458

784 definite award upon a claim submitted by the parties to the  
785 arbitration proceeding; or

786 (c) To clarify the award.

787 (5) An award modified or corrected pursuant to this section  
788 is subject to ss. 682.09(1), 682.12, 682.13, and 682.14. On  
789 application of a party to the arbitration, or if an application  
790 to the court is pending under s. 682.12, s. 682.13 or s. 682.14,  
791 on submission to the arbitrators, or to the umpire in the case  
792 of an umpire's award, by the court under such conditions as the  
793 court may order, the arbitrators or umpire may modify or correct  
794 the award upon the grounds stated in s. 682.14(1)(a) and (c) or  
795 for the purpose of clarifying the award. The application shall  
796 be made within 20 days after delivery of the award to the  
797 applicant. Written notice thereof shall be given forthwith to  
798 the other party to the arbitration, stating that he or she must  
799 serve his or her objections thereto, if any, within 10 days from  
800 the notice. The award so modified or corrected is subject to the  
801 provisions of ss. 682.12-682.14.

802 Section 22. Section 682.11, Florida Statutes, is amended to  
803 read:

804 682.11 Remedies; fees and expenses of arbitration  
805 proceeding.-

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

811 (2) An arbitrator may award reasonable attorney fees and  
812 other reasonable expenses of arbitration if such an award is

36-01261-12

20121458

813 authorized by law in a civil action involving the same claim or  
814 by the agreement of the parties to the arbitration proceeding.

815 (3) As to all remedies other than those authorized by  
816 subsections (1) and (2), an arbitrator may order such remedies  
817 as the arbitrator considers just and appropriate under the  
818 circumstances of the arbitration proceeding. The fact that such  
819 a remedy could not or would not be granted by the court is not a  
820 ground for refusing to confirm an award under s. 682.12 or for  
821 vacating an award under s. 682.13.

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

824 (5) If an arbitrator awards punitive damages or other  
825 exemplary relief under subsection (1), the arbitrator shall  
826 specify in the award the basis in fact justifying and the basis  
827 in law authorizing the award and state separately the amount of  
828 the punitive damages or other exemplary relief. ~~Unless otherwise~~  
829 ~~provided in the agreement or provision for arbitration, the~~  
830 ~~arbitrators' and umpire's expenses and fees, together with other~~  
831 ~~expenses, not including counsel fees, incurred in the conduct of~~  
832 ~~the arbitration, shall be paid as provided in the award.~~

833 Section 23. Section 682.12, Florida Statutes, is amended to  
834 read:

835 682.12 Confirmation of an award.—After a party to an  
836 arbitration proceeding receives notice of an award, the party  
837 may make a motion to the court for an order confirming the award  
838 at which time the court shall issue a confirming order unless  
839 the award is modified or corrected pursuant to s. 682.10 or s.  
840 682.14 or is vacated pursuant to s. 682.13. ~~Upon application of~~  
841 ~~a party to the arbitration, the court shall confirm an award,~~

36-01261-12

20121458

842 ~~unless within the time limits hereinafter imposed grounds are~~  
843 ~~urged for vacating or modifying or correcting the award, in~~  
844 ~~which case the court shall proceed as provided in ss. 682.13 and~~  
845 ~~682.14.~~

846 Section 24. Section 682.13, Florida Statutes, is amended to  
847 read:

848 682.13 Vacating an award.—

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

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

853 (b) There was:

854 1. Evident partiality by an arbitrator appointed as a  
855 neutral arbitrator;

856 2. Corruption by an arbitrator; or

857 3. Misconduct by an arbitrator prejudicing the rights of a  
858 party to the arbitration proceeding; or corruption in any of the  
859 arbitrators or umpire or misconduct prejudicing the rights of  
860 any party.

861 (c) An arbitrator refused to postpone the hearing upon  
862 showing of sufficient cause for postponement, refused to  
863 consider evidence material to the controversy, or otherwise  
864 conducted the hearing contrary to s. 682.06, so as to prejudice  
865 substantially the rights of a party to the arbitration  
866 proceeding; The arbitrators or the umpire in the course of her  
867 or his jurisdiction exceeded their powers.

868 (d) An arbitrator exceeded the arbitrator's powers; The  
869 arbitrators or the umpire in the course of her or his  
870 jurisdiction refused to postpone the hearing upon sufficient

36-01261-12

20121458

871 ~~cause being shown therefor or refused to hear evidence material~~  
872 ~~to the controversy or otherwise so conducted the hearing,~~  
873 ~~contrary to the provisions of s. 682.06, as to prejudice~~  
874 ~~substantially the rights of a party.~~

875 (e) There was no agreement to arbitrate, unless the person  
876 participated in the arbitration proceeding without raising the  
877 objection under s. 682.06(3) not later than the beginning of the  
878 arbitration hearing; or There was no agreement or provision for  
879 arbitration subject to this law, unless the matter was  
880 determined in proceedings under s. 682.03 and unless the party  
881 participated in the arbitration hearing without raising the  
882 objection.

883 (f) The arbitration was conducted without proper notice of  
884 the initiation of an arbitration as required in s. 682.032 so as  
885 to prejudice substantially the rights of a party to the  
886 arbitration proceeding.

887  
888 ~~But the fact that the relief was such that it could not or would~~  
889 ~~not be granted by a court of law or equity is not ground for~~  
890 ~~vacating or refusing to confirm the award.~~

891 (2) A motion under this section must be filed within 90  
892 days after the movant receives notice of the award pursuant to  
893 s. 682.09 or within 90 days after the movant receives notice of  
894 a modified or corrected award pursuant to s. 682.10, unless the  
895 movant alleges that the award was procured by corruption, fraud,  
896 or other undue means, in which case the motion must be made  
897 within 90 days after the ground is known or by the exercise of  
898 reasonable care would have been known by the movant. An  
899 ~~application under this section shall be made within 90 days~~

36-01261-12

20121458

900 ~~after delivery of a copy of the award to the applicant, except~~  
901 ~~that, if predicated upon corruption, fraud or other undue means,~~  
902 ~~it shall be made within 90 days after such grounds are known or~~  
903 ~~should have been known.~~

904 (3) If the court vacates an award on a ground other than  
905 that set forth in paragraph (1)(e), it may order a rehearing. If  
906 the award is vacated on a ground stated in paragraph (1)(a) or  
907 paragraph (1)(b), the rehearing must be before a new arbitrator.  
908 If the award is vacated on a ground stated in paragraph (1)(c),  
909 paragraph (1)(d), or paragraph (1)(f), the rehearing may be  
910 before the arbitrator who made the award or the arbitrator's  
911 successor. The arbitrator must render the decision in the  
912 rehearing within the same time as that provided in s. 682.09(2)  
913 for an award. ~~In vacating the award on grounds other than those~~  
914 ~~stated in paragraph (1)(e), the court may order a rehearing~~  
915 ~~before new arbitrators chosen as provided in the agreement or~~  
916 ~~provision for arbitration or by the court in accordance with s.~~  
917 ~~682.04, or, if the award is vacated on grounds set forth in~~  
918 ~~paragraphs (1)(c) and (d), the court may order a rehearing~~  
919 ~~before the arbitrators or umpire who made the award or their~~  
920 ~~successors appointed in accordance with s. 682.04. The time~~  
921 ~~within which the agreement or provision for arbitration requires~~  
922 ~~the award to be made is applicable to the rehearing and~~  
923 ~~commences from the date of the order therefor.~~

924 (4) If a motion the application to vacate is denied and no  
925 motion to modify or correct the award is pending, the court  
926 shall confirm the award.

927 Section 25. Section 682.14, Florida Statutes, is amended to  
928 read:



36-01261-12

20121458

929 682.14 Modification or correction of award.—

930 (1) Upon motion made within 90 days after the movant  
931 receives notice of the award pursuant to s. 682.09 or within 90  
932 days after the movant receives notice of a modified or corrected  
933 award pursuant to s. 682.10, the court shall modify or correct  
934 the award if ~~Upon application made within 90 days after delivery~~  
935 ~~of a copy of the award to the applicant, the court shall modify~~  
936 ~~or correct the award when:~~

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

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

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

946 (2) If the application is granted, the court shall modify  
947 and correct the award ~~so as to effect its intent~~ and shall  
948 confirm the award as so modified and corrected. Otherwise,  
949 unless a motion to vacate the award under s. 682.13 is pending,  
950 the court shall confirm the award as made.

951 (3) An application to modify or correct an award may be  
952 joined in the alternative with an application to vacate the  
953 award under s. 682.13.

954 Section 26. Section 682.15, Florida Statutes, is amended to  
955 read:

956 682.15 Judgment or decree on award.—

957 (1) Upon granting an order confirming, vacating without

36-01261-12

20121458

958 directing a rehearing, modifying, or correcting an award, the  
959 court shall enter a judgment in conformity therewith. The  
960 judgment may be recorded, docketed, and enforced as any other  
961 judgment in a civil action.

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

964 (3) On motion of a prevailing party to a contested judicial  
965 proceeding under s. 682.12, s. 682.13, or s. 682.14, the court  
966 may add reasonable attorney fees and other reasonable expenses  
967 of litigation incurred in a judicial proceeding after the award  
968 is made to a judgment confirming, vacating without directing a  
969 rehearing, modifying, or correcting an award. Upon the granting  
970 of an order confirming, modifying or correcting an award,  
971 judgment or decree shall be entered in conformity therewith and  
972 be enforced as any other judgment or decree. Costs of the  
973 application and of the proceedings subsequent thereto, and  
974 disbursements may be awarded by the court.

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

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

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

978 Section 30. Section 682.181, Florida Statutes, is created  
979 to read:

980 682.181 Jurisdiction.—

981 (1) A court of this state having jurisdiction over the  
982 controversy and the parties may enforce an agreement to  
983 arbitrate.

984 (2) An agreement to arbitrate providing for arbitration in  
985 this state confers exclusive jurisdiction on the court to enter  
986 judgment on an award under the Revised Florida Arbitration Code.

36-01261-12

20121458

987 Section 31. Section 682.19, Florida Statutes, is amended to  
988 read:

989 682.19 Venue.—A petition pursuant to s. 682.015 must be  
990 filed in the court of the county in which the agreement to  
991 arbitrate specifies the arbitration hearing is to be held or, if  
992 the hearing has been held, in the court of the county in which  
993 it was held. Otherwise, the petition may be made in the court of  
994 any county in which an adverse party resides or has a place of  
995 business or, if no adverse party has a residence or place of  
996 business in this state, in the court of any county in this  
997 state. All subsequent petitions must be made in the court  
998 hearing the initial petition unless the court otherwise directs.  
999 ~~Any application under this law may be made to the court of the~~  
1000 ~~county in which the other party to the agreement or provision~~  
1001 ~~for arbitration resides or has a place of business, or, if she~~  
1002 ~~or he has no residence or place of business in this state, then~~  
1003 ~~to the court of any county. All applications under this law~~  
1004 ~~subsequent to an initial application shall be made to the court~~  
1005 ~~hearing the initial application unless it shall order otherwise.~~

1006 Section 32. Section 682.20, Florida Statutes, is amended to  
1007 read:

1008 682.20 Appeals.—

1009 (1) An appeal may be taken from:

1010 (a) An order denying an application to compel arbitration  
1011 made under s. 682.03.

1012 (b) An order granting a motion ~~an application~~ to stay  
1013 arbitration pursuant to ~~made under~~ s. 682.03(2)-(4).

1014 (c) An order confirming ~~or denying confirmation of~~ an  
1015 award.

36-01261-12

20121458

1016 (d) An order denying confirmation of an award unless the  
1017 court has entered an order under s. 682.10(4) or s. 682.13. All  
1018 other orders denying confirmation of an award are final orders.

1019 (e)~~(d)~~ An order modifying or correcting an award.

1020 (f)~~(e)~~ An order vacating an award without directing a  
1021 rehearing.

1022 (g)~~(f)~~ A judgment or decree entered pursuant to this  
1023 chapter ~~the provisions of this law.~~

1024 (2) The appeal shall be taken in the manner and to the same  
1025 extent as from orders or judgments in a civil action.

1026 Section 33. Section 682.21, Florida Statutes, is repealed.

1027 Section 34. Section 682.22, Florida Statutes, is repealed.

1028 Section 35. Section 682.23, Florida Statutes, is created to  
1029 read:

1030 682.23 Relationship to Electronic Signatures in Global and  
1031 National Commerce Act.—The provisions of this chapter governing  
1032 the legal effect, validity, and enforceability of electronic  
1033 records or electronic signatures and of contracts performed with  
1034 the use of such records or signatures conform to the  
1035 requirements of s. 102 of the Electronic Signatures in Global  
1036 and National Commerce Act, 15 U.S.C. s. 7002.

1037 Section 36. Section 682.24, Florida Statutes, is created to  
1038 read:

1039 682.24 Effective date; applicability.—

1040 (1) The Revised Florida Arbitration Code takes effect on  
1041 July 1, 2012.

1042 (2) The Revised Florida Arbitration Code does not affect an  
1043 action or proceeding commenced or right accrued before the  
1044 Revised Florida Arbitration Code takes effect. Subject to s.

36-01261-12

20121458

1045 682.013, an arbitration agreement made before July 1, 2012, is  
1046 governed by the former Florida Arbitration Code.

1047 Section 37. Section 682.25, Florida Statutes, is created to  
1048 read:

1049 682.25 Disputes excluded.—The Revised Florida Arbitration  
1050 Code does not apply to any dispute involving child custody,  
1051 visitation, or child support.

1052 Section 38. Section 44.104, Florida Statutes, is amended to  
1053 read:

1054 44.104 Voluntary ~~binding arbitration and voluntary~~ trial  
1055 resolution.—

1056 (1) Two or more opposing parties who are involved in a  
1057 civil dispute may agree in writing to submit the controversy to  
1058 ~~voluntary binding arbitration, or voluntary trial resolution, in~~  
1059 lieu of judicial litigation of the issues involved, prior to or  
1060 after a lawsuit has been filed, ~~provided no constitutional issue~~  
1061 ~~is involved.~~

1062 (2) If the parties have entered into such an agreement and  
1063 the agreement ~~which provides in voluntary binding arbitration~~  
1064 ~~for a method for appointing of one or more arbitrators, or which~~  
1065 ~~provides in voluntary trial resolution~~ a method for appointing  
1066 the a member of The Florida Bar in good standing for more than 5  
1067 years to act as trial resolution judge, that method shall be  
1068 followed ~~the court shall proceed with the appointment as~~  
1069 ~~prescribed. However, in voluntary binding arbitration at least~~  
1070 ~~one of the arbitrators, who shall serve as the chief arbitrator,~~  
1071 ~~shall meet the qualifications and training requirements adopted~~  
1072 ~~pursuant to s. 44.106.~~ In the absence of an agreement on a  
1073 method for appointing the trial resolution judge, or if the

36-01261-12

20121458

1074 agreement method fails or for any reason cannot be followed, and  
1075 the parties fail to agree on the person to serve as the trial  
1076 resolution judge, the court, on application of a party, shall  
1077 appoint ~~one or more qualified arbitrators, or~~ the trial  
1078 resolution judge, as the case requires. A trial resolution judge  
1079 must be a member of The Florida Bar in good standing for 5 years  
1080 or more who has agreed to serve.

1081 (3) The ~~arbitrators or~~ trial resolution judge shall be  
1082 compensated by the parties according to their agreement with the  
1083 trial resolution judge.

1084 (4) Within 10 days after the submission of the request for  
1085 ~~binding arbitration, or~~ voluntary trial resolution, the court  
1086 shall provide for the appointment of the ~~arbitrator or~~  
1087 ~~arbitrators, or~~ trial resolution judge, as the case requires.  
1088 Once appointed, the ~~arbitrators or~~ trial resolution judge shall  
1089 notify the parties of the time and place for the hearing.

1090 (5) Application for ~~voluntary binding arbitration or~~  
1091 voluntary trial resolution shall be filed and fees paid to the  
1092 clerk of court as if for complaints initiating civil actions.  
1093 The clerk of the court shall handle and account for these  
1094 matters in all respects as if they were civil actions, except  
1095 that the clerk of court shall keep separate ~~the records of the~~  
1096 ~~applications for voluntary binding arbitration and~~ the records  
1097 of the applications for voluntary trial resolution from all  
1098 other civil actions.

1099 (6) Filing of the application for ~~binding arbitration or~~  
1100 voluntary trial resolution tolls ~~will toll~~ the running of the  
1101 applicable statutes of limitation.

1102 (7) The ~~chief arbitrator or~~ trial resolution judge may

36-01261-12

20121458

1103 administer oaths or affirmations and conduct the proceedings as  
1104 the rules of court shall provide. At the request of any party,  
1105 the ~~chief arbitrator or~~ trial resolution judge shall issue  
1106 subpoenas for the attendance of witnesses and for the production  
1107 of books, records, documents, and other evidence and may apply  
1108 to the court for orders compelling attendance and production.  
1109 Subpoenas shall be served and shall be enforceable in the manner  
1110 provided by law. The trial resolution judge may order temporary  
1111 relief in the same manner, and to the same extent, as in civil  
1112 actions generally. Any party may enforce such an order by filing  
1113 a petition in the court. Orders entered by the court are  
1114 reviewable by the appellate court in the same manner, and to the  
1115 same extent, as orders in civil actions generally.

1116 (8) ~~A voluntary binding arbitration hearing shall be~~  
1117 ~~conducted by all of the arbitrators, but a majority may~~  
1118 ~~determine any question and render a final decision.~~ A trial  
1119 resolution judge shall conduct a voluntary trial resolution  
1120 hearing. The trial resolution judge may determine any question  
1121 and render a final decision.

1122 (9) The Florida Evidence Code and Florida Rules of Civil  
1123 Procedure shall apply to all proceedings under this section,  
1124 except that voluntary trial resolution is not governed by  
1125 procedural rules regulating general and special magistrates, and  
1126 rulings of the trial resolution judge are not reviewable by  
1127 filing exceptions with the court.

1128 ~~(10) An appeal of a voluntary binding arbitration decision~~  
1129 ~~shall be taken to the circuit court and shall be limited to~~  
1130 ~~review on the record and not de novo, of:~~

1131 ~~(a) Any alleged failure of the arbitrators to comply with~~

36-01261-12

20121458

1132 ~~the applicable rules of procedure or evidence.~~

1133 ~~(b) Any alleged partiality or misconduct by an arbitrator~~  
1134 ~~prejudicing the rights of any party.~~

1135 ~~(c) Whether the decision reaches a result contrary to the~~  
1136 ~~Constitution of the United States or of the State of Florida.~~

1137 (10)~~(11)~~ Any party may enforce a final decision rendered in  
1138 a voluntary trial by filing a petition for final judgment in the  
1139 circuit court in the circuit in which the voluntary trial took  
1140 place. Upon entry of final judgment by the circuit court, any  
1141 party may appeal to the appropriate appellate court. The  
1142 judgment is reviewable by the appellate court in the same  
1143 manner, and to the same extent, as a judgment in a civil action.  
1144 ~~Factual findings determined in the voluntary trial are not~~  
1145 ~~subject to appeal.~~

1146 ~~(12) The harmless error doctrine shall apply in all~~  
1147 ~~appeals. No further review shall be permitted unless a~~  
1148 ~~constitutional issue is raised.~~

1149 (11)~~(13)~~ If no appeal is taken within the time provided by  
1150 rules promulgated by the Supreme Court, ~~then~~ the decision shall  
1151 be referred to the presiding judge in the case, or if one has  
1152 not been assigned, then to the chief judge of the circuit for  
1153 assignment to a circuit judge, who shall enter such orders and  
1154 judgments as are required to carry out the terms of the  
1155 decision. Equitable remedies are, ~~which orders shall be~~  
1156 enforceable by the contempt powers of the court to the same  
1157 extent as in civil actions generally. When a judgment provides  
1158 for execution, and for which judgments execution shall issue on  
1159 request of a party.

1160 (12)~~(14)~~ This section does ~~shall~~ not apply to any dispute



36-01261-12

20121458

1161 ~~involving child custody, visitation, or child support, or to any~~  
1162 dispute that ~~which~~ involves the rights of a third party not a  
1163 party to the ~~arbitration or~~ voluntary trial resolution when the  
1164 third party would be an indispensable party if the dispute were  
1165 resolved in court or when the third party notifies ~~the chief~~  
1166 ~~arbitrator or~~ the trial resolution judge that the third party  
1167 would be a proper party if the dispute were resolved in court,  
1168 that the third party intends to intervene in the action in  
1169 court, and that the third party does not agree to proceed under  
1170 this section.

1171 (13) A trial resolution judge does not have jurisdiction to  
1172 declare unconstitutional a statute, ordinance, or provision of a  
1173 constitution. If any such claim is made in the voluntary trial  
1174 resolution proceeding, that claim shall be severed and  
1175 adjudicated by a judge of the court.

1176 (14) (a) The parties may agree to a trial by a privately  
1177 selected jury. The court's jury pool may not be used for this  
1178 purpose. In all other cases, the trial resolution judge shall  
1179 conduct a bench trial.

1180 (b) The trial resolution judge may wear a judicial robe and  
1181 use the title "Trial Resolution Judge" when acting in that  
1182 capacity.

1183 Section 39. Subsection (1) of section 44.107, Florida  
1184 Statutes, is amended to read:

1185 44.107 Immunity for arbitrators, voluntary trial resolution  
1186 judges, mediators, and mediator trainees.-

1187 (1) Arbitrators serving under s. 44.103, voluntary trial  
1188 resolution judges serving under ~~or~~ s. 44.104, mediators serving  
1189 under s. 44.102, and trainees fulfilling the mentorship

36-01261-12

20121458

1190 requirements for certification by the Supreme Court as a  
1191 mediator ~~shall~~ have judicial immunity in the same manner and to  
1192 the same extent as a judge and are entitled to the same immunity  
1193 and remedies provided in s. 682.051.

1194 Section 40. Section 440.1926, Florida Statutes, is amended  
1195 to read:

1196 440.1926 Alternate dispute resolution; claim arbitration.—  
1197 Notwithstanding any other provision of this chapter, the  
1198 employer, carrier, and employee may mutually agree to seek  
1199 consent from a judge of compensation claims to enter into  
1200 binding claim arbitration in lieu of any other remedy provided  
1201 for in this chapter to resolve all issues in dispute regarding  
1202 an injury. Arbitrations agreed to pursuant to this section shall  
1203 be governed by chapter 682, the Revised Florida Arbitration  
1204 Code, except that, notwithstanding any provision in chapter 682,  
1205 the term "court" shall mean a judge of compensation claims. An  
1206 arbitration award in accordance with this section is ~~shall be~~  
1207 enforceable in the same manner and with the same powers as any  
1208 final compensation order.

1209 Section 41. Paragraph (a) of subsection (1) of section  
1210 489.1402, Florida Statutes, is amended to read:

1211 489.1402 Homeowners' Construction Recovery Fund;  
1212 definitions.—

1213 (1) The following definitions apply to ss. 489.140-489.144:

1214 (a) "Arbitration" means alternative dispute resolution  
1215 entered into between a claimant and a contractor either pursuant  
1216 to a construction contract that contains a mandatory arbitration  
1217 clause or through any binding arbitration under the Revised  
1218 Florida Arbitration Code.

36-01261-12

20121458

1219 Section 42. Subsection (2) of section 731.401, Florida  
1220 Statutes, is amended to read:

1221 731.401 Arbitration of disputes.-

1222 (2) Unless otherwise specified in the will or trust, a will  
1223 or trust provision requiring arbitration shall be presumed to  
1224 require voluntary trial resolution ~~binding arbitration~~ under s.  
1225 44.104.

1226 Section 43. The Division of Statutory Revision is directed  
1227 to redesignate the title of chapter 44, Florida Statutes, as  
1228 "Alternative Dispute Resolution."

1229 Section 44. The Division of Statutory Revision is directed  
1230 to replace the phrase "the effective date of this act" wherever  
1231 it occurs in this act with the date this act becomes a law.

1232 Section 45. This act shall take effect July 1, 2012.