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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 02/20/2013 | . | |
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The Committee on Judiciary (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete lines 197 - 1098

and insert:

(2) Until June 30, 2016, the Revised Florida Arbitration Code governs an agreement to arbitrate made before July 1, 2013, if all the parties to the agreement or to the arbitration proceeding so agree in a record. Otherwise, such agreements shall be governed by the applicable law existing at the time the parties entered into the agreement.

(3) The Revised Florida Arbitration Code does not affect an action or proceeding commenced or right accrued before July 1, 2013.



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14 (4) Beginning July 1, 2016, an agreement to arbitrate shall
15 be subject to the Revised Florida Arbitration Code

16 Section 5. Section 682.014, Florida Statutes, is created to
17 read:

18 682.014 Effect of agreement to arbitrate; nonwaivable
19 provisions.-

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

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

26 (a) Waive or agree to vary the effect of the requirements
27 of:

28 1. Commencing a petition for judicial relief under s.
29 682.015(1);

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

32 3. Permitting provisional remedies under s. 682.031;

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

35 5. Conferring jurisdiction under s. 682.181; or

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

37 (b) Agree to unreasonably restrict the right under s.
38 682.032 to notice of the initiation of an arbitration
39 proceeding;

40 (c) Agree to unreasonably restrict the right under s.
41 682.041 to disclosure of any facts by a neutral arbitrator; or

42 (d) Waive the right under s. 682.07 of a party to an



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43 agreement to arbitrate to be represented by an attorney at any
44 proceeding or hearing under this chapter, but an employer and a
45 labor organization may waive the right to representation by an
46 attorney in a labor arbitration.

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

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

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

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

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

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

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

61 (g) The grounds for vacating an arbitration award under s.
62 682.13;

63 (h) The grounds for modifying an arbitration award under s.
64 682.14;

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

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

69 (k) The effect of excluding from arbitration under this
70 chapter disputes involving child custody, visitation, or child
71 support under s. 682.25.



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72 Section 6. Section 682.015, Florida Statutes, is created to
73 read:

74 682.015 Petition for judicial relief.-

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

79 (2) Unless a civil action involving the agreement to
80 arbitrate is pending, notice of an initial petition to the court
81 under this chapter must be served in the manner provided by law
82 for the service of a summons in a civil action. Otherwise,
83 notice of the motion must be given in the manner provided by law
84 or rule of court for serving motions in pending cases.

85 Section 7. Section 682.02, Florida Statutes, is amended to
86 read:

87 682.02 Arbitration agreements made valid, irrevocable, and
88 enforceable; scope.-

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

94 (2) The court shall decide whether an agreement to
95 arbitrate exists or a controversy is subject to an agreement to
96 arbitrate.

97 (3) An arbitrator shall decide whether a condition
98 precedent to arbitrability has been fulfilled and whether a
99 contract containing a valid agreement to arbitrate is
100 enforceable.



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101 (4) If a party to a judicial proceeding challenges the
102 existence of, or claims that a controversy is not subject to, an
103 agreement to arbitrate, the arbitration proceeding may continue
104 pending final resolution of the issue by the court, unless the
105 court otherwise orders.

106 ~~(5) Two or more parties may agree in writing to submit to~~
107 ~~arbitration any controversy existing between them at the time of~~
108 ~~the agreement, or they may include in a written contract a~~
109 ~~provision for the settlement by arbitration of any controversy~~
110 ~~thereafter arising between them relating to such contract or the~~
111 ~~failure or refusal to perform the whole or any part thereof.~~

112 This section also applies to written interlocal agreements under
113 ss. 163.01 and 373.713 in which two or more parties agree to
114 submit to arbitration any controversy between them concerning
115 water use permit applications and other matters, regardless of
116 whether or not the water management district with jurisdiction
117 over the subject application is a party to the interlocal
118 agreement or a participant in the arbitration. ~~Such agreement or~~
119 ~~provision shall be valid, enforceable, and irrevocable without~~
120 ~~regard to the justiciable character of the controversy; provided~~
121 ~~that this act shall not apply to any such agreement or provision~~
122 ~~to arbitrate in which it is stipulated that this law shall not~~
123 ~~apply or to any arbitration or award thereunder.~~

124 Section 8. Section 682.03, Florida Statutes, is amended to
125 read:

126 682.03 Proceedings to compel and to stay arbitration.—

127 (1) On motion of a person showing an agreement to arbitrate
128 and alleging another person's refusal to arbitrate pursuant to
129 the agreement:



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130 (a) If the refusing party does not appear or does not
131 oppose the motion, the court shall order the parties to
132 arbitrate.

133 (b) If the refusing party opposes the motion, the court
134 shall proceed summarily to decide the issue and order the
135 parties to arbitrate unless it finds that there is no
136 enforceable agreement to arbitrate. A party to an agreement or
137 provision for arbitration subject to this law claiming the
138 neglect or refusal of another party thereto to comply therewith
139 may make application to the court for an order directing the
140 parties to proceed with arbitration in accordance with the terms
141 thereof. If the court is satisfied that no substantial issue
142 exists as to the making of the agreement or provision, it shall
143 grant the application. If the court shall find that a
144 substantial issue is raised as to the making of the agreement or
145 provision, it shall summarily hear and determine the issue and,
146 according to its determination, shall grant or deny the
147 application.

148 (2) On motion of a person alleging that an arbitration
149 proceeding has been initiated or threatened but that there is no
150 agreement to arbitrate, the court shall proceed summarily to
151 decide the issue. If the court finds that there is an
152 enforceable agreement to arbitrate, it shall order the parties
153 to arbitrate. If an issue referable to arbitration under an
154 agreement or provision for arbitration subject to this law
155 becomes involved in an action or proceeding pending in a court
156 having jurisdiction to hear an application under subsection (1),
157 such application shall be made in said court. Otherwise and
158 subject to s. 682.19, such application may be made in any court



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159 ~~of competent jurisdiction.~~

160 (3) If the court finds that there is no enforceable
161 agreement to arbitrate, it may not order the parties to
162 arbitrate pursuant to subsection (1) or subsection (2). ~~Any~~
163 ~~action or proceeding involving an issue subject to arbitration~~
164 ~~under this law shall be stayed if an order for arbitration or an~~
165 ~~application therefor has been made under this section or, if the~~
166 ~~issue is severable, the stay may be with respect thereto only.~~
167 ~~When the application is made in such action or proceeding, the~~
168 ~~order for arbitration shall include such stay.~~

169 (4) The court may not refuse to order arbitration because
170 the claim subject to arbitration lacks merit or grounds for the
171 claim have not been established. ~~On application the court may~~
172 ~~stay an arbitration proceeding commenced or about to be~~
173 ~~commenced, if it shall find that no agreement or provision for~~
174 ~~arbitration subject to this law exists between the party making~~
175 ~~the application and the party causing the arbitration to be had.~~
176 ~~The court shall summarily hear and determine the issue of the~~
177 ~~making of the agreement or provision and, according to its~~
178 ~~determination, shall grant or deny the application.~~

179 (5) If a proceeding involving a claim referable to
180 arbitration under an alleged agreement to arbitrate is pending
181 in court, a motion under this section must be made in that
182 court. Otherwise, a motion under this section may be made in any
183 court as provided in s. 682.19. ~~An order for arbitration shall~~
184 ~~not be refused on the ground that the claim in issue lacks merit~~
185 ~~or bona fides or because any fault or grounds for the claim~~
186 ~~sought to be arbitrated have not been shown.~~

187 (6) If a party makes a motion to the court to order



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188 arbitration, the court on just terms shall stay any judicial
189 proceeding that involves a claim alleged to be subject to the
190 arbitration until the court renders a final decision under this
191 section.

192 (7) If the court orders arbitration, the court on just
193 terms shall stay any judicial proceeding that involves a claim
194 subject to the arbitration. If a claim subject to the
195 arbitration is severable, the court may limit the stay to that
196 claim.

197 Section 9. Section 682.031, Florida Statutes, is created to
198 read:

199 682.031 Provisional remedies.—

200 (1) Before an arbitrator is appointed and is authorized and
201 able to act, the court, upon motion of a party to an arbitration
202 proceeding and for good cause shown, may enter an order for
203 provisional remedies to protect the effectiveness of the
204 arbitration proceeding to the same extent and under the same
205 conditions as if the controversy were the subject of a civil
206 action.

207 (2) After an arbitrator is appointed and is authorized and
208 able to act:

209 (a) The arbitrator may issue such orders for provisional
210 remedies, including interim awards, as the arbitrator finds
211 necessary to protect the effectiveness of the arbitration
212 proceeding and to promote the fair and expeditious resolution of
213 the controversy, to the same extent and under the same
214 conditions as if the controversy were the subject of a civil
215 action.

216 (b) A party to an arbitration proceeding may move the court



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217 for a provisional remedy only if the matter is urgent and the
218 arbitrator is not able to act timely or the arbitrator cannot
219 provide an adequate remedy.

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

222 (4) If an arbitrator awards a provisional remedy for
223 injunctive or equitable relief, the arbitrator shall state in
224 the award the factual findings and legal basis for the award.

225 (5) A party may seek to confirm or vacate a provisional
226 remedy award for injunctive or equitable relief under s.
227 682.081.

228 Section 10. Section 682.032, Florida Statutes, is created
229 to read:

230 682.032 Initiation of arbitration.-

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

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

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

244 682.033 Consolidation of separate arbitration proceedings.-

245 (1) Except as otherwise provided in subsection (3), upon



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246 motion of a party to an agreement to arbitrate or to an
247 arbitration proceeding, the court may order consolidation of
248 separate arbitration proceedings as to all or some of the claims
249 if:

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

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

257 (c) The existence of a common issue of law or fact creates
258 the possibility of conflicting decisions in the separate
259 arbitration proceedings; and

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

263 (2) The court may order consolidation of separate
264 arbitration proceedings as to some claims and allow other claims
265 to be resolved in separate arbitration proceedings.

266 (3) The court may not order consolidation of the claims of
267 a party to an agreement to arbitrate if the agreement prohibits
268 consolidation.

269 Section 12. Section 682.04, Florida Statutes, is amended to
270 read:

271 682.04 Appointment of arbitrators by court.—

272 (1) If the parties to an agreement to arbitrate agree on ~~or~~
273 ~~provision for arbitration subject to this law provides a method~~
274 for appointing the ~~appointment~~ of arbitrators ~~or an umpire~~, this



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275 method must ~~shall~~ be followed, unless the method fails.

276 (2) The court, on motion of a party to an arbitration
277 agreement, shall appoint one or more arbitrators, if:

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

279 (b) The agreed method fails;

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

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

284 (3) In the absence thereof, or if the agreed method fails
285 or for any reason cannot be followed, or if an arbitrator or
286 umpire who has been appointed fails to act and his or her
287 successor has not been duly appointed, the court, on application
288 of a party to such agreement or provision shall appoint one or
289 more arbitrators or an umpire. An arbitrator or umpire so
290 appointed has all the shall have like powers of an arbitrator
291 designated as if named or provided for in the agreement to
292 arbitrate appointed pursuant to the agreed method or provision.

293 (4) An individual who has a known, direct, and material
294 interest in the outcome of the arbitration proceeding or a
295 known, existing, and substantial relationship with a party may
296 not serve as an arbitrator required by an agreement to be
297 neutral.

298 Section 13. Section 682.041, Florida Statutes, is created
299 to read:

300 682.041 Disclosure by arbitrator.—

301 (1) Before accepting appointment, an individual who is
302 requested to serve as an arbitrator, after making a reasonable
303 inquiry, shall disclose to all parties to the agreement to



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304 arbitrate and arbitration proceeding and to any other
305 arbitrators any known facts that a reasonable person would
306 consider likely to affect the person's impartiality as an
307 arbitrator in the arbitration proceeding, including:

308 (a) A financial or personal interest in the outcome of the
309 arbitration proceeding.

310 (b) An existing or past relationship with any of the
311 parties to the agreement to arbitrate or the arbitration
312 proceeding, their counsel or representative, a witness, or
313 another arbitrator.

314 (2) An arbitrator has a continuing obligation to disclose
315 to all parties to the agreement to arbitrate and arbitration
316 proceeding and to any other arbitrators any facts that the
317 arbitrator learns after accepting appointment that a reasonable
318 person would consider likely to affect the impartiality of the
319 arbitrator.

320 (3) If an arbitrator discloses a fact required by
321 subsection (1) or subsection (2) to be disclosed and a party
322 timely objects to the appointment or continued service of the
323 arbitrator based upon the fact disclosed, the objection may be a
324 ground under s. 682.13(1)(b) for vacating an award made by the
325 arbitrator.

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

329 (5) An arbitrator appointed as a neutral arbitrator who
330 does not disclose a known, direct, and material interest in the
331 outcome of the arbitration proceeding or a known, existing, and
332 substantial relationship with a party is presumed to act with



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333 evident partiality under s. 682.13(1)(b).

334 (6) If the parties to an arbitration proceeding agree to
335 the procedures of an arbitration organization or any other
336 procedures for challenges to arbitrators before an award is
337 made, substantial compliance with those procedures is a
338 condition precedent to a motion to vacate an award on that
339 ground under s. 682.13(1)(b).

340 Section 14. Section 682.05, Florida Statutes, is amended to
341 read:

342 682.05 Majority action by arbitrators.—If there is more
343 than one arbitrator, the powers of an arbitrator must be
344 exercised by a majority of the arbitrators, but all of the
345 arbitrators shall conduct the hearing under s. 682.06(3). ~~The~~
346 ~~powers of the arbitrators may be exercised by a majority of~~
347 ~~their number unless otherwise provided in the agreement or~~
348 ~~provision for arbitration.~~

349 Section 15. Section 682.051, Florida Statutes, is created
350 to read:

351 682.051 Immunity of arbitrator; competency to testify;
352 attorney fees and costs.—

353 (1) An arbitrator or an arbitration organization acting in
354 that capacity is immune from civil liability to the same extent
355 as a judge of a court of this state acting in a judicial
356 capacity.

357 (2) The immunity afforded under this section supplements
358 any immunity under other law.

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



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362 (4) In a judicial, administrative, or similar proceeding,
363 an arbitrator or representative of an arbitration organization
364 is not competent to testify, and may not be required to produce
365 records as to any statement, conduct, decision, or ruling
366 occurring during the arbitration proceeding, to the same extent
367 as a judge of a court of this state acting in a judicial
368 capacity. This subsection does not apply:

369 (a) To the extent necessary to determine the claim of an
370 arbitrator, arbitration organization, or representative of the
371 arbitration organization against a party to the arbitration
372 proceeding; or

373 (b) To a hearing on a motion to vacate an award under s.
374 682.13(1)(a) or (b) if the movant establishes prima facie that a
375 ground for vacating the award exists.

376 (5) If a person commences a civil action against an
377 arbitrator, arbitration organization, or representative of an
378 arbitration organization arising from the services of the
379 arbitrator, organization, or representative or if a person seeks
380 to compel an arbitrator or a representative of an arbitration
381 organization to testify or produce records in violation of
382 subsection (4), and the court decides that the arbitrator,
383 arbitration organization, or representative of an arbitration
384 organization is immune from civil liability or that the
385 arbitrator or representative of the organization is not
386 competent to testify, the court shall award to the arbitrator,
387 organization, or representative reasonable attorney fees and
388 other reasonable expenses of litigation.

389 Section 16. Section 682.06, Florida Statutes, is amended to
390 read:



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391 682.06 Hearing.—

392 (1) An arbitrator may conduct an arbitration in such manner
393 as the arbitrator considers appropriate for a fair and
394 expeditious disposition of the proceeding. The arbitrator's
395 authority includes the power to hold conferences with the
396 parties to the arbitration proceeding before the hearing and,
397 among other matters, determine the admissibility, relevance,
398 materiality, and weight of any evidence. Unless otherwise
399 provided by the agreement or provision for arbitration:

400 ~~(1)(a) The arbitrators shall appoint a time and place for~~
401 ~~the hearing and cause notification to the parties to be served~~
402 ~~personally or by registered or certified mail not less than 5~~
403 ~~days before the hearing. Appearance at the hearing waives a~~
404 ~~party's right to such notice. The arbitrators may adjourn their~~
405 ~~hearing from time to time upon their own motion and shall do so~~
406 ~~upon the request of any party to the arbitration for good cause~~
407 ~~shown, provided that no adjournment or postponement of their~~
408 ~~hearing shall extend beyond the date fixed in the agreement or~~
409 ~~provision for making the award unless the parties consent to a~~
410 ~~later date. An umpire authorized to hear and decide the cause~~
411 ~~upon failure of the arbitrators to agree upon an award shall, in~~
412 ~~the course of his or her jurisdiction, have like powers and be~~
413 ~~subject to like limitations thereon.~~

414 ~~(b) The arbitrators, or umpire in the course of his or her~~
415 ~~jurisdiction, may hear and decide the controversy upon the~~
416 ~~evidence produced notwithstanding the failure or refusal of a~~
417 ~~party duly notified of the time and place of the hearing to~~
418 ~~appear. The court on application may direct the arbitrators, or~~
419 ~~the umpire in the course of his or her jurisdiction, to proceed~~



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420 ~~promptly with the hearing and making of the award.~~

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

423 (a) If all interested parties agree; or

424 (b) Upon request of one party to the arbitration
425 proceeding, if that party gives notice to all other parties to
426 the proceeding and the other parties have a reasonable
427 opportunity to respond. ~~The parties are entitled to be heard, to~~
428 ~~present evidence material to the controversy and to cross-~~
429 ~~examine witnesses appearing at the hearing.~~

430 (3) If an arbitrator orders a hearing, the arbitrator shall
431 set a time and place and give notice of the hearing not less
432 than 5 days before the hearing begins. Unless a party to the
433 arbitration proceeding makes an objection to lack or
434 insufficiency of notice not later than the beginning of the
435 hearing, the party's appearance at the hearing waives the
436 objection. Upon request of a party to the arbitration proceeding
437 and for good cause shown, or upon the arbitrator's own
438 initiative, the arbitrator may adjourn the hearing from time to
439 time as necessary, but may not postpone the hearing to a time
440 later than that fixed by the agreement to arbitrate for making
441 the award unless the parties to the arbitration proceeding
442 consent to a later date. The arbitrator may hear and decide the
443 controversy upon the evidence produced although a party who was
444 duly notified of the arbitration proceeding did not appear. The
445 court, on request, may direct the arbitrator to conduct the
446 hearing promptly and render a timely decision. ~~The hearing shall~~
447 ~~be conducted by all of the arbitrators but a majority may~~
448 ~~determine any question and render a final award. An umpire~~



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449 ~~authorized to hear and decide the cause upon the failure of the~~
450 ~~arbitrators to agree upon an award shall sit with the~~
451 ~~arbitrators throughout their hearing but shall not be counted as~~
452 ~~a part of their quorum or in the making of their award. If,~~
453 ~~during the course of the hearing, an arbitrator for any reason~~
454 ~~ceases to act, the remaining arbitrator, arbitrators or umpire~~
455 ~~appointed to act as neutrals may continue with the hearing and~~
456 ~~determination of the controversy.~~

457 (4) At a hearing under subsection (3), a party to the
458 arbitration proceeding has a right to be heard, to present
459 evidence material to the controversy, and to cross-examine
460 witnesses appearing at the hearing.

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

465 Section 17. Section 682.07, Florida Statutes, is amended to
466 read:

467 682.07 Representation by attorney.—A party has the right to
468 be represented by an attorney at any arbitration proceeding or
469 hearing under this law. ~~A waiver thereof prior to the proceeding~~
470 ~~or hearing is ineffective.~~

471 Section 18. Section 682.08, Florida Statutes, is amended to
472 read:

473 682.08 Witnesses, subpoenas, depositions.—

474 (1) An arbitrator may issue a subpoena for the attendance
475 of a witness and for the production of records and other
476 evidence at any hearing and may administer oaths. A subpoena
477 must be served in the manner for service of subpoenas in a civil



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478 action and, upon motion to the court by a party to the
479 arbitration proceeding or the arbitrator, enforced in the manner
480 for enforcement of subpoenas in a civil action. Arbitrators, or
481 ~~an umpire authorized to hear and decide the cause upon failure~~
482 ~~of the arbitrators to agree upon an award, in the course of her~~
483 ~~or his jurisdiction, may issue subpoenas for the attendance of~~
484 ~~witnesses and for the production of books, records, documents~~
485 ~~and other evidence, and shall have the power to administer~~
486 ~~oaths. Subpoenas so issued shall be served, and upon application~~
487 ~~to the court by a party to the arbitration or the arbitrators,~~
488 ~~or the umpire, enforced in the manner provided by law for the~~
489 ~~service and enforcement of subpoenas in a civil action.~~

490 (2) In order to make the proceedings fair, expeditious, and
491 cost effective, upon request of a party to, or a witness in, an
492 arbitration proceeding, an arbitrator may permit a deposition of
493 any witness to be taken for use as evidence at the hearing,
494 including a witness who cannot be subpoenaed for or is unable to
495 attend a hearing. The arbitrator shall determine the conditions
496 under which the deposition is taken. On application of a party
497 ~~to the arbitration and for use as evidence, the arbitrators, or~~
498 ~~the umpire in the course of her or his jurisdiction, may permit~~
499 ~~a deposition to be taken, in the manner and upon the terms~~
500 ~~designated by them or her or him of a witness who cannot be~~
501 ~~subpoenaed or is unable to attend the hearing.~~

502 (3) An arbitrator may permit such discovery as the
503 arbitrator decides is appropriate in the circumstances, taking
504 into account the needs of the parties to the arbitration
505 proceeding and other affected persons and the desirability of
506 making the proceeding fair, expeditious, and cost effective. All



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507 ~~provisions of law compelling a person under subpoena to testify~~
508 ~~are applicable.~~

509 (4) If an arbitrator permits discovery under subsection
510 (3), the arbitrator may order a party to the arbitration
511 proceeding to comply with the arbitrator's discovery-related
512 orders, issue subpoenas for the attendance of a witness and for
513 the production of records and other evidence at a discovery
514 proceeding, and take action against a noncomplying party to the
515 extent a court could if the controversy were the subject of a
516 civil action in this state.

517 (5) An arbitrator may issue a protective order to prevent
518 the disclosure of privileged information, confidential
519 information, trade secrets, and other information protected from
520 disclosure to the extent a court could if the controversy were
521 the subject of a civil action in this state.

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

527 (7) The court may enforce a subpoena or discovery-related
528 order for the attendance of a witness within this state and for
529 the production of records and other evidence issued by an
530 arbitrator in connection with an arbitration proceeding in
531 another state upon conditions determined by the court so as to
532 make the arbitration proceeding fair, expeditious, and cost
533 effective. A subpoena or discovery-related order issued by an
534 arbitrator in another state must be served in the manner
535 provided by law for service of subpoenas in a civil action in



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536 this state and, upon motion to the court by a party to the
537 arbitration proceeding or the arbitrator, enforced in the manner
538 provided by law for enforcement of subpoenas in a civil action
539 in this state.

540 (8) ~~(4)~~ Fees for attendance as a witness shall be the same
541 as for a witness in the circuit court.

542 Section 19. Section 682.081, Florida Statutes, is created
543 to read:

544 682.081 Judicial enforcement of preaward ruling by
545 arbitrator.—

546 (1) Except as provided in subsection (2), if an arbitrator
547 makes a preaward ruling in favor of a party to the arbitration
548 proceeding, the party may request that the arbitrator
549 incorporate the ruling into an award under s. 682.12. A
550 prevailing party may make a motion to the court for an expedited
551 order to confirm the award under s. 682.12, in which case the
552 court shall summarily decide the motion. The court shall issue
553 an order to confirm the award unless the court vacates,
554 modifies, or corrects the award under s. 682.13 or s. 682.14.

555 (2) A party to a provisional remedy award for injunctive or
556 equitable relief may make a motion to the court seeking to
557 confirm or vacate the provisional remedy award.

558 (a) The court shall confirm a provisional remedy award for
559 injunctive or equitable relief if the award satisfies the legal
560 standards for awarding a party injunctive or equitable relief.

561 (b) The court shall vacate a provisional remedy award for
562 injunctive or equitable relief which fails to satisfy the legal
563 standards for awarding a party injunctive or equitable relief.

564 Section 20. Section 682.09, Florida Statutes, is amended to



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565 read:

566 682.09 Award.—

567 (1) An arbitrator shall make a record of an award. The
568 record must be signed or otherwise authenticated by any
569 arbitrator who concurs with the award. The arbitrator or the
570 arbitration organization shall give notice of the award,
571 including a copy of the award, to each party to the arbitration
572 proceeding. The award shall be in writing and shall be signed by
573 the arbitrators joining in the award or by the umpire in the
574 course of his or her jurisdiction. They or he or she shall
575 deliver a copy to each party to the arbitration either
576 personally or by registered or certified mail, or as provided in
577 the agreement or provision.

578 (2) An award must be made within the time specified by the
579 agreement to arbitrate or, if not specified therein, within the
580 time ordered by the court. The court may extend, or the parties
581 to the arbitration proceeding may agree in a record to extend,
582 the time. The court or the parties may do so within or after the
583 time specified or ordered. A party waives any objection that an
584 award was not timely made unless the party gives notice of the
585 objection to the arbitrator before receiving notice of the
586 award. An award shall be made within the time fixed therefor by
587 the agreement or provision for arbitration or, if not so fixed,
588 within such time as the court may order on application of a
589 party to the arbitration. The parties may, by written agreement,
590 extend the time either before or after the expiration thereof.
591 Any objection that an award was not made within the time
592 required is waived unless the objecting party notifies the
593 arbitrators or umpire in writing of his or her objection prior



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594 ~~to the delivery of the award to him or her.~~

595 Section 21. Section 682.10, Florida Statutes, is amended to
596 read:

597 682.10 Change of award by arbitrators ~~or umpire.~~

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

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

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

604 (c) To clarify the award.

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

608 (3) A party to the arbitration proceeding must give notice
609 of any objection to the motion within 10 days after receipt of
610 the notice.

611 (4) If a motion to the court is pending under s. 682.12, s.
612 682.13, or s. 682.14, the court may submit the claim to the
613 arbitrator to consider whether to modify or correct the award:

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

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

618 (c) To clarify the award.

619 (5) An award modified or corrected pursuant to this section
620 is subject to ss. 682.09(1), 682.12, 682.13, and 682.14. ~~On~~
621 application of a party to the arbitration, or if an application
622 to the court is pending under s. 682.12, s. 682.13 or s. 682.14,



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623 ~~on submission to the arbitrators, or to the umpire in the case~~
624 ~~of an umpire's award, by the court under such conditions as the~~
625 ~~court may order, the arbitrators or umpire may modify or correct~~
626 ~~the award upon the grounds stated in s. 682.14(1)(a) and (c) or~~
627 ~~for the purpose of clarifying the award. The application shall~~
628 ~~be made within 20 days after delivery of the award to the~~
629 ~~applicant. Written notice thereof shall be given forthwith to~~
630 ~~the other party to the arbitration, stating that he or she must~~
631 ~~serve his or her objections thereto, if any, within 10 days from~~
632 ~~the notice. The award so modified or corrected is subject to the~~
633 ~~provisions of ss. 682.12-682.14.~~

634 Section 22. Section 682.11, Florida Statutes, is amended to
635 read:

636 682.11 Remedies; fees and expenses of arbitration
637 proceeding.—

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

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

647 (3) As to all remedies other than those authorized by
648 subsections (1) and (2), an arbitrator may order such remedies
649 as the arbitrator considers just and appropriate under the
650 circumstances of the arbitration proceeding. The fact that such
651 a remedy could not or would not be granted by the court is not a



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652 ground for refusing to confirm an award under s. 682.12 or for
653 vacating an award under s. 682.13.

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

656 (5) If an arbitrator awards punitive damages or other
657 exemplary relief under subsection (1), the arbitrator shall
658 specify in the award the basis in fact justifying and the basis
659 in law authorizing the award and state separately the amount of
660 the punitive damages or other exemplary relief. Unless otherwise
661 provided in the agreement or provision for arbitration, the
662 arbitrators' and umpire's expenses and fees, together with other
663 expenses, not including counsel fees, incurred in the conduct of
664 the arbitration, shall be paid as provided in the award.

665 Section 23. Section 682.12, Florida Statutes, is amended to
666 read:

667 682.12 Confirmation of an award.—After a party to an
668 arbitration proceeding receives notice of an award, the party
669 may make a motion to the court for an order confirming the award
670 at which time the court shall issue a confirming order unless
671 the award is modified or corrected pursuant to s. 682.10 or s.
672 682.14 or is vacated pursuant to s. 682.13. Upon application of
673 a party to the arbitration, the court shall confirm an award,
674 unless within the time limits hereinafter imposed grounds are
675 urged for vacating or modifying or correcting the award, in
676 which case the court shall proceed as provided in ss. 682.13 and
677 682.14.

678 Section 24. Section 682.13, Florida Statutes, is amended to
679 read:

680 682.13 Vacating an award.—



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

683 (a) The award was procured by corruption, fraud, or other
684 undue means;~~-~~

685 (b) There was:

686 1. Evident partiality by an arbitrator appointed as a
687 neutral arbitrator;

688 2. Corruption by an arbitrator; or

689 3. Misconduct by an arbitrator prejudicing the rights of a
690 party to the arbitration proceeding; or corruption in any of the
691 arbitrators or umpire or misconduct prejudicing the rights of
692 any party.

693 (c) An arbitrator refused to postpone the hearing upon
694 showing of sufficient cause for postponement, refused to hear
695 evidence material to the controversy, or otherwise conducted the
696 hearing contrary to s. 682.06, so as to prejudice substantially
697 the rights of a party to the arbitration proceeding; The
698 arbitrators or the umpire in the course of her or his
699 jurisdiction exceeded their powers.

700 (d) An arbitrator exceeded the arbitrator's powers; The
701 arbitrators or the umpire in the course of her or his
702 jurisdiction refused to postpone the hearing upon sufficient
703 cause being shown therefor or refused to hear evidence material
704 to the controversy or otherwise so conducted the hearing,
705 contrary to the provisions of s. 682.06, as to prejudice
706 substantially the rights of a party.

707 (e) There was no agreement to arbitrate, unless the person
708 participated in the arbitration proceeding without raising the
709 objection under s. 682.06(3) not later than the beginning of the



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710 arbitration hearing; or ~~There was no agreement or provision for~~
711 ~~arbitration subject to this law, unless the matter was~~
712 ~~determined in proceedings under s. 682.03 and unless the party~~
713 ~~participated in the arbitration hearing without raising the~~
714 ~~objection.~~

715 (f) The arbitration was conducted without proper notice of
716 the initiation of an arbitration as required in s. 682.032 so as
717 to prejudice substantially the rights of a party to the
718 arbitration proceeding.

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

722 (2) A motion under this section must be filed within 90
723 days after the movant receives notice of the award pursuant to
724 s. 682.09 or within 90 days after the movant receives notice of
725 a modified or corrected award pursuant to s. 682.10, unless the
726 movant alleges that the award was procured by corruption, fraud,
727 or other undue means, in which case the motion must be made
728 within 90 days after the ground is known or by the exercise of
729 reasonable care would have been known by the movant. An
730 ~~application under this section shall be made within 90 days~~
731 ~~after delivery of a copy of the award to the applicant, except~~
732 ~~that, if predicated upon corruption, fraud or other undue means,~~
733 ~~it shall be made within 90 days after such grounds are known or~~
734 ~~should have been known.~~

735 (3) If the court vacates an award on a ground other than
736 that set forth in paragraph (1)(e), it may order a rehearing. If
737 the award is vacated on a ground stated in paragraph (1)(a) or
738 paragraph (1)(b), the rehearing must be before a new arbitrator.



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739 If the award is vacated on a ground stated in paragraph (1)(c),
740 paragraph (1)(d), or paragraph (1)(f), the rehearing may be
741 before the arbitrator who made the award or the arbitrator's
742 successor. The arbitrator must render the decision in the
743 rehearing within the same time as that provided in s. 682.09(2)
744 for an award. In vacating the award on grounds other than those
745 stated in paragraph (1)(e), the court may order a rehearing
746 before new arbitrators chosen as provided in the agreement or
747 provision for arbitration or by the court in accordance with s.
748 682.04, or, if the award is vacated on grounds set forth in
749 paragraphs (1)(e) and (d), the court may order a rehearing
750 before the arbitrators or umpire who made the award or their
751 successors appointed in accordance with s. 682.04. The time
752 within which the agreement or provision for arbitration requires
753 the award to be made is applicable to the rehearing and
754 commences from the date of the order therefor.

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

758 Section 25. Section 682.14, Florida Statutes, is amended to
759 read:

760 682.14 Modification or correction of award.—

761 (1) Upon motion made within 90 days after the movant
762 receives notice of the award pursuant to s. 682.09 or within 90
763 days after the movant receives notice of a modified or corrected
764 award pursuant to s. 682.10, the court shall modify or correct
765 the award if ~~Upon application made within 90 days after delivery~~
766 ~~of a copy of the award to the applicant, the court shall modify~~
767 ~~or correct the award when:~~



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

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

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

777 (2) If the motion ~~application~~ is granted, the court shall
778 modify and correct the award ~~so as to effect its intent~~ and
779 ~~shall~~ confirm the award as so modified and corrected. Otherwise,
780 unless a motion to vacate the award under s. 682.13 is pending,
781 the court shall confirm the award as made.

782 (3) A motion ~~An application~~ to modify or correct an award
783 may be joined in the alternative with a motion ~~an application~~ to
784 vacate the award under s. 682.13.

785 Section 26. Section 682.15, Florida Statutes, is amended to
786 read:

787 682.15 Judgment or decree on award.—

788 (1) Upon granting an order confirming, vacating without
789 directing a rehearing, modifying, or correcting an award, the
790 court shall enter a judgment in conformity therewith. The
791 judgment may be recorded, docketed, and enforced as any other
792 judgment in a civil action.

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

795 (3) On motion of a prevailing party to a contested judicial
796 proceeding under s. 682.12, s. 682.13, or s. 682.14, the court



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797 may add reasonable attorney fees and other reasonable expenses
798 of litigation incurred in a judicial proceeding after the award
799 is made to a judgment confirming, vacating without directing a
800 rehearing, modifying, or correcting an award. ~~Upon the granting~~
801 ~~of an order confirming, modifying or correcting an award,~~
802 ~~judgment or decree shall be entered in conformity therewith and~~
803 ~~be enforced as any other judgment or decree. Costs of the~~
804 ~~application and of the proceedings subsequent thereto, and~~
805 ~~disbursements may be awarded by the court.~~

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

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

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

809 Section 30. Section 682.181, Florida Statutes, is created
810 to read:

811 682.181 Jurisdiction.—

812 (1) A court of this state having jurisdiction over the
813 controversy and the parties may enforce an agreement to
814 arbitrate.

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

818 Section 31. Section 682.19, Florida Statutes, is amended to
819 read:

820 682.19 Venue.—A petition pursuant to s. 682.015 must be
821 filed in the court of the county in which the agreement to
822 arbitrate specifies the arbitration hearing is to be held or, if
823 the hearing has been held, in the court of the county in which
824 it was held. Otherwise, the petition may be made in the court of
825 any county in which an adverse party resides or has a place of



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826 business or, if no adverse party has a residence or place of
827 business in this state, in the court of any county in this
828 state. All subsequent petitions must be made in the court
829 hearing the initial petition unless the court otherwise directs.

830 ~~Any application under this law may be made to the court of the~~
831 ~~county in which the other party to the agreement or provision~~
832 ~~for arbitration resides or has a place of business, or, if she~~
833 ~~or he has no residence or place of business in this state, then~~
834 ~~to the court of any county. All applications under this law~~
835 ~~subsequent to an initial application shall be made to the court~~
836 ~~hearing the initial application unless it shall order otherwise.~~

837 Section 32. Section 682.20, Florida Statutes, is amended to
838 read:

839 682.20 Appeals.—

840 (1) An appeal may be taken from:

841 (a) An order denying a motion ~~an application~~ to compel
842 arbitration made under s. 682.03.

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

845 (c) An order confirming ~~or denying confirmation of~~ an
846 award.

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

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

851 (f) ~~(e)~~ An order vacating an award without directing a
852 rehearing.

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



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

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

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

859 Section 35. Section 682.23, Florida Statutes, is created to
860 read:

861 682.23 Relationship to Electronic Signatures in Global and
862 National Commerce Act.—The provisions of this chapter governing
863 the legal effect, validity, and enforceability of electronic
864 records or electronic signatures and of contracts performed with
865 the use of such records or signatures conform to the
866 requirements of s. 102 of the Electronic Signatures in Global
867 and National Commerce Act, 15 U.S.C. s. 7002.

868 Section 36. Section 682.25, Florida Statutes, is created to
869 read:

870 682.25 Disputes excluded.—This chapter does not apply to
871 any dispute involving child custody, visitation, or child
872 support.

873 Section 37. Subsection (2) of section 731.401, Florida
874 Statutes, is amended to read:

875 731.401 Arbitration of disputes.—

876 (2) Unless otherwise specified in the will or trust, a will
877 or trust provision requiring arbitration shall be presumed to
878 require binding arbitration under chapter 682, the Revised
879 Florida Arbitration Code. If an arbitration enforceable under
880 this section is governed under chapter 682, the arbitration
881 provision in the will or trust shall be treated as an agreement
882 for the purposes of applying chapter 682 s. 44.104.

883 Section 38. Section 440.1926, Florida Statutes, is amended



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884 to read:

885 440.1926 Alternate dispute resolution; claim arbitration.-
886 Notwithstanding any other provision of this chapter, the
887 employer, carrier, and employee may mutually agree to seek
888 consent from a judge of compensation claims to enter into
889 binding claim arbitration in lieu of any other remedy provided
890 for in this chapter to resolve all issues in dispute regarding
891 an injury. Arbitrations agreed to pursuant to this section shall
892 be governed by chapter 682, the Revised Florida Arbitration
893 Code, except that, notwithstanding any provision in chapter 682,
894 the term "court" shall mean a judge of compensation claims. An
895 arbitration award in accordance with this section is ~~shall be~~
896 enforceable in the same manner and with the same powers as any
897 final compensation order.

898 Section 39. Paragraph (a) of subsection (1) of section
899 489.1402, Florida Statutes, is amended to read:

900 489.1402 Homeowners' Construction Recovery Fund;
901 definitions.-

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

903 (a) "Arbitration" means alternative dispute resolution
904 entered into between a claimant and a contractor either pursuant
905 to a construction contract that contains a mandatory arbitration
906 clause or through any binding arbitration under chapter 682, the
907 Revised Florida Arbitration Code.

908 ===== T I T L E A M E N D M E N T =====

909 And the title is amended as follows:

910 Delete line 146

911 and insert:

912 support; amending s. 731, 401, F.S.; providing for



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913 application of the act to an arbitration provision in
914 a will or trust; amending ss. 440.1926 and 489.1402,