

By the Committee on Judiciary; and Senator Diaz de la Portilla

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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

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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 who has 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

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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 that capacity; providing that
68 this immunity is supplemental to any immunity under
69 other law; providing that failure to make a required
70 disclosure does not remove immunity; providing that an
71 arbitrator or representative of an arbitration
72 organization is not competent to testify and may not
73 be required to produce records concerning the
74 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,

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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

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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 providing for applicability; creating s. 682.25, F.S.;
144 providing that the revised code does not apply to any
145 dispute involving child custody, visitation, or child

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146 support; amending s. 44.104, F.S.; deleting references
147 to binding arbitration from provisions providing for
148 voluntary trial resolution; providing for temporary
149 relief; revising provisions relating to procedures in
150 voluntary trial resolution; providing that a judgment
151 is reviewable in the same manner as a judgment in a
152 civil action; deleting provisions relating to
153 applicability of the harmless error doctrine;
154 providing limitations on the jurisdiction of a trial
155 resolution judge; providing for the use of juries;
156 providing for the title of a trial resolution judge
157 and the use of judicial robes; amending s. 44.107,
158 F.S.; providing immunity for voluntary trial
159 resolution judges serving under specified provisions;
160 amending ss. 440.1926, 489.1402, and 731.401, F.S.;
161 conforming cross-references; providing a directive to
162 the Division of Statutory Revision to redesignate the
163 title of ch. 44, F.S., as "Alternative Dispute
164 Resolution"; providing an effective date.

165

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

167

168 Section 1. Section 682.01, Florida Statutes, is amended to
169 read:

170 682.01 Short title Florida Arbitration Code.—This chapter
171 Sections 682.01-682.22 may be cited as the "Revised Florida
172 Arbitration Code."

173 Section 2. Section 682.011, Florida Statutes, is created to
174 read:

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175 682.011 Definitions.—As used in this chapter, the term:

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

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

183 (3) "Court" means a court of competent jurisdiction in this
184 state.

185 (4) "Knowledge" means actual knowledge.

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

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

194 Section 3. Section 682.012, Florida Statutes, is created to
195 read:

196 682.012 Notice.—

197 (1) Except as otherwise provided in this chapter, a person
198 gives notice to another person by taking action that is
199 reasonably necessary to inform the other person in ordinary
200 course, whether or not the other person acquires knowledge of
201 the notice.

202 (2) A person has notice if the person has knowledge of the
203 notice or has received notice.

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

208 Section 4. Section 682.013, Florida Statutes, is created to
209 read:

210 682.013 Applicability of revised code.-

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

213 (2) The Revised Florida Arbitration Code governs an
214 agreement to arbitrate made before July 1, 2012, if all the
215 parties to the agreement or to the arbitration proceeding so
216 agree in a record. Otherwise, such agreements shall be governed
217 by the applicable law existing at the time the parties entered
218 into the agreement.

219 (3) The Revised Florida Arbitration Code does not affect an
220 action or proceeding commenced or right accrued before July 1,
221 2012.

222 (4) Beginning July 1, 2015, an agreement to arbitrate shall
223 be subject to the then applicable law governing agreements to
224 arbitrate.

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

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

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

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- 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:
- 237 1. Commencing a petition for judicial relief under s.
238 682.015(1);
- 239 2. Making agreements to arbitrate valid, enforceable, and
240 irrevocable under s. 682.02(1);
- 241 3. Permitting provisional remedies under s. 682.031;
242 4. Conferring authority on arbitrators to issue subpoenas
243 and permit depositions under s. 682.08(1) or (2);
- 244 5. Conferring jurisdiction under s. 682.181; or
245 6. Stating the bases for appeal under s. 682.20;
- 246 (b) Agree to unreasonably restrict the right under s.
247 682.032 to notice of the initiation of an arbitration
248 proceeding;
- 249 (c) Agree to unreasonably restrict the right under s.
250 682.041 to disclosure of any facts by a neutral arbitrator; or
- 251 (d) Waive the right under s. 682.07 of a party to an
252 agreement to arbitrate to be represented by an attorney at any
253 proceeding or hearing under this chapter, but an employer and a
254 labor organization may waive the right to representation by an
255 attorney in a labor arbitration.
- 256 (3) A party to an agreement to arbitrate or arbitration
257 proceeding may not waive, or the parties may not vary the effect
258 of, the requirements in this section or:
- 259 (a) The applicability of this chapter, the Revised Florida
260 Arbitration Code under s. 682.013(1) or (4);
- 261 (b) The availability of proceedings to compel or stay

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262 arbitration under s. 682.03;

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

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

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

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

270 (g) The grounds for vacating an arbitration award under s.
271 682.13;

272 (h) The grounds for modifying an arbitration award under s.
273 682.14;

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

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

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

280 Section 6. Section 682.015, Florida Statutes, is created to
281 read:

282 682.015 Petition for judicial relief.—

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

287 (2) Unless a civil action involving the agreement to
288 arbitrate is pending, notice of an initial petition to the court
289 under this chapter must be served in the manner provided by law
290 for the service of a summons in a civil action. Otherwise,

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291 notice of the motion must be given in the manner provided by law
292 or rule of court for serving motions in pending cases.

293 Section 7. Section 682.02, Florida Statutes, is amended to
294 read:

295 682.02 Arbitration agreements made valid, irrevocable, and
296 enforceable; scope.—

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

302 (2) The court shall decide whether an agreement to
303 arbitrate exists or a controversy is subject to an agreement to
304 arbitrate.

305 (3) An arbitrator shall decide whether a condition
306 precedent to arbitrability has been fulfilled and whether a
307 contract containing a valid agreement to arbitrate is
308 enforceable.

309 (4) If a party to a judicial proceeding challenges the
310 existence of, or claims that a controversy is not subject to, an
311 agreement to arbitrate, the arbitration proceeding may continue
312 pending final resolution of the issue by the court, unless the
313 court otherwise orders.

314 ~~(5) Two or more parties may agree in writing to submit to~~
315 ~~arbitration any controversy existing between them at the time of~~
316 ~~the agreement, or they may include in a written contract a~~
317 ~~provision for the settlement by arbitration of any controversy~~
318 ~~thereafter arising between them relating to such contract or the~~
319 ~~failure or refusal to perform the whole or any part thereof.~~

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320 This section also applies to written interlocal agreements under
321 ss. 163.01 and 373.713 in which two or more parties agree to
322 submit to arbitration any controversy between them concerning
323 water use permit motions ~~applications~~ and other matters,
324 regardless of whether or not the water management district with
325 jurisdiction over the subject motion ~~application~~ is a party to
326 the interlocal agreement or a participant in the arbitration.
327 ~~Such agreement or provision shall be valid, enforceable, and~~
328 ~~irrevocable without regard to the justiciable character of the~~
329 ~~controversy; provided that this act shall not apply to any such~~
330 ~~agreement or provision to arbitrate in which it is stipulated~~
331 ~~that this law shall not apply or to any arbitration or award~~
332 ~~thereunder.~~

333 Section 8. Section 682.03, Florida Statutes, is amended to
334 read:

335 682.03 Proceedings to compel and to stay arbitration.—

336 (1) On motion of a person showing an agreement to arbitrate
337 and alleging another person's refusal to arbitrate pursuant to
338 the agreement:

339 (a) If the refusing party does not appear or does not
340 oppose the motion, the court shall order the parties to
341 arbitrate.

342 (b) If the refusing party opposes the motion, the court
343 shall proceed summarily to decide the issue and order the
344 parties to arbitrate unless it finds that there is no
345 enforceable agreement to arbitrate. ~~A party to an agreement or~~
346 ~~provision for arbitration subject to this law claiming the~~
347 ~~neglect or refusal of another party thereto to comply therewith~~
348 ~~may make application to the court for an order directing the~~

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349 ~~parties to proceed with arbitration in accordance with the terms~~
350 ~~thereof. If the court is satisfied that no substantial issue~~
351 ~~exists as to the making of the agreement or provision, it shall~~
352 ~~grant the application. If the court shall find that a~~
353 ~~substantial issue is raised as to the making of the agreement or~~
354 ~~provision, it shall summarily hear and determine the issue and,~~
355 ~~according to its determination, shall grant or deny the~~
356 ~~application.~~

357 (2) On motion of a person alleging that an arbitration
358 proceeding has been initiated or threatened but that there is no
359 agreement to arbitrate, the court shall proceed summarily to
360 decide the issue. If the court finds that there is an
361 enforceable agreement to arbitrate, it shall order the parties
362 to arbitrate. ~~If an issue referable to arbitration under an~~
363 ~~agreement or provision for arbitration subject to this law~~
364 ~~becomes involved in an action or proceeding pending in a court~~
365 ~~having jurisdiction to hear an application under subsection (1),~~
366 ~~such application shall be made in said court. Otherwise and~~
367 ~~subject to s. 682.19, such application may be made in any court~~
368 ~~of competent jurisdiction.~~

369 (3) If the court finds that there is no enforceable
370 agreement to arbitrate, it may not order the parties to
371 arbitrate pursuant to subsection (1) or subsection (2). ~~Any~~
372 ~~action or proceeding involving an issue subject to arbitration~~
373 ~~under this law shall be stayed if an order for arbitration or an~~
374 ~~application therefor has been made under this section or, if the~~
375 ~~issue is severable, the stay may be with respect thereto only.~~
376 ~~When the application is made in such action or proceeding, the~~
377 ~~order for arbitration shall include such stay.~~

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378 (4) The court may not refuse to order arbitration because
379 the claim subject to arbitration lacks merit or grounds for the
380 claim have not been established. ~~On application the court may~~
381 ~~stay an arbitration proceeding commenced or about to be~~
382 ~~commenced, if it shall find that no agreement or provision for~~
383 ~~arbitration subject to this law exists between the party making~~
384 ~~the application and the party causing the arbitration to be had.~~
385 ~~The court shall summarily hear and determine the issue of the~~
386 ~~making of the agreement or provision and, according to its~~
387 ~~determination, shall grant or deny the application.~~

388 (5) If a proceeding involving a claim referable to
389 arbitration under an alleged agreement to arbitrate is pending
390 in court, a motion under this section must be made in that
391 court. Otherwise, a motion under this section may be made in any
392 court as provided in s. 682.19. ~~An order for arbitration shall~~
393 ~~not be refused on the ground that the claim in issue lacks merit~~
394 ~~or bona fides or because any fault or grounds for the claim~~
395 ~~sought to be arbitrated have not been shown.~~

396 (6) If a party makes a motion to the court to order
397 arbitration, the court on just terms shall stay any judicial
398 proceeding that involves a claim alleged to be subject to the
399 arbitration until the court renders a final decision under this
400 section.

401 (7) If the court orders arbitration, the court on just
402 terms shall stay any judicial proceeding that involves a claim
403 subject to the arbitration. If a claim subject to the
404 arbitration is severable, the court may limit the stay to that
405 claim.

406 Section 9. Section 682.031, Florida Statutes, is created to

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407 read:

408 682.031 Provisional remedies.—

409 (1) Before an arbitrator is appointed and is authorized and
410 able to act, the court, upon motion of a party to an arbitration
411 proceeding and for good cause shown, may enter an order for
412 provisional remedies to protect the effectiveness of the
413 arbitration proceeding to the same extent and under the same
414 conditions as if the controversy were the subject of a civil
415 action.

416 (2) After an arbitrator is appointed and is authorized and
417 able to act:

418 (a) The arbitrator may issue such orders for provisional
419 remedies, including interim awards, as the arbitrator finds
420 necessary to protect the effectiveness of the arbitration
421 proceeding and to promote the fair and expeditious resolution of
422 the controversy, to the same extent and under the same
423 conditions as if the controversy were the subject of a civil
424 action.

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

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

431 Section 10. Section 682.032, Florida Statutes, is created
432 to read:

433 682.032 Initiation of arbitration.—

434 (1) A person initiates an arbitration proceeding by giving
435 notice in a record to the other parties to the agreement to

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436 arbitrate in the agreed manner between the parties or, in the
437 absence of agreement, by certified or registered mail, return
438 receipt requested and obtained, or by service as authorized for
439 the commencement of a civil action. The notice must describe the
440 nature of the controversy and the remedy sought.

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

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

447 682.033 Consolidation of separate arbitration proceedings.-

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

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

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

460 (c) The existence of a common issue of law or fact creates
461 the possibility of conflicting decisions in the separate
462 arbitration proceedings; and

463 (d) Prejudice resulting from a failure to consolidate is
464 not outweighed by the risk of undue delay or prejudice to the

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465 rights of or hardship to parties opposing consolidation.

466 (2) The court may order consolidation of separate
467 arbitration proceedings as to some claims and allow other claims
468 to be resolved in separate arbitration proceedings.

469 (3) The court may not order consolidation of the claims of
470 a party to an agreement to arbitrate if the agreement prohibits
471 consolidation.

472 Section 12. Section 682.04, Florida Statutes, is amended to
473 read:

474 682.04 Appointment of arbitrators by court.—

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

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

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

482 (b) The agreed method fails;

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

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

487 (3) ~~In the absence thereof, or if the agreed method fails~~
488 ~~or for any reason cannot be followed, or if an arbitrator or~~
489 ~~umpire who has been appointed fails to act and his or her~~
490 ~~successor has not been duly appointed, the court, on application~~
491 ~~of a party to such agreement or provision shall appoint one or~~
492 ~~more arbitrators or an umpire. An arbitrator or umpire so~~
493 appointed ~~has all the shall have like powers of an arbitrator~~

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494 designated as if named or provided for in the agreement to
495 arbitrate appointed pursuant to the agreed method or provision.

496 (4) An individual who has a known, direct, and material
497 interest in the outcome of the arbitration proceeding or a
498 known, existing, and substantial relationship with a party may
499 not serve as an arbitrator required by an agreement to be
500 neutral.

501 Section 13. Section 682.041, Florida Statutes, is created
502 to read:

503 682.041 Disclosure by arbitrator.—

504 (1) Before accepting appointment, an individual who is
505 requested to serve as an arbitrator, after making a reasonable
506 inquiry, shall disclose to all parties to the agreement to
507 arbitrate and arbitration proceeding and to any other
508 arbitrators any known facts that a reasonable person would
509 consider likely to affect the person's impartiality as an
510 arbitrator in the arbitration proceeding, including:

511 (a) A financial or personal interest in the outcome of the
512 arbitration proceeding.

513 (b) An existing or past relationship with any of the
514 parties to the agreement to arbitrate or the arbitration
515 proceeding, their counsel or representative, a witness, or
516 another arbitrator.

517 (2) An arbitrator has a continuing obligation to disclose
518 to all parties to the agreement to arbitrate and arbitration
519 proceeding and to any other arbitrators any facts that the
520 arbitrator learns after accepting appointment that a reasonable
521 person would consider likely to affect the impartiality of the
522 arbitrator.

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523 (3) If an arbitrator discloses a fact required by
524 subsection (1) or subsection (2) to be disclosed and a party
525 timely objects to the appointment or continued service of the
526 arbitrator based upon the fact disclosed, the objection may be a
527 ground under s. 682.13(1) (b) for vacating an award made by the
528 arbitrator.

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

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

537 (6) If the parties to an arbitration proceeding agree to
538 the procedures of an arbitration organization or any other
539 procedures for challenges to arbitrators before an award is
540 made, substantial compliance with those procedures is a
541 condition precedent to a motion to vacate an award on that
542 ground under s. 682.13(1) (b).

543 Section 14. Section 682.05, Florida Statutes, is amended to
544 read:

545 682.05 Majority action by arbitrators.—If there is more
546 than one arbitrator, the powers of an arbitrator must be
547 exercised by a majority of the arbitrators, but all of the
548 arbitrators shall conduct the hearing under s. 682.06(3). ~~The~~
549 ~~powers of the arbitrators may be exercised by a majority of~~
550 ~~their number unless otherwise provided in the agreement or~~
551 ~~provision for arbitration.~~

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552 Section 15. Section 682.051, Florida Statutes, is created
553 to read:

554 682.051 Immunity of arbitrator; competency to testify;
555 attorney fees and costs.—

556 (1) An arbitrator or an arbitration organization acting in
557 that capacity is immune from civil liability to the same extent
558 as a judge of a court of this state acting in a judicial
559 capacity.

560 (2) The immunity afforded under this section supplements
561 any immunity under other law.

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

565 (4) In a judicial, administrative, or similar proceeding,
566 an arbitrator or representative of an arbitration organization
567 is not competent to testify, and may not be required to produce
568 records as to any statement, conduct, decision, or ruling
569 occurring during the arbitration proceeding, to the same extent
570 as a judge of a court of this state acting in a judicial
571 capacity. This subsection does not apply:

572 (a) To the extent necessary to determine the claim of an
573 arbitrator, arbitration organization, or representative of the
574 arbitration organization against a party to the arbitration
575 proceeding; or

576 (b) To a hearing on a motion to vacate an award under s.
577 682.13(1) (a) or (b) if the movant establishes prima facie that a
578 ground for vacating the award exists.

579 (5) If a person commences a civil action against an
580 arbitrator, arbitration organization, or representative of an

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581 arbitration organization arising from the services of the
582 arbitrator, organization, or representative or if a person seeks
583 to compel an arbitrator or a representative of an arbitration
584 organization to testify or produce records in violation of
585 subsection (4), and the court decides that the arbitrator,
586 arbitration organization, or representative of an arbitration
587 organization is immune from civil liability or that the
588 arbitrator or representative of the organization is not
589 competent to testify, the court shall award to the arbitrator,
590 organization, or representative reasonable attorney fees and
591 other reasonable expenses of litigation.

592 Section 16. Section 682.06, Florida Statutes, is amended to
593 read:

594 682.06 Hearing.—

595 (1) An arbitrator may conduct an arbitration in such manner
596 as the arbitrator considers appropriate for a fair and
597 expeditious disposition of the proceeding. The arbitrator's
598 authority includes the power to hold conferences with the
599 parties to the arbitration proceeding before the hearing and,
600 among other matters, determine the admissibility, relevance,
601 materiality, and weight of any evidence. Unless otherwise
602 provided by the agreement or provision for arbitration:

603 ~~(1)(a) The arbitrators shall appoint a time and place for~~
604 ~~the hearing and cause notification to the parties to be served~~
605 ~~personally or by registered or certified mail not less than 5~~
606 ~~days before the hearing. Appearance at the hearing waives a~~
607 ~~party's right to such notice. The arbitrators may adjourn their~~
608 ~~hearing from time to time upon their own motion and shall do so~~
609 ~~upon the request of any party to the arbitration for good cause~~

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610 ~~shown, provided that no adjournment or postponement of their~~
611 ~~hearing shall extend beyond the date fixed in the agreement or~~
612 ~~provision for making the award unless the parties consent to a~~
613 ~~later date. An umpire authorized to hear and decide the cause~~
614 ~~upon failure of the arbitrators to agree upon an award shall, in~~
615 ~~the course of his or her jurisdiction, have like powers and be~~
616 ~~subject to like limitations thereon.~~

617 ~~(b) The arbitrators, or umpire in the course of his or her~~
618 ~~jurisdiction, may hear and decide the controversy upon the~~
619 ~~evidence produced notwithstanding the failure or refusal of a~~
620 ~~party duly notified of the time and place of the hearing to~~
621 ~~appear. The court on application may direct the arbitrators, or~~
622 ~~the umpire in the course of his or her jurisdiction, to proceed~~
623 ~~promptly with the hearing and making of the award.~~

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

626 (a) If all interested parties agree; or

627 (b) Upon request of one party to the arbitration
628 proceeding, if that party gives notice to all other parties to
629 the proceeding and the other parties have a reasonable
630 opportunity to respond. The parties are entitled to be heard, to
631 present evidence material to the controversy and to cross-
632 examine witnesses appearing at the hearing.

633 (3) If an arbitrator orders a hearing, the arbitrator shall
634 set a time and place and give notice of the hearing not less
635 than 5 days before the hearing begins. Unless a party to the
636 arbitration proceeding makes an objection to lack or
637 insufficiency of notice not later than the beginning of the
638 hearing, the party's appearance at the hearing waives the

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639 objection. Upon request of a party to the arbitration proceeding
640 and for good cause shown, or upon the arbitrator's own
641 initiative, the arbitrator may adjourn the hearing from time to
642 time as necessary but may not postpone the hearing to a time
643 later than that fixed by the agreement to arbitrate for making
644 the award unless the parties to the arbitration proceeding
645 consent to a later date. The arbitrator may hear and decide the
646 controversy upon the evidence produced although a party who was
647 duly notified of the arbitration proceeding did not appear. The
648 court, on request, may direct the arbitrator to conduct the
649 hearing promptly and render a timely decision. ~~The hearing shall~~
650 be conducted by all of the arbitrators but a majority may
651 determine any question and render a final award. An umpire
652 authorized to hear and decide the cause upon the failure of the
653 arbitrators to agree upon an award shall sit with the
654 arbitrators throughout their hearing but shall not be counted as
655 a part of their quorum or in the making of their award. If,
656 during the course of the hearing, an arbitrator for any reason
657 ceases to act, the remaining arbitrator, arbitrators or umpire
658 appointed to act as neutrals may continue with the hearing and
659 determination of the controversy.

660 (4) At a hearing under subsection (3), a party to the
661 arbitration proceeding has a right to be heard, to present
662 evidence material to the controversy, and to cross-examine
663 witnesses appearing at the hearing.

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

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668 Section 17. Section 682.07, Florida Statutes, is amended to
669 read:

670 682.07 Representation by attorney.—A party to an
671 arbitration proceeding may ~~has the right to~~ be represented by an
672 attorney ~~at any arbitration proceeding or hearing under this~~
673 ~~law. A waiver thereof prior to the proceeding or hearing is~~
674 ~~ineffective.~~

675 Section 18. Section 682.08, Florida Statutes, is amended to
676 read:

677 682.08 Witnesses, subpoenas, depositions.—

678 (1) An arbitrator may issue a subpoena for the attendance
679 of a witness and for the production of records and other
680 evidence at any hearing and may administer oaths. A subpoena
681 must be served in the manner for service of subpoenas in a civil
682 action and, upon motion to the court by a party to the
683 arbitration proceeding or the arbitrator, enforced in the manner
684 for enforcement of subpoenas in a civil action. ~~Arbitrators, or~~
685 ~~an umpire authorized to hear and decide the cause upon failure~~
686 ~~of the arbitrators to agree upon an award, in the course of her~~
687 ~~or his jurisdiction, may issue subpoenas for the attendance of~~
688 ~~witnesses and for the production of books, records, documents~~
689 ~~and other evidence, and shall have the power to administer~~
690 ~~oaths. Subpoenas so issued shall be served, and upon application~~
691 ~~to the court by a party to the arbitration or the arbitrators,~~
692 ~~or the umpire, enforced in the manner provided by law for the~~
693 ~~service and enforcement of subpoenas in a civil action.~~

694 (2) In order to make the proceedings fair, expeditious, and
695 cost effective, upon request of a party to, or a witness in, an
696 arbitration proceeding, an arbitrator may permit a deposition of

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697 any witness to be taken for use as evidence at the hearing,
698 including a witness who cannot be subpoenaed for or is unable to
699 attend a hearing. The arbitrator shall determine the conditions
700 under which the deposition is taken. ~~On application of a party~~
701 to the arbitration and for use as evidence, the arbitrators, or
702 the umpire in the course of her or his jurisdiction, may permit
703 a deposition to be taken, in the manner and upon the terms
704 designated by them or her or him of a witness who cannot be
705 subpoenaed or is unable to attend the hearing.

706 (3) An arbitrator may permit such discovery as the
707 arbitrator decides is appropriate in the circumstances, taking
708 into account the needs of the parties to the arbitration
709 proceeding and other affected persons and the desirability of
710 making the proceeding fair, expeditious, and cost effective. ~~All~~
711 provisions of law compelling a person under subpoena to testify
712 are applicable.

713 (4) If an arbitrator permits discovery under subsection
714 (3), the arbitrator may order a party to the arbitration
715 proceeding to comply with the arbitrator's discovery-related
716 orders, issue subpoenas for the attendance of a witness and for
717 the production of records and other evidence at a discovery
718 proceeding, and take action against a noncomplying party to the
719 extent a court could if the controversy were the subject of a
720 civil action in this state.

721 (5) An arbitrator may issue a protective order to prevent
722 the disclosure of privileged information, confidential
723 information, trade secrets, and other information protected from
724 disclosure to the extent a court could if the controversy were
725 the subject of a civil action in this state.

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

731 (7) The court may enforce a subpoena or discovery-related
732 order for the attendance of a witness within this state and for
733 the production of records and other evidence issued by an
734 arbitrator in connection with an arbitration proceeding in
735 another state upon conditions determined by the court so as to
736 make the arbitration proceeding fair, expeditious, and cost
737 effective. A subpoena or discovery-related order issued by an
738 arbitrator in another state must be served in the manner
739 provided by law for service of subpoenas in a civil action in
740 this state and, upon motion to the court by a party to the
741 arbitration proceeding or the arbitrator, enforced in the manner
742 provided by law for enforcement of subpoenas in a civil action
743 in this state.

744 (8)~~(4)~~ Fees for attendance as a witness shall be the same
745 as for a witness in the circuit court.

746 Section 19. Section 682.081, Florida Statutes, is created
747 to read:

748 682.081 Judicial enforcement of preaward ruling by
749 arbitrator.—If an arbitrator makes a preaward ruling in favor of
750 a party to the arbitration proceeding, the party may request
751 that the arbitrator incorporate the ruling into an award under
752 s. 682.12. A prevailing party may make a motion to the court for
753 an expedited order to confirm the award under s. 682.12, in
754 which case the court shall summarily decide the motion. The

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755 court shall issue an order to confirm the award unless the court
756 vacates, modifies, or corrects the award under s. 682.13 or s.
757 682.14.

758 Section 20. Section 682.09, Florida Statutes, is amended to
759 read:

760 682.09 Award.—

761 (1) An arbitrator shall make a record of an award. The
762 record must be signed or otherwise authenticated by any
763 arbitrator who concurs with the award. The arbitrator or the
764 arbitration organization shall give notice of the award,
765 including a copy of the award, to each party to the arbitration
766 proceeding. The award shall be in writing and shall be signed by
767 the arbitrators joining in the award or by the umpire in the
768 course of his or her jurisdiction. They or he or she shall
769 deliver a copy to each party to the arbitration either
770 personally or by registered or certified mail, or as provided in
771 the agreement or provision.

772 (2) An award must be made within the time specified by the
773 agreement to arbitrate or, if not specified therein, within the
774 time ordered by the court. The court may extend, or the parties
775 to the arbitration proceeding may agree in a record to extend,
776 the time. The court or the parties may do so within or after the
777 time specified or ordered. A party waives any objection that an
778 award was not timely made unless the party gives notice of the
779 objection to the arbitrator before receiving notice of the
780 award. An award shall be made within the time fixed therefor by
781 the agreement or provision for arbitration or, if not so fixed,
782 within such time as the court may order on application of a
783 party to the arbitration. The parties may, by written agreement,

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784 ~~extend the time either before or after the expiration thereof.~~
785 ~~Any objection that an award was not made within the time~~
786 ~~required is waived unless the objecting party notifies the~~
787 ~~arbitrators or umpire in writing of his or her objection prior~~
788 ~~to the delivery of the award to him or her.~~

789 Section 21. Section 682.10, Florida Statutes, is amended to
790 read:

791 682.10 Change of award by arbitrators ~~or umpire.~~-

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

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

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

798 (c) To clarify the award.

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

802 (3) A party to the arbitration proceeding must give notice
803 of any objection to the motion within 10 days after receipt of
804 the notice.

805 (4) If a motion to the court is pending under s. 682.12, s.
806 682.13, or s. 682.14, the court may submit the claim to the
807 arbitrator to consider whether to modify or correct the award:

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

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

812 (c) To clarify the award.

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813 (5) An award modified or corrected pursuant to this section
814 is subject to ss. 682.09(1), 682.12, 682.13, and 682.14. ~~On~~
815 ~~application of a party to the arbitration, or if an application~~
816 ~~to the court is pending under s. 682.12, s. 682.13 or s. 682.14,~~
817 ~~on submission to the arbitrators, or to the umpire in the case~~
818 ~~of an umpire's award, by the court under such conditions as the~~
819 ~~court may order, the arbitrators or umpire may modify or correct~~
820 ~~the award upon the grounds stated in s. 682.14(1)(a) and (c) or~~
821 ~~for the purpose of clarifying the award. The application shall~~
822 ~~be made within 20 days after delivery of the award to the~~
823 ~~applicant. Written notice thereof shall be given forthwith to~~
824 ~~the other party to the arbitration, stating that he or she must~~
825 ~~serve his or her objections thereto, if any, within 10 days from~~
826 ~~the notice. The award so modified or corrected is subject to the~~
827 ~~provisions of ss. 682.12-682.14.~~

828 Section 22. Section 682.11, Florida Statutes, is amended to
829 read:

830 682.11 Remedies; fees and expenses of arbitration
831 proceeding.—

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

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

841 (3) As to all remedies other than those authorized by

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842 subsections (1) and (2), an arbitrator may order such remedies
843 as the arbitrator considers just and appropriate under the
844 circumstances of the arbitration proceeding. The fact that such
845 a remedy could not or would not be granted by the court is not a
846 ground for refusing to confirm an award under s. 682.12 or for
847 vacating an award under s. 682.13.

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

850 (5) If an arbitrator awards punitive damages or other
851 exemplary relief under subsection (1), the arbitrator shall
852 specify in the award the basis in fact justifying and the basis
853 in law authorizing the award and state separately the amount of
854 the punitive damages or other exemplary relief. Unless otherwise
855 provided in the agreement or provision for arbitration, the
856 arbitrators' and umpire's expenses and fees, together with other
857 expenses, not including counsel fees, incurred in the conduct of
858 the arbitration, shall be paid as provided in the award.

859 Section 23. Section 682.12, Florida Statutes, is amended to
860 read:

861 682.12 Confirmation of an award.—After a party to an
862 arbitration proceeding receives notice of an award, the party
863 may make a motion to the court for an order confirming the award
864 at which time the court shall issue a confirming order unless
865 the award is modified or corrected pursuant to s. 682.10 or s.
866 682.14 or is vacated pursuant to s. 682.13. Upon application of
867 a party to the arbitration, the court shall confirm an award,
868 unless within the time limits hereinafter imposed grounds are
869 urged for vacating or modifying or correcting the award, in
870 which case the court shall proceed as provided in ss. 682.13 and

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871 ~~682.14.~~

872 Section 24. Section 682.13, Florida Statutes, is amended to
873 read:

874 682.13 Vacating an award.—

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

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

879 (b) There was:

880 1. Evident partiality by an arbitrator appointed as a
881 neutral arbitrator;

882 2. Corruption by an arbitrator; or

883 3. Misconduct by an arbitrator prejudicing the rights of a
884 party to the arbitration proceeding; ~~or corruption in any of the~~
885 ~~arbitrators or umpire or misconduct prejudicing the rights of~~
886 ~~any party.~~

887 (c) An arbitrator refused to postpone the hearing upon
888 showing of sufficient cause for postponement, refused to
889 consider evidence material to the controversy, or otherwise
890 conducted the hearing contrary to s. 682.06, so as to prejudice
891 substantially the rights of a party to the arbitration
892 proceeding; ~~The arbitrators or the umpire in the course of her~~
893 ~~or his jurisdiction exceeded their powers.~~

894 (d) An arbitrator exceeded the arbitrator's powers; ~~The~~
895 ~~arbitrators or the umpire in the course of her or his~~
896 ~~jurisdiction refused to postpone the hearing upon sufficient~~
897 ~~cause being shown therefor or refused to hear evidence material~~
898 ~~to the controversy or otherwise so conducted the hearing,~~
899 ~~contrary to the provisions of s. 682.06, as to prejudice~~

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900 ~~substantially the rights of a party.~~

901 (e) There was no agreement to arbitrate, unless the person
902 participated in the arbitration proceeding without raising the
903 objection under s. 682.06(3) not later than the beginning of the
904 arbitration hearing; or ~~There was no agreement or provision for~~
905 ~~arbitration subject to this law, unless the matter was~~
906 ~~determined in proceedings under s. 682.03 and unless the party~~
907 ~~participated in the arbitration hearing without raising the~~
908 ~~objection.~~

909 (f) The arbitration was conducted without proper notice of
910 the initiation of an arbitration as required in s. 682.032 so as
911 to prejudice substantially the rights of a party to the
912 arbitration proceeding.

913
914 ~~But the fact that the relief was such that it could not or would~~
915 ~~not be granted by a court of law or equity is not ground for~~
916 ~~vacating or refusing to confirm the award.~~

917 (2) A motion under this section must be filed within 90
918 days after the movant receives notice of the award pursuant to
919 s. 682.09 or within 90 days after the movant receives notice of
920 a modified or corrected award pursuant to s. 682.10, unless the
921 movant alleges that the award was procured by corruption, fraud,
922 or other undue means, in which case the motion must be made
923 within 90 days after the ground is known or by the exercise of
924 reasonable care would have been known by the movant. An
925 ~~application under this section shall be made within 90 days~~
926 ~~after delivery of a copy of the award to the applicant, except~~
927 ~~that, if predicated upon corruption, fraud or other undue means,~~
928 ~~it shall be made within 90 days after such grounds are known or~~

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929 ~~should have been known.~~

930 (3) If the court vacates an award on a ground other than
931 that set forth in paragraph (1)(e), it may order a rehearing. If
932 the award is vacated on a ground stated in paragraph (1)(a) or
933 paragraph (1)(b), the rehearing must be before a new arbitrator.
934 If the award is vacated on a ground stated in paragraph (1)(c),
935 paragraph (1)(d), or paragraph (1)(f), the rehearing may be
936 before the arbitrator who made the award or the arbitrator's
937 successor. The arbitrator must render the decision in the
938 rehearing within the same time as that provided in s. 682.09(2)
939 for an award. In vacating the award on grounds other than those
940 stated in paragraph (1)(e), the court may order a rehearing
941 before new arbitrators chosen as provided in the agreement or
942 provision for arbitration or by the court in accordance with s.
943 682.04, or, if the award is vacated on grounds set forth in
944 paragraphs (1)(c) and (d), the court may order a rehearing
945 before the arbitrators or umpire who made the award or their
946 successors appointed in accordance with s. 682.04. The time
947 within which the agreement or provision for arbitration requires
948 the award to be made is applicable to the rehearing and
949 commences from the date of the order therefor.

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

953 Section 25. Section 682.14, Florida Statutes, is amended to
954 read:

955 682.14 Modification or correction of award.—

956 (1) Upon motion made within 90 days after the movant
957 receives notice of the award pursuant to s. 682.09 or within 90

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958 days after the movant receives notice of a modified or corrected
959 award pursuant to s. 682.10, the court shall modify or correct
960 the award if ~~Upon application made within 90 days after delivery~~
961 ~~of a copy of the award to the applicant, the court shall modify~~
962 ~~or correct the award when:~~

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

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

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

972 (2) If the application is granted, the court shall modify
973 and correct the award ~~so as to effect its intent~~ and shall
974 confirm the award as so modified and corrected. Otherwise,
975 unless a motion to vacate the award under s. 682.13 is pending,
976 the court shall confirm the award as made.

977 (3) An application to modify or correct an award may be
978 joined in the alternative with an application to vacate the
979 award under s. 682.13.

980 Section 26. Section 682.15, Florida Statutes, is amended to
981 read:

982 682.15 Judgment or decree on award.—

983 (1) Upon granting an order confirming, vacating without
984 directing a rehearing, modifying, or correcting an award, the
985 court shall enter a judgment in conformity therewith. The
986 judgment may be recorded, docketed, and enforced as any other

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987 judgment in a civil action.

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

990 (3) On motion of a prevailing party to a contested judicial
991 proceeding under s. 682.12, s. 682.13, or s. 682.14, the court
992 may add reasonable attorney fees and other reasonable expenses
993 of litigation incurred in a judicial proceeding after the award
994 is made to a judgment confirming, vacating without directing a
995 rehearing, modifying, or correcting an award. ~~Upon the granting~~
996 ~~of an order confirming, modifying or correcting an award,~~
997 ~~judgment or decree shall be entered in conformity therewith and~~
998 ~~be enforced as any other judgment or decree. Costs of the~~
999 ~~application and of the proceedings subsequent thereto, and~~
1000 ~~disbursements may be awarded by the court.~~

1001 Section 27. Section 682.16, Florida Statutes, is repealed.

1002 Section 28. Section 682.17, Florida Statutes, is repealed.

1003 Section 29. Section 682.18, Florida Statutes, is repealed.

1004 Section 30. Section 682.181, Florida Statutes, is created

1005 to read:

1006 682.181 Jurisdiction.—

1007 (1) A court of this state having jurisdiction over the
1008 controversy and the parties may enforce an agreement to
1009 arbitrate.

1010 (2) An agreement to arbitrate providing for arbitration in
1011 this state confers exclusive jurisdiction on the court to enter
1012 judgment on an award under this chapter.

1013 Section 31. Section 682.19, Florida Statutes, is amended to
1014 read:

1015 682.19 Venue.—A petition pursuant to s. 682.015 must be

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1016 filed in the court of the county in which the agreement to
1017 arbitrate specifies the arbitration hearing is to be held or, if
1018 the hearing has been held, in the court of the county in which
1019 it was held. Otherwise, the petition may be made in the court of
1020 any county in which an adverse party resides or has a place of
1021 business or, if no adverse party has a residence or place of
1022 business in this state, in the court of any county in this
1023 state. All subsequent petitions must be made in the court
1024 hearing the initial petition unless the court otherwise directs.

1025 ~~Any application under this law may be made to the court of the~~
1026 ~~county in which the other party to the agreement or provision~~
1027 ~~for arbitration resides or has a place of business, or, if she~~
1028 ~~or he has no residence or place of business in this state, then~~
1029 ~~to the court of any county. All applications under this law~~
1030 ~~subsequent to an initial application shall be made to the court~~
1031 ~~hearing the initial application unless it shall order otherwise.~~

1032 Section 32. Section 682.20, Florida Statutes, is amended to
1033 read:

1034 682.20 Appeals.—

1035 (1) An appeal may be taken from:

1036 (a) An order denying an application to compel arbitration
1037 made under s. 682.03.

1038 (b) An order granting a motion ~~an application~~ to stay
1039 arbitration pursuant to ~~made under~~ s. 682.03(2)-(4).

1040 (c) An order confirming ~~or denying confirmation of~~ an
1041 award.

1042 (d) An order denying confirmation of an award unless the
1043 court has entered an order under s. 682.10(4) or s. 682.13. All
1044 other orders denying confirmation of an award are final orders.

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1045 (e)~~(d)~~ An order modifying or correcting an award.

1046 (f)~~(e)~~ An order vacating an award without directing a
1047 rehearing.

1048 (g)~~(f)~~ A judgment or decree entered pursuant to this
1049 chapter ~~the provisions of this law~~.

1050 (2) The appeal shall be taken in the manner and to the same
1051 extent as from orders or judgments in a civil action.

1052 Section 33. Section 682.21, Florida Statutes, is repealed.

1053 Section 34. Section 682.22, Florida Statutes, is repealed.

1054 Section 35. Section 682.23, Florida Statutes, is created to
1055 read:

1056 682.23 Relationship to Electronic Signatures in Global and
1057 National Commerce Act.—The provisions of this chapter governing
1058 the legal effect, validity, and enforceability of electronic
1059 records or electronic signatures and of contracts performed with
1060 the use of such records or signatures conform to the
1061 requirements of s. 102 of the Electronic Signatures in Global
1062 and National Commerce Act, 15 U.S.C. s. 7002.

1063 Section 36. Section 682.25, Florida Statutes, is created to
1064 read:

1065 682.25 Disputes excluded.—This chapter does not apply to
1066 any dispute involving child custody, visitation, or child
1067 support.

1068 Section 37. Section 44.104, Florida Statutes, is amended to
1069 read:

1070 44.104 Voluntary ~~binding arbitration and voluntary~~ trial
1071 resolution.—

1072 (1) Two or more opposing parties who are involved in a
1073 civil dispute may agree in writing to submit the controversy to

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1074 ~~voluntary binding arbitration, or voluntary trial resolution, in~~
1075 lieu of judicial litigation of the issues involved, prior to or
1076 after a lawsuit has been filed, ~~provided no constitutional issue~~
1077 ~~is involved.~~

1078 (2) If the parties have entered into such an agreement and
1079 the agreement ~~which provides in voluntary binding arbitration~~
1080 ~~for a method for appointing of one or more arbitrators, or which~~
1081 ~~provides in voluntary trial resolution a method for appointing~~
1082 ~~the a member of The Florida Bar in good standing for more than 5~~
1083 ~~years to act as trial resolution judge, that method shall be~~
1084 ~~followed~~ the court shall proceed with the appointment as
1085 ~~prescribed. However, in voluntary binding arbitration at least~~
1086 ~~one of the arbitrators, who shall serve as the chief arbitrator,~~
1087 ~~shall meet the qualifications and training requirements adopted~~
1088 ~~pursuant to s. 44.106. In the absence of an agreement on a~~
1089 method for appointing the trial resolution judge, or if the
1090 agreement method fails or for any reason cannot be followed, and
1091 the parties fail to agree on the person to serve as the trial
1092 resolution judge, the court, on application of a party, shall
1093 ~~appoint one or more qualified arbitrators, or the trial~~
1094 ~~resolution judge, as the case requires. A trial resolution judge~~
1095 must be a member of The Florida Bar in good standing for 5 years
1096 or more who has agreed to serve.

1097 (3) The ~~arbitrators or~~ trial resolution judge shall be
1098 compensated by the parties according to their agreement with the
1099 trial resolution judge.

1100 (4) Within 10 days after the submission of the request for
1101 ~~binding arbitration, or voluntary trial resolution, the court~~
1102 shall provide for the appointment of the ~~arbitrator or~~

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1103 ~~arbitrators, or~~ trial resolution judge, as the case requires.
1104 Once appointed, the ~~arbitrators or~~ trial resolution judge shall
1105 notify the parties of the time and place for the hearing.

1106 (5) Application for ~~voluntary binding arbitration or~~
1107 voluntary trial resolution shall be filed and fees paid to the
1108 clerk of court as if for complaints initiating civil actions.
1109 The clerk of the court shall handle and account for these
1110 matters in all respects as if they were civil actions, except
1111 that the clerk of court shall keep separate ~~the records of the~~
1112 ~~applications for voluntary binding arbitration and~~ the records
1113 of the applications for voluntary trial resolution from all
1114 other civil actions.

1115 (6) Filing of the application for ~~binding arbitration or~~
1116 voluntary trial resolution tolls ~~will toll~~ the running of the
1117 applicable statutes of limitation.

1118 (7) The ~~chief arbitrator or~~ trial resolution judge may
1119 administer oaths or affirmations and conduct the proceedings as
1120 the rules of court shall provide. At the request of any party,
1121 the ~~chief arbitrator or~~ trial resolution judge shall issue
1122 subpoenas for the attendance of witnesses and for the production
1123 of books, records, documents, and other evidence and may apply
1124 to the court for orders compelling attendance and production.
1125 Subpoenas shall be served and shall be enforceable in the manner
1126 provided by law. The trial resolution judge may order temporary
1127 relief in the same manner, and to the same extent, as in civil
1128 actions generally. Any party may enforce such an order by filing
1129 a petition in the court. Orders entered by the court are
1130 reviewable by the appellate court in the same manner, and to the
1131 same extent, as orders in civil actions generally.

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1132 ~~(8) A voluntary binding arbitration hearing shall be~~
1133 ~~conducted by all of the arbitrators, but a majority may~~
1134 ~~determine any question and render a final decision.~~ A trial
1135 resolution judge shall conduct a voluntary trial resolution
1136 hearing. The trial resolution judge may determine any question
1137 and render a final decision.

1138 (9) The Florida Evidence Code and Florida Rules of Civil
1139 Procedure shall apply to all proceedings under this section,
1140 except that voluntary trial resolution is not governed by
1141 procedural rules regulating general and special magistrates, and
1142 rulings of the trial resolution judge are not reviewable by
1143 filing exceptions with the court.

1144 ~~(10) An appeal of a voluntary binding arbitration decision~~
1145 ~~shall be taken to the circuit court and shall be limited to~~
1146 ~~review on the record and not de novo, of:~~

1147 ~~(a) Any alleged failure of the arbitrators to comply with~~
1148 ~~the applicable rules of procedure or evidence.~~

1149 ~~(b) Any alleged partiality or misconduct by an arbitrator~~
1150 ~~prejudicing the rights of any party.~~

1151 ~~(c) Whether the decision reaches a result contrary to the~~
1152 ~~Constitution of the United States or of the State of Florida.~~

1153 (10)~~(11)~~ Any party may enforce a final decision rendered in
1154 a voluntary trial by filing a petition for final judgment in the
1155 circuit court in the circuit in which the voluntary trial took
1156 place. Upon entry of final judgment by the circuit court, any
1157 party may appeal to the appropriate appellate court. The
1158 judgment is reviewable by the appellate court in the same
1159 manner, and to the same extent, as a judgment in a civil action.
1160 ~~Factual findings determined in the voluntary trial are not~~

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1161 ~~subject to appeal.~~

1162 ~~(12) The harmless error doctrine shall apply in all~~
1163 ~~appeals. No further review shall be permitted unless a~~
1164 ~~constitutional issue is raised.~~

1165 (11)~~(13)~~ If no appeal is taken within the time provided by
1166 rules promulgated by the Supreme Court, ~~then~~ the decision shall
1167 be referred to the presiding judge in the case, or if one has
1168 not been assigned, then to the chief judge of the circuit for
1169 assignment to a circuit judge, who shall enter such orders and
1170 judgments as are required to carry out the terms of the
1171 decision. Equitable remedies are, ~~which orders shall be~~
1172 enforceable by the contempt powers of the court to the same
1173 extent as in civil actions generally. When a judgment provides
1174 for execution, and for which judgments execution shall issue on
1175 request of a party.

1176 (12)~~(14)~~ This section does ~~shall~~ not apply to any dispute
1177 involving child custody, visitation, or child support, or to any
1178 dispute that ~~which~~ involves the rights of a third party not a
1179 party to the ~~arbitration or~~ voluntary trial resolution when the
1180 third party would be an indispensable party if the dispute were
1181 resolved in court or when the third party notifies ~~the chief~~
1182 ~~arbitrator or~~ the trial resolution judge that the third party
1183 would be a proper party if the dispute were resolved in court,
1184 that the third party intends to intervene in the action in
1185 court, and that the third party does not agree to proceed under
1186 this section.

1187 (13) A trial resolution judge does not have jurisdiction to
1188 declare unconstitutional a statute, ordinance, or provision of a
1189 constitution. If any such claim is made in the voluntary trial

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1190 resolution proceeding, that claim shall be severed and
1191 adjudicated by a judge of the court.

1192 (14) (a) The parties may agree to a trial by a privately
1193 selected jury. The court's jury pool may not be used for this
1194 purpose. In all other cases, the trial resolution judge shall
1195 conduct a bench trial.

1196 (b) The trial resolution judge may wear a judicial robe and
1197 use the title "Trial Resolution Judge" when acting in that
1198 capacity.

1199 Section 38. Subsection (1) of section 44.107, Florida
1200 Statutes, is amended to read:

1201 44.107 Immunity for arbitrators, voluntary trial resolution
1202 judges, mediators, and mediator trainees.—

1203 (1) Arbitrators serving under s. 44.103, voluntary trial
1204 resolution judges serving under ~~or~~ s. 44.104, mediators serving
1205 under s. 44.102, and trainees fulfilling the mentorship
1206 requirements for certification by the Supreme Court as a
1207 mediator ~~shall~~ have judicial immunity in the same manner and to
1208 the same extent as a judge and are entitled to the same immunity
1209 and remedies provided in s. 682.051.

1210 Section 39. Section 440.1926, Florida Statutes, is amended
1211 to read:

1212 440.1926 Alternate dispute resolution; claim arbitration.—
1213 Notwithstanding any other provision of this chapter, the
1214 employer, carrier, and employee may mutually agree to seek
1215 consent from a judge of compensation claims to enter into
1216 binding claim arbitration in lieu of any other remedy provided
1217 for in this chapter to resolve all issues in dispute regarding
1218 an injury. Arbitrations agreed to pursuant to this section shall

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1219 be governed by chapter 682, the Revised Florida Arbitration
1220 Code, except that, notwithstanding any provision in chapter 682,
1221 the term "court" shall mean a judge of compensation claims. An
1222 arbitration award in accordance with this section is ~~shall be~~
1223 enforceable in the same manner and with the same powers as any
1224 final compensation order.

1225 Section 40. Paragraph (a) of subsection (1) of section
1226 489.1402, Florida Statutes, is amended to read:

1227 489.1402 Homeowners' Construction Recovery Fund;
1228 definitions.-

1229 (1) The following definitions apply to ss. 489.140-489.144:

1230 (a) "Arbitration" means alternative dispute resolution
1231 entered into between a claimant and a contractor either pursuant
1232 to a construction contract that contains a mandatory arbitration
1233 clause or through any binding arbitration under chapter 682, the
1234 Revised Florida Arbitration Code.

1235 Section 41. Subsection (2) of section 731.401, Florida
1236 Statutes, is amended to read:

1237 731.401 Arbitration of disputes.-

1238 (2) Unless otherwise specified in the will or trust, a will
1239 or trust provision requiring arbitration shall be presumed to
1240 require binding arbitration under chapter 682, the Revised
1241 Florida Arbitration Code ~~s. 44.104~~.

1242 Section 42. The Division of Statutory Revision is directed
1243 to redesignate the title of chapter 44, Florida Statutes, as
1244 "Alternative Dispute Resolution."

1245 Section 43. This act shall take effect July 1, 2012.