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

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

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

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

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

133  
134 Be It Enacted by the Legislature of the State of Florida:

135  
136 Section 1. Subsection (1) of section 48.196, Florida  
137 Statutes, is amended to read:

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

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

144 (a) In the case of a natural person, by service upon:

145 1. That person;

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

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

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

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

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

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

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

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

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

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

174           684.0002 Scope of application.—

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

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

181 (3) An arbitration is international if:

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

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

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

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

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

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

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

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

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

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

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

208 684.0003 Definitions and rules of interpretation.—

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

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

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

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

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

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

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

227 (4) A provision of this chapter, other than in s.  
228 684.0036(1) or s. 684.0043(2) (a), which refers to a claim also  
229 applies to a counter claim, and a provision that refers to a  
230 defense also applies to a defense to such counter claim.

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

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233 684.0004 International origin and general principles.—

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

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

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

243 684.0005 Receipt of written communications.—

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

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

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

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

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262 (1) Noncompliance of any provision of this chapter from  
263 which the parties may derogate and have not derogated; or

264 (2) Noncompliance of any requirement under the arbitration  
265 agreement.

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

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

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

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

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

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

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

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

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291 before the court.

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

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

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

301 684.0011 Number of arbitrators.—

302 (1) The parties may determine the number of arbitrators.

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

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

307 684.0012 Appointment of arbitrators.—

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

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

313 (3) Failing such agreement:

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

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

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

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

328 (a) A party fails to act as required under such procedure;

329 (b) The parties, or two arbitrators, are unable to reach an  
330 agreement under such procedure; or

331 (c) A third party, including an institution, fails to  
332 perform any function entrusted to it under such procedure,

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

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

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

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349 684.0013 Grounds for challenge.-

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

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

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

367 684.0014 Challenge procedure.-

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

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

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

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

389 684.0015 Failure or impossibility to act.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

464 684.0019 Conditions for granting interim measures.—

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465 (1) The party requesting an interim measure under s.  
466 684.0018 must satisfy the arbitral tribunal that:

467 (a) Harm not adequately reparable by an award of damages is  
468 likely to result if the measure is not ordered, and such harm  
469 substantially outweighs the harm that is likely to result to the  
470 party against whom the measure is directed if the measure is  
471 granted; and

472 (b) A reasonable possibility exists that the requesting  
473 party will succeed on the merits of the claim. The determination  
474 on this possibility does not affect the discretion of the  
475 arbitral tribunal in making any subsequent determination.

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

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

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

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

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

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

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

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

498 684.0021 Specific regime for preliminary orders.-

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

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

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

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

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

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

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523 to read:

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

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

532 684.0023 Provision of security.—

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

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

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

542 684.0024 Disclosure.—

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

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

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552 Thereafter, subsection (1) applies.

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

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

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

564 684.0026 Recognition and enforcement.—

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

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

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

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

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581 684.0027 Grounds for refusing recognition or enforcement.-

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

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

586 1. Such refusal is warranted on the grounds set forth in s.  
587 684.0048(1)(a)1., 2., 3., or 4.;

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

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

595 (b) If the court finds that:

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

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

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

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

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610 to read:

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

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

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

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

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

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

636 684.0031 Place of arbitration.—

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

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

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

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

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

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

656 684.0033 Language.—

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

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

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

670 684.0034 Statements of claim and defense.-

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

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

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

687 684.0035 Hearings and written proceedings.-

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

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

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

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

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

706 684.0036 Default of a party.—Unless otherwise agreed by the  
707 parties, if, without showing sufficient cause:

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

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

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

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

720 684.0037 Expert appointed by arbitral tribunal.—

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

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

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

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

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

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

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

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

744 684.0039 Rules applicable to substance of dispute.—

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

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

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

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

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

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

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

772 684.0041 Settlement.—

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

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

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

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784 684.0042 Form and contents of award.—

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

790 (2) The award shall state the reasons upon which it is  
791 based, unless the parties have agreed that no reasons are to be  
792 given or the award is an award on agreed terms under s.  
793 684.0041.

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

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

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

802 684.0043 Termination of proceedings.—

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

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

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

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

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813 proceedings; or

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

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

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

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

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

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

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

833  
834 If the arbitral tribunal considers the request to be justified,  
835 it shall make the correction or give the interpretation within  
836 30 days after the request. The interpretation becomes part of  
837 the award.

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

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

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

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

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

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

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

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

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

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

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

869 (a) The party making the application furnishes proof that:

870 1. A party to the arbitration agreement defined in s.

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

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

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

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

891 (b) The court finds that:

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

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

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

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

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

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

911 684.0047 Recognition and enforcement.—

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

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

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

922 684.0048 Grounds for refusing recognition or enforcement.—

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

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

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

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

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

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

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

952 (b) If the court finds that:

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

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

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

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

964 Section 50. Parts I, II, and III of chapter 684, Florida  
965 Statutes, consisting of sections 684.01, 684.02, 684.03, 684.04,  
966 684.05, 684.06, 684.07, 684.08, 684.09, 684.10, 684.11, 684.12,  
967 684.13, 684.14, 684.15, 684.16, 684.17, 684.18, 684.19, 684.20,  
968 684.21, 684.22, 684.23, 684.24, 684.25, 684.26, 684.27, 684.28,  
969 684.29, 684.30, 684.31, 684.32, 684.33, 684.34, and 684.35, are  
970 repealed.

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