

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Harrison offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

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

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

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

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

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

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

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

23 (4) "Knowledge" means actual knowledge.

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

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

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

34 682.012 Notice.-

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

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

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

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

48 682.013 Applicability of revised code.—

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

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

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

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

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

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

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

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

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

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

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

79 3. Permitting provisional remedies under s. 682.031;

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

82 5. Conferring jurisdiction under s. 682.181; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 682.015 Petition for judicial relief.—

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

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

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

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

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

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

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

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

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

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

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

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

173 682.03 Proceedings to compel and to stay arbitration.—

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

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

180 (b) If the refusing party opposes the motion, the court
181 shall proceed summarily to decide the issue and order the
182 parties to arbitrate unless it finds that there is no
183 enforceable agreement to arbitrate. A party to an agreement or
184 provision for arbitration subject to this law claiming the

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185 ~~neglect or refusal of another party thereto to comply therewith~~
186 ~~may make application to the court for an order directing the~~
187 ~~parties to proceed with arbitration in accordance with the terms~~
188 ~~thereof. If the court is satisfied that no substantial issue~~
189 ~~exists as to the making of the agreement or provision, it shall~~
190 ~~grant the application. If the court shall find that a~~
191 ~~substantial issue is raised as to the making of the agreement or~~
192 ~~provision, it shall summarily hear and determine the issue and,~~
193 ~~according to its determination, shall grant or deny the~~
194 ~~application.~~

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

207 (3) If the court finds that there is no enforceable
208 agreement to arbitrate, it may not order the parties to
209 arbitrate pursuant to subsection (1) or subsection (2). Any
210 action or proceeding involving an issue subject to arbitration
211 under this law shall be stayed if an order for arbitration or an
212 application therefor has been made under this section or, if the

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

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

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

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

239 (7) If the court orders arbitration, the court on just
240 terms shall stay any judicial proceeding that involves a claim

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241 subject to the arbitration. If a claim subject to the
242 arbitration is severable, the court may limit the stay to that
243 claim.

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

246 682.031 Provisional remedies.-

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

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

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

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

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

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

272 (5) A party may seek to confirm or vacate a provisional
273 remedy award for injunctive or equitable relief under s.
274 682.081.

275 Section 10. Section 682.032, Florida Statutes, is created
276 to read:

277 682.032 Initiation of arbitration.-

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

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

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

291 682.033 Consolidation of separate arbitration
292 proceedings.-

293 (1) Except as otherwise provided in subsection (3), upon
294 motion of a party to an agreement to arbitrate or to an
295 arbitration proceeding, the court may order consolidation of

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296 separate arbitration proceedings as to all or some of the claims
297 if:

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

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

305 (c) The existence of a common issue of law or fact creates
306 the possibility of conflicting decisions in the separate
307 arbitration proceedings; and

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

311 (2) The court may order consolidation of separate
312 arbitration proceedings as to some claims and allow other claims
313 to be resolved in separate arbitration proceedings.

314 (3) The court may not order consolidation of the claims of
315 a party to an agreement to arbitrate if the agreement prohibits
316 consolidation.

317 Section 12. Section 682.04, Florida Statutes, is amended
318 to read:

319 682.04 Appointment of arbitrators by court.—

320 (1) If the parties to an agreement to arbitrate agree on
321 ~~or provision for arbitration subject to this law provides a~~
322 ~~method for appointing the appointment of arbitrators or an~~

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323 ~~umpire~~, this method must ~~shall~~ be followed, unless the method
324 fails.

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

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

328 (b) The agreed method fails;

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

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

333 ~~(3) In the absence thereof, or if the agreed method fails~~
334 ~~or for any reason cannot be followed, or if an arbitrator or~~
335 ~~umpire who has been appointed fails to act and his or her~~
336 ~~successor has not been duly appointed, the court, on application~~
337 ~~of a party to such agreement or provision shall appoint one or~~
338 ~~more arbitrators or an umpire. An arbitrator or umpire so~~
339 ~~appointed has all the shall have like powers of an arbitrator~~
340 ~~designated as if named or provided for in the agreement to~~
341 ~~arbitrate appointed pursuant to the agreed method or provision.~~

342 (4) An individual who has a known, direct, and material
343 interest in the outcome of the arbitration proceeding or a
344 known, existing, and substantial relationship with a party may
345 not serve as an arbitrator required by an agreement to be
346 neutral.

347 Section 13. Section 682.041, Florida Statutes, is created
348 to read:

349 682.041 Disclosure by arbitrator.-

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350 (1) Before accepting appointment, an individual who is
351 requested to serve as an arbitrator, after making a reasonable
352 inquiry, shall disclose to all parties to the agreement to
353 arbitrate and arbitration proceeding and to any other
354 arbitrators any known facts that a reasonable person would
355 consider likely to affect the person's impartiality as an
356 arbitrator in the arbitration proceeding, including:

357 (a) A financial or personal interest in the outcome of the
358 arbitration proceeding.

359 (b) An existing or past relationship with any of the
360 parties to the agreement to arbitrate or the arbitration
361 proceeding, their counsel or representative, a witness, or
362 another arbitrator.

363 (2) An arbitrator has a continuing obligation to disclose
364 to all parties to the agreement to arbitrate and arbitration
365 proceeding and to any other arbitrators any facts that the
366 arbitrator learns after accepting appointment that a reasonable
367 person would consider likely to affect the impartiality of the
368 arbitrator.

369 (3) If an arbitrator discloses a fact required by
370 subsection (1) or subsection (2) to be disclosed and a party
371 timely objects to the appointment or continued service of the
372 arbitrator based upon the fact disclosed, the objection may be a
373 ground under s. 682.13(1)(b) for vacating an award made by the
374 arbitrator.

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

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

383 (6) If the parties to an arbitration proceeding agree to
384 the procedures of an arbitration organization or any other
385 procedures for challenges to arbitrators before an award is
386 made, substantial compliance with those procedures is a
387 condition precedent to a motion to vacate an award on that
388 ground under s. 682.13(1)(b).

389 Section 14. Section 682.05, Florida Statutes, is amended
390 to read:

391 682.05 Majority action by arbitrators.—If there is more
392 than one arbitrator, the powers of an arbitrator must be
393 exercised by a majority of the arbitrators, but all of the
394 arbitrators shall conduct the hearing under s. 682.06(3). ~~The~~
395 ~~powers of the arbitrators may be exercised by a majority of~~
396 ~~their number unless otherwise provided in the agreement or~~
397 ~~provision for arbitration.~~

398 Section 15. Section 682.051, Florida Statutes, is created
399 to read:

400 682.051 Immunity of arbitrator; competency to testify;
401 attorney fees and costs.—

402 (1) An arbitrator or an arbitration organization acting in
403 that capacity is immune from civil liability to the same extent
404 as a judge of a court of this state acting in a judicial
405 capacity.

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406 (2) The immunity afforded under this section supplements
407 any immunity under other law.

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

411 (4) In a judicial, administrative, or similar proceeding,
412 an arbitrator or representative of an arbitration organization
413 is not competent to testify, and may not be required to produce
414 records as to any statement, conduct, decision, or ruling
415 occurring during the arbitration proceeding, to the same extent
416 as a judge of a court of this state acting in a judicial
417 capacity. This subsection does not apply:

418 (a) To the extent necessary to determine the claim of an
419 arbitrator, arbitration organization, or representative of the
420 arbitration organization against a party to the arbitration
421 proceeding; or

422 (b) To a hearing on a motion to vacate an award under s.
423 682.13(1)(a) or (b) if the movant establishes prima facie that a
424 ground for vacating the award exists.

425 (5) If a person commences a civil action against an
426 arbitrator, arbitration organization, or representative of an
427 arbitration organization arising from the services of the
428 arbitrator, organization, or representative or if a person seeks
429 to compel an arbitrator or a representative of an arbitration
430 organization to testify or produce records in violation of
431 subsection (4), and the court decides that the arbitrator,
432 arbitration organization, or representative of an arbitration
433 organization is immune from civil liability or that the

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434 arbitrator or representative of the organization is not
435 competent to testify, the court shall award to the arbitrator,
436 organization, or representative reasonable attorney fees and
437 other reasonable expenses of litigation.

438 Section 16. Section 682.06, Florida Statutes, is amended
439 to read:

440 682.06 Hearing.—

441 (1) An arbitrator may conduct an arbitration in such
442 manner as the arbitrator considers appropriate for a fair and
443 expeditious disposition of the proceeding. The arbitrator's
444 authority includes the power to hold conferences with the
445 parties to the arbitration proceeding before the hearing and,
446 among other matters, determine the admissibility, relevance,
447 materiality, and weight of any evidence. Unless otherwise
448 provided by the agreement or provision for arbitration:

449 ~~(1)(a) The arbitrators shall appoint a time and place for~~
450 ~~the hearing and cause notification to the parties to be served~~
451 ~~personally or by registered or certified mail not less than 5~~
452 ~~days before the hearing. Appearance at the hearing waives a~~
453 ~~party's right to such notice. The arbitrators may adjourn their~~
454 ~~hearing from time to time upon their own motion and shall do so~~
455 ~~upon the request of any party to the arbitration for good cause~~
456 ~~shown, provided that no adjournment or postponement of their~~
457 ~~hearing shall extend beyond the date fixed in the agreement or~~
458 ~~provision for making the award unless the parties consent to a~~
459 ~~later date. An umpire authorized to hear and decide the cause~~
460 ~~upon failure of the arbitrators to agree upon an award shall, in~~

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461 ~~the course of his or her jurisdiction, have like powers and be~~
462 ~~subject to like limitations thereon.~~

463 ~~(b) The arbitrators, or umpire in the course of his or her~~
464 ~~jurisdiction, may hear and decide the controversy upon the~~
465 ~~evidence produced notwithstanding the failure or refusal of a~~
466 ~~party duly notified of the time and place of the hearing to~~
467 ~~appear. The court on application may direct the arbitrators, or~~
468 ~~the umpire in the course of his or her jurisdiction, to proceed~~
469 ~~promptly with the hearing and making of the award.~~

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

472 (a) If all interested parties agree; or

473 (b) Upon request of one party to the arbitration
474 proceeding, if that party gives notice to all other parties to
475 the proceeding and the other parties have a reasonable
476 opportunity to respond. The parties are entitled to be heard, to
477 present evidence material to the controversy and to cross-
478 examine witnesses appearing at the hearing.

479 (3) If an arbitrator orders a hearing, the arbitrator
480 shall set a time and place and give notice of the hearing not
481 less than 5 days before the hearing begins. Unless a party to
482 the arbitration proceeding makes an objection to lack or
483 insufficiency of notice not later than the beginning of the
484 hearing, the party's appearance at the hearing waives the
485 objection. Upon request of a party to the arbitration proceeding
486 and for good cause shown, or upon the arbitrator's own
487 initiative, the arbitrator may adjourn the hearing from time to
488 time as necessary but may not postpone the hearing to a time

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489 later than that fixed by the agreement to arbitrate for making
490 the award unless the parties to the arbitration proceeding
491 consent to a later date. The arbitrator may hear and decide the
492 controversy upon the evidence produced although a party who was
493 duly notified of the arbitration proceeding did not appear. The
494 court, on request, may direct the arbitrator to conduct the
495 hearing promptly and render a timely decision. ~~The hearing shall~~
496 ~~be conducted by all of the arbitrators but a majority may~~
497 ~~determine any question and render a final award. An umpire~~
498 ~~authorized to hear and decide the cause upon the failure of the~~
499 ~~arbitrators to agree upon an award shall sit with the~~
500 ~~arbitrators throughout their hearing but shall not be counted as~~
501 ~~a part of their quorum or in the making of their award. If,~~
502 ~~during the course of the hearing, an arbitrator for any reason~~
503 ~~ceases to act, the remaining arbitrator, arbitrators or umpire~~
504 ~~appointed to act as neutrals may continue with the hearing and~~
505 ~~determination of the controversy.~~

506 (4) At a hearing under subsection (3), a party to the
507 arbitration proceeding has a right to be heard, to present
508 evidence material to the controversy, and to cross-examine
509 witnesses appearing at the hearing.

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

514 Section 17. Section 682.07, Florida Statutes, is amended
515 to read:

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516 682.07 Representation by attorney.—A party to an
517 arbitration proceeding may ~~has the right to~~ be represented by an
518 attorney ~~at any arbitration proceeding or hearing under this~~
519 ~~law. A waiver thereof prior to the proceeding or hearing is~~
520 ~~ineffective.~~

521 Section 18. Section 682.08, Florida Statutes, is amended
522 to read:

523 682.08 Witnesses, subpoenas, depositions.—

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

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

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544 including a witness who cannot be subpoenaed for or is unable to
545 attend a hearing. The arbitrator shall determine the conditions
546 under which the deposition is taken. ~~On application of a party~~
547 ~~to the arbitration and for use as evidence, the arbitrators, or~~
548 ~~the umpire in the course of her or his jurisdiction, may permit~~
549 ~~a deposition to be taken, in the manner and upon the terms~~
550 ~~designated by them or her or him of a witness who cannot be~~
551 ~~subpoenaed or is unable to attend the hearing.~~

552 (3) An arbitrator may permit such discovery as the
553 arbitrator decides is appropriate in the circumstances, taking
554 into account the needs of the parties to the arbitration
555 proceeding and other affected persons and the desirability of
556 making the proceeding fair, expeditious, and cost effective. ~~All~~
557 ~~provisions of law compelling a person under subpoena to testify~~
558 ~~are applicable.~~

559 (4) If an arbitrator permits discovery under subsection
560 (3), the arbitrator may order a party to the arbitration
561 proceeding to comply with the arbitrator's discovery-related
562 orders, issue subpoenas for the attendance of a witness and for
563 the production of records and other evidence at a discovery
564 proceeding, and take action against a noncomplying party to the
565 extent a court could if the controversy were the subject of a
566 civil action in this state.

567 (5) An arbitrator may issue a protective order to prevent
568 the disclosure of privileged information, confidential
569 information, trade secrets, and other information protected from
570 disclosure to the extent a court could if the controversy were
571 the subject of a civil action in this state.

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

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

590 (8)-(4) Fees for attendance as a witness shall be the same
591 as for a witness in the circuit court.

592 Section 19. Section 682.081, Florida Statutes, is created
593 to read:

594 682.081 Judicial enforcement of preaward ruling by
595 arbitrator.-

596 (1) If an arbitrator makes a preaward ruling in favor of a party
597 to the arbitration proceeding, the party may request that the
598 arbitrator incorporate the ruling into an award under s. 682.12.

599 A prevailing party may make a motion to the court for an

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600 expedited order to confirm the award under s. 682.12, in which
601 case the court shall summarily decide the motion. The court
602 shall issue an order to confirm the award unless the court
603 vacates, modifies, or corrects the award under s. 682.13 or s.
604 682.14 , except as provided below.

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

608 (a) The court shall confirm a provisional remedy award for
609 injunctive or equitable relief if the award satisfies the legal
610 standards for awarding a party injunctive or equitable relief.

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

614 Section 20. Section 682.09, Florida Statutes, is amended
615 to read:

616 682.09 Award.—

617 (1) An arbitrator shall make a record of an award. The
618 record must be signed or otherwise authenticated by any
619 arbitrator who concurs with the award. The arbitrator or the
620 arbitration organization shall give notice of the award,
621 including a copy of the award, to each party to the arbitration
622 proceeding. ~~The award shall be in writing and shall be signed by~~
623 ~~the arbitrators joining in the award or by the umpire in the~~
624 ~~course of his or her jurisdiction. They or he or she shall~~
625 ~~deliver a copy to each party to the arbitration either~~
626 ~~personally or by registered or certified mail, or as provided in~~
627 ~~the agreement or provision.~~

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628 (2) An award must be made within the time specified by the
629 agreement to arbitrate or, if not specified therein, within the
630 time ordered by the court. The court may extend, or the parties
631 to the arbitration proceeding may agree in a record to extend,
632 the time. The court or the parties may do so within or after the
633 time specified or ordered. A party waives any objection that an
634 award was not timely made unless the party gives notice of the
635 objection to the arbitrator before receiving notice of the
636 award. ~~An award shall be made within the time fixed therefor by~~
637 ~~the agreement or provision for arbitration or, if not so fixed,~~
638 ~~within such time as the court may order on application of a~~
639 ~~party to the arbitration. The parties may, by written agreement,~~
640 ~~extend the time either before or after the expiration thereof.~~
641 ~~Any objection that an award was not made within the time~~
642 ~~required is waived unless the objecting party notifies the~~
643 ~~arbitrators or umpire in writing of his or her objection prior~~
644 ~~to the delivery of the award to him or her.~~

645 Section 21. Section 682.10, Florida Statutes, is amended
646 to read:

647 682.10 Change of award by arbitrators ~~or umpire.~~—

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

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

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

655 (c) To clarify the award.

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

659 (3) A party to the arbitration proceeding must give notice
660 of any objection to the motion within 10 days after receipt of
661 the notice.

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

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

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

669 (c) To clarify the award.

670 (5) An award modified or corrected pursuant to this
671 section is subject to ss. 682.09(1), 682.12, 682.13, and 682.14.

672 ~~On application of a party to the arbitration, or if an~~
673 ~~application to the court is pending under s. 682.12, s. 682.13~~
674 ~~or s. 682.14, on submission to the arbitrators, or to the umpire~~
675 ~~in the case of an umpire's award, by the court under such~~
676 ~~conditions as the court may order, the arbitrators or umpire may~~
677 ~~modify or correct the award upon the grounds stated in s.~~
678 ~~682.14(1)(a) and (c) or for the purpose of clarifying the award.~~
679 ~~The application shall be made within 20 days after delivery of~~
680 ~~the award to the applicant. Written notice thereof shall be~~
681 ~~given forthwith to the other party to the arbitration, stating~~
682 ~~that he or she must serve his or her objections thereto, if any,~~

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683 ~~within 10 days from the notice. The award so modified or~~
684 ~~corrected is subject to the provisions of ss. 682.12-682.14.~~

685 Section 22. Section 682.11, Florida Statutes, is amended
686 to read:

687 682.11 Remedies; fees and expenses of arbitration
688 proceeding.-

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

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

698 (3) As to all remedies other than those authorized by
699 subsections (1) and (2), an arbitrator may order such remedies
700 as the arbitrator considers just and appropriate under the
701 circumstances of the arbitration proceeding. The fact that such
702 a remedy could not or would not be granted by the court is not a
703 ground for refusing to confirm an award under s. 682.12 or for
704 vacating an award under s. 682.13.

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

707 (5) If an arbitrator awards punitive damages or other
708 exemplary relief under subsection (1), the arbitrator shall
709 specify in the award the basis in fact justifying and the basis
710 in law authorizing the award and state separately the amount of

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711 ~~the punitive damages or other exemplary relief. Unless otherwise~~
712 ~~provided in the agreement or provision for arbitration, the~~
713 ~~arbitrators' and umpire's expenses and fees, together with other~~
714 ~~expenses, not including counsel fees, incurred in the conduct of~~
715 ~~the arbitration, shall be paid as provided in the award.~~

716 Section 23. Section 682.12, Florida Statutes, is amended
717 to read:

718 682.12 Confirmation of an award.—After a party to an
719 arbitration proceeding receives notice of an award, the party
720 may make a motion to the court for an order confirming the award
721 at which time the court shall issue a confirming order unless
722 the award is modified or corrected pursuant to s. 682.10 or s.
723 682.14 or is vacated pursuant to s. 682.13. ~~Upon application of~~
724 ~~a party to the arbitration, the court shall confirm an award,~~
725 ~~unless within the time limits hereinafter imposed grounds are~~
726 ~~urged for vacating or modifying or correcting the award, in~~
727 ~~which case the court shall proceed as provided in ss. 682.13 and~~
728 ~~682.14.~~

729 Section 24. Section 682.13, Florida Statutes, is amended
730 to read:

731 682.13 Vacating an award.—

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

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

736 (b) There was:

737 1. Evident partiality by an arbitrator appointed as a
738 neutral arbitrator;

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739 2. Corruption by an arbitrator; or

740 3. Misconduct by an arbitrator prejudicing the rights of a
741 party to the arbitration proceeding; ~~or corruption in any of the~~
742 ~~arbitrators or umpire or misconduct prejudicing the rights of~~
743 ~~any party.~~

744 (c) An arbitrator refused to postpone the hearing upon
745 showing of sufficient cause for postponement, refused to hear
746 evidence material to the controversy, or otherwise conducted the
747 hearing contrary to s. 682.06, so as to prejudice substantially
748 the rights of a party to the arbitration proceeding; ~~The~~
749 ~~arbitrators or the umpire in the course of her or his~~
750 ~~jurisdiction exceeded their powers.~~

751 (d) An arbitrator exceeded the arbitrator's powers; ~~The~~
752 ~~arbitrators or the umpire in the course of her or his~~
753 ~~jurisdiction refused to postpone the hearing upon sufficient~~
754 ~~cause being shown therefor or refused to hear evidence material~~
755 ~~to the controversy or otherwise so conducted the hearing,~~
756 ~~contrary to the provisions of s. 682.06, as to prejudice~~
757 ~~substantially the rights of a party.~~

758 (e) There was no agreement to arbitrate, unless the person
759 participated in the arbitration proceeding without raising the
760 objection under s. 682.06(3) not later than the beginning of the
761 arbitration hearing; ~~or There was no agreement or provision for~~
762 ~~arbitration subject to this law, unless the matter was~~
763 ~~determined in proceedings under s. 682.03 and unless the party~~
764 ~~participated in the arbitration hearing without raising the~~
765 ~~objection.~~

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766 (f) The arbitration was conducted without proper notice of
767 the initiation of an arbitration as required in s. 682.032 so as
768 to prejudice substantially the rights of a party to the
769 arbitration proceeding.

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

773 (2) A motion under this section must be filed within 90
774 days after the movant receives notice of the award pursuant to
775 s. 682.09 or within 90 days after the movant receives notice of
776 a modified or corrected award pursuant to s. 682.10, unless the
777 movant alleges that the award was procured by corruption, fraud,
778 or other undue means, in which case the motion must be made
779 within 90 days after the ground is known or by the exercise of
780 reasonable care would have been known by the movant. An
781 ~~application under this section shall be made within 90 days~~
782 ~~after delivery of a copy of the award to the applicant, except~~
783 ~~that, if predicated upon corruption, fraud or other undue means,~~
784 ~~it shall be made within 90 days after such grounds are known or~~
785 ~~should have been known.~~

786 (3) If the court vacates an award on a ground other than
787 that set forth in paragraph (1)(e), it may order a rehearing. If
788 the award is vacated on a ground stated in paragraph (1)(a) or
789 paragraph (1)(b), the rehearing must be before a new arbitrator.
790 If the award is vacated on a ground stated in paragraph (1)(c),
791 paragraph (1)(d), or paragraph (1)(f), the rehearing may be
792 before the arbitrator who made the award or the arbitrator's
793 successor. The arbitrator must render the decision in the

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794 rehearing within the same time as that provided in s. 682.09(2)
795 for an award. ~~In vacating the award on grounds other than those~~
796 ~~stated in paragraph (1)(e), the court may order a rehearing~~
797 ~~before new arbitrators chosen as provided in the agreement or~~
798 ~~provision for arbitration or by the court in accordance with s.~~
799 ~~682.04, or, if the award is vacated on grounds set forth in~~
800 ~~paragraphs (1)(e) and (d), the court may order a rehearing~~
801 ~~before the arbitrators or umpire who made the award or their~~
802 ~~successors appointed in accordance with s. 682.04. The time~~
803 ~~within which the agreement or provision for arbitration requires~~
804 ~~the award to be made is applicable to the rehearing and~~
805 ~~commences from the date of the order therefor.~~

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

809 Section 25. Section 682.14, Florida Statutes, is amended
810 to read:

811 682.14 Modification or correction of award.—

812 (1) Upon motion made within 90 days after the movant
813 receives notice of the award pursuant to s. 682.09 or within 90
814 days after the movant receives notice of a modified or corrected
815 award pursuant to s. 682.10, the court shall modify or correct
816 the award if ~~Upon application made within 90 days after delivery~~
817 ~~of a copy of the award to the applicant, the court shall modify~~
818 ~~or correct the award when:~~

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

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

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

828 (2) If the application is granted, the court shall modify
829 and correct the award ~~so as to effect its intent~~ and shall
830 confirm the award as so modified and corrected. Otherwise,
831 unless a motion to vacate the award under s. 682.13 is pending,
832 the court shall confirm the award as made.

833 (3) An application to modify or correct an award may be
834 joined in the alternative with an application to vacate the
835 award under s. 682.13.

836 Section 26. Section 682.15, Florida Statutes, is amended
837 to read:

838 682.15 Judgment or decree on award.—

839 (1) Upon granting an order confirming, vacating without
840 directing a rehearing, modifying, or correcting an award, the
841 court shall enter a judgment in conformity therewith. The
842 judgment may be recorded, docketed, and enforced as any other
843 judgment in a civil action.

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

846 (3) On motion of a prevailing party to a contested
847 judicial proceeding under s. 682.12, s. 682.13, or s. 682.14,
848 the court may add reasonable attorney fees and other reasonable
849 expenses of litigation incurred in a judicial proceeding after

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850 the award is made to a judgment confirming, vacating without
851 directing a rehearing, modifying, or correcting an award. ~~Upon~~
852 ~~the granting of an order confirming, modifying or correcting an~~
853 ~~award, judgment or decree shall be entered in conformity~~
854 ~~therewith and be enforced as any other judgment or decree. Costs~~
855 ~~of the application and of the proceedings subsequent thereto,~~
856 ~~and disbursements may be awarded by the court.~~

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

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

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

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

861 to read:

862 682.181 Jurisdiction.-

863 (1) A court of this state having jurisdiction over the
864 controversy and the parties may enforce an agreement to
865 arbitrate.

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

869 Section 31. Section 682.19, Florida Statutes, is amended
870 to read:

871 682.19 Venue.-A petition pursuant to s. 682.015 must be
872 filed in the court of the county in which the agreement to
873 arbitrate specifies the arbitration hearing is to be held or, if
874 the hearing has been held, in the court of the county in which
875 it was held. Otherwise, the petition may be made in the court of
876 any county in which an adverse party resides or has a place of
877 business or, if no adverse party has a residence or place of

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878 business in this state, in the court of any county in this
879 state. All subsequent petitions must be made in the court
880 hearing the initial petition unless the court otherwise directs.

881 ~~Any application under this law may be made to the court of the~~
882 ~~county in which the other party to the agreement or provision~~
883 ~~for arbitration resides or has a place of business, or, if she~~
884 ~~or he has no residence or place of business in this state, then~~
885 ~~to the court of any county. All applications under this law~~
886 ~~subsequent to an initial application shall be made to the court~~
887 ~~hearing the initial application unless it shall order otherwise.~~

888 Section 32. Section 682.20, Florida Statutes, is amended
889 to read:

890 682.20 Appeals.-

891 (1) An appeal may be taken from:

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

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

896 (c) An order confirming ~~or denying confirmation of~~ an
897 award.

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

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

902 (f) ~~(e)~~ An order vacating an award without directing a
903 rehearing.

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

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

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

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

910 Section 35. Section 682.23, Florida Statutes, is created
911 to read:

912 682.23 Relationship to Electronic Signatures in Global and
913 National Commerce Act.—The provisions of this chapter governing
914 the legal effect, validity, and enforceability of electronic
915 records or electronic signatures and of contracts performed with
916 the use of such records or signatures conform to the
917 requirements of s. 102 of the Electronic Signatures in Global
918 and National Commerce Act, 15 U.S.C. s. 7002.

919 Section 36. Section 682.25, Florida Statutes, is created
920 to read:

921 682.25 Disputes excluded.—This chapter does not apply to
922 any dispute involving child custody, visitation, or child
923 support.

924 Section 37. Section 44.104, Florida Statutes, is amended
925 to read:

926 44.104 Voluntary ~~binding arbitration and voluntary~~ trial
927 resolution.—

928 (1) Two or more opposing parties who are involved in a
929 civil dispute may agree in writing to submit the controversy to
930 ~~voluntary binding arbitration, or~~ voluntary trial resolution, in
931 lieu of judicial litigation of the issues involved, prior to or
932 after a lawsuit has been filed, ~~provided no constitutional issue~~
933 ~~is involved.~~

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934 (2) If the parties have entered into such an agreement and
935 the agreement ~~which provides in voluntary binding arbitration~~
936 ~~for a method for appointing of one or more arbitrators, or which~~
937 ~~provides in voluntary trial resolution~~ a method for appointing
938 the a member of The Florida Bar in good standing for more than 5
939 ~~years to act as trial resolution judge, that method shall be~~
940 followed ~~the court shall proceed with the appointment as~~
941 ~~prescribed. However, in voluntary binding arbitration at least~~
942 ~~one of the arbitrators, who shall serve as the chief arbitrator,~~
943 ~~shall meet the qualifications and training requirements adopted~~
944 ~~pursuant to s. 44.106.~~ In the absence of an agreement on a
945 method for appointing the trial resolution judge, or if the
946 agreement method fails or for any reason cannot be followed, and
947 the parties fail to agree on the person to serve as the trial
948 resolution judge, the court, on application of a party, shall
949 appoint ~~one or more qualified arbitrators, or the trial~~
950 resolution judge, as the case requires.

951 (3) A trial resolution judge must have agreed to serve and
952 must be a member of The Florida Bar in good standing for 5 years
953 or more.

954 (4) ~~(3)~~ The ~~arbitrators or~~ trial resolution judge shall be
955 compensated by the parties according to their agreement with the
956 trial resolution judge.

957 (5) ~~(4)~~ Within 10 days after the submission of the request
958 for ~~binding arbitration, or~~ voluntary trial resolution, the
959 court shall provide for the appointment of the ~~arbitrator or~~
960 ~~arbitrators, or~~ trial resolution judge, as the case requires.

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

963 ~~(6)-(5)~~ Application for ~~voluntary binding arbitration or~~
964 voluntary trial resolution shall be filed and fees paid to the
965 clerk of court as if for complaints initiating civil actions.
966 The clerk of the court shall handle and account for these
967 matters in all respects as if they were civil actions, except
968 that the clerk of court shall keep separate ~~the records of the~~
969 ~~applications for voluntary binding arbitration and~~ the records
970 of the applications for voluntary trial resolution from all
971 other civil actions.

972 ~~(7)-(6)~~ Filing of the application for ~~binding arbitration~~
973 ~~or~~ voluntary trial resolution tolls ~~will toll~~ the running of the
974 applicable statutes of limitation.

975 ~~(8)-(7)~~ The ~~chief arbitrator or~~ trial resolution judge may
976 administer oaths or affirmations and conduct the proceedings as
977 the rules of court shall provide. At the request of any party,
978 the ~~chief arbitrator or~~ trial resolution judge shall issue
979 subpoenas for the attendance of witnesses and for the production
980 of books, records, documents, and other evidence and may apply
981 to the court for orders compelling attendance and production.
982 Subpoenas shall be served and shall be enforceable in the manner
983 provided by law. The trial resolution judge may order temporary
984 relief in the same manner, and to the same extent, as in civil
985 actions generally. Any party may enforce such an order by filing
986 a petition in the court. Orders entered by the court are
987 reviewable by the appellate court in the same manner, and to the
988 same extent, as orders in civil actions generally.

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989 ~~(9)(8) A voluntary binding arbitration hearing shall be~~
990 ~~conducted by all of the arbitrators, but a majority may~~
991 ~~determine any question and render a final decision. A trial~~
992 ~~resolution judge shall conduct a voluntary trial resolution~~
993 ~~hearing. The trial resolution judge may determine any question~~
994 ~~and render a final decision.~~

995 ~~(10)(9) The Florida Evidence Code and Florida Rules of~~
996 ~~Civil Procedure shall apply to all proceedings under this~~
997 ~~section, except that voluntary trial resolution is not governed~~
998 ~~by procedural rules regulating general and special magistrates,~~
999 ~~and rulings of the trial resolution judge are not reviewable by~~
1000 ~~filing exceptions with the court.~~

1001 ~~(10) An appeal of a voluntary binding arbitration decision~~
1002 ~~shall be taken to the circuit court and shall be limited to~~
1003 ~~review on the record and not de novo, of:~~

1004 ~~(a) Any alleged failure of the arbitrators to comply with~~
1005 ~~the applicable rules of procedure or evidence.~~

1006 ~~(b) Any alleged partiality or misconduct by an arbitrator~~
1007 ~~prejudicing the rights of any party.~~

1008 ~~(c) Whether the decision reaches a result contrary to the~~
1009 ~~Constitution of the United States or of the State of Florida.~~

1010 (11) Any party may enforce a final decision rendered in a
1011 voluntary trial by filing a petition for final judgment in the
1012 circuit court in the circuit in which the voluntary trial took
1013 place. Upon entry of final judgment by the circuit court, any
1014 party may appeal to the appropriate appellate court. The
1015 judgment is reviewable by the appellate court in the same
1016 manner, and to the same extent, as a judgment in a civil action.

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1017 ~~Factual findings determined in the voluntary trial are not~~
1018 ~~subject to appeal.~~

1019 ~~(12) The harmless error doctrine shall apply in all~~
1020 ~~appeals. No further review shall be permitted unless a~~
1021 ~~constitutional issue is raised.~~

1022 ~~(12)~~(13) If no appeal is taken within the time provided by
1023 rules promulgated by the Supreme Court, ~~then~~ the decision shall
1024 be referred to the presiding judge in the case, or if one has
1025 not been assigned, then to the chief judge of the circuit for
1026 assignment to a circuit judge, who shall enter such orders and
1027 judgments as are required to carry out the terms of the
1028 decision. Equitable remedies are, ~~which orders shall be~~
1029 ~~enforceable by the contempt powers of the court to the same~~
1030 ~~extent as in civil actions generally. When a judgment provides~~
1031 ~~for execution, and for which judgments~~ execution shall issue on
1032 request of a party.

1033 ~~(13)~~(14) This section does ~~shall~~ not apply ~~to any dispute~~
1034 ~~involving child custody, visitation, or child support, or to any~~
1035 ~~dispute that~~ which involves the rights of a third party not a
1036 party to the ~~arbitration or~~ voluntary trial resolution when the
1037 third party would be an indispensable party if the dispute were
1038 resolved in court or when the third party notifies ~~the chief~~
1039 ~~arbitrator or~~ the trial resolution judge that the third party
1040 would be a proper party if the dispute were resolved in court,
1041 that the third party intends to intervene in the action in
1042 court, and that the third party does not agree to proceed under
1043 this section.

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1044 (14) A trial resolution judge does not have jurisdiction
1045 to declare unconstitutional a statute, ordinance, or provision
1046 of a constitution. If any such claim is made in the voluntary
1047 trial resolution proceeding, that claim shall be severed and
1048 adjudicated by a judge of the court.

1049 (15) The parties may agree to a trial by a privately
1050 selected jury. The court's jury pool may not be used for this
1051 purpose. In all other cases, the trial resolution judge shall
1052 conduct a bench trial.

1053 Section 38. Subsection (1) of section 44.107, Florida
1054 Statutes, is amended to read:

1055 44.107 Immunity for arbitrators, voluntary trial
1056 resolution judges, mediators, and mediator trainees.-

1057 (1) Arbitrators serving under s. 44.103, voluntary trial
1058 resolution judges serving under ~~or~~ s. 44.104, mediators serving
1059 under s. 44.102, and trainees fulfilling the mentorship
1060 requirements for certification by the Supreme Court as a
1061 mediator ~~shall~~ have judicial immunity in the same manner and to
1062 the same extent as a judge.

1063 Section 39. Section 440.1926, Florida Statutes, is amended
1064 to read:

1065 440.1926 Alternate dispute resolution; claim arbitration.-
1066 Notwithstanding any other provision of this chapter, the
1067 employer, carrier, and employee may mutually agree to seek
1068 consent from a judge of compensation claims to enter into
1069 binding claim arbitration in lieu of any other remedy provided
1070 for in this chapter to resolve all issues in dispute regarding
1071 an injury. Arbitrations agreed to pursuant to this section shall

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1072 be governed by chapter 682, the Revised Florida Arbitration
1073 Code, except that, notwithstanding any provision in chapter 682,
1074 the term "court" shall mean a judge of compensation claims. An
1075 arbitration award in accordance with this section is ~~shall be~~
1076 enforceable in the same manner and with the same powers as any
1077 final compensation order.

1078 Section 40. Paragraph (a) of subsection (1) of section
1079 489.1402, Florida Statutes, is amended to read:

1080 489.1402 Homeowners' Construction Recovery Fund;
1081 definitions.-

1082 (1) The following definitions apply to ss. 489.140-
1083 489.144:

1084 (a) "Arbitration" means alternative dispute resolution
1085 entered into between a claimant and a contractor either pursuant
1086 to a construction contract that contains a mandatory arbitration
1087 clause or through any binding arbitration under chapter 682, the
1088 Revised Florida Arbitration Code.

1089 Section 41. Subsection (2) of section 731.401, Florida
1090 Statutes, is amended to read:

1091 731.401 Arbitration of disputes.-

1092 (2) Unless otherwise specified in the will or trust, a
1093 will or trust provision requiring arbitration shall be presumed
1094 to require binding arbitration under chapter 682, the Revised
1095 Florida Arbitration Code ~~s. 44.104~~.

1096 Section 42. The Division of Statutory Revision is directed
1097 to redesignate the title of chapter 44, Florida Statutes, as
1098 "Alternative Dispute Resolution."

1099 Section 43. This act shall take effect July 1, 2012.

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

Remove the entire title and insert:
An act relating to dispute resolution; amending s.
682.01, F.S.; revising the short title of the "Florida
Arbitration Code" to the "Revised Florida Arbitration
Code"; creating s. 682.011, F.S.; providing
definitions; creating s. 682.012, F.S.; specifying how
a person gives notice to another person and how a
person receives notice; creating s. 682.013, F.S.;
specifying the applicability of the revised code;
creating s. 682.014, F.S.; providing that an agreement
may waive or vary the effect of statutory arbitration
provisions; providing exceptions; creating s. 682.015,
F.S.; providing for petitions for judicial relief;
providing for service of notice of an initial petition
for such relief; amending s. 682.02, F.S.; revising
provisions relating to the making of arbitration
agreements; requiring a court to decide whether an
agreement to arbitrate exists or a controversy is
subject to an agreement to arbitrate; providing for
determination of specified issues by an arbitrator;
providing for continuation of an arbitration
proceeding pending resolution of certain issues by a
court; revising provisions relating to applicability

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1128 of provisions to certain interlocal agreements;
1129 amending s. 682.03, F.S.; revising provisions relating
1130 to proceedings to compel and to stay arbitration;
1131 creating s. 682.031, F.S.; providing for a court to
1132 order provisional remedies before an arbitrator is
1133 appointed and is authorized and able to act; providing
1134 for orders for provisional remedies by an arbitrator;
1135 providing that a party does not waive a right of
1136 arbitration by seeking provisional remedies in court;
1137 creating s. 682.032, F.S.; providing for initiation of
1138 arbitration; providing that a person waives any
1139 objection to lack of or insufficiency of notice by
1140 appearing at the arbitration hearing; providing an
1141 exception; creating s. 682.033, F.S.; providing for
1142 consolidation of separate arbitration proceedings as
1143 to all or some of the claims in certain circumstances;
1144 prohibiting consolidation if the agreement prohibits
1145 consolidation; amending s. 682.04, F.S.; revising
1146 provisions relating to appointment of an arbitrator;
1147 prohibiting an individual who has an interest in the
1148 outcome of an arbitration from serving as a neutral
1149 arbitrator; creating s. 682.041, F.S.; requiring
1150 certain disclosures of interests and relationships by
1151 a person before accepting appointment as an
1152 arbitrator; providing a continuing obligation to make
1153 such disclosures; providing for objections to an
1154 arbitrator based on information disclosed; providing
1155 for vacation of an award if an arbitrator failed to

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1156 disclose a fact as required; providing that an
1157 arbitrator appointed as a neutral arbitrator who does
1158 not disclose certain interests or relationships is
1159 presumed to act with partiality for specified
1160 purposes; requiring parties to substantially comply
1161 with agreed-to procedures of an arbitration
1162 organization or any other procedures for challenges to
1163 arbitrators before an award is made in order to seek
1164 vacation of an award on specified grounds; amending s.
1165 682.05, F.S.; requiring that if there is more than one
1166 arbitrator, the powers of an arbitrator must be
1167 exercised by a majority of the arbitrators; requiring
1168 all arbitrators to conduct the arbitration hearing;
1169 creating s. 682.051, F.S.; providing immunity from
1170 civil liability for an arbitrator or an arbitration
1171 organization acting in that capacity; providing that
1172 this immunity is supplemental to any immunity under
1173 other law; providing that failure to make a required
1174 disclosure does not remove immunity; providing that an
1175 arbitrator or representative of an arbitration
1176 organization is not competent to testify and may not
1177 be required to produce records concerning the
1178 arbitration; providing exceptions; providing for
1179 awarding an arbitrator, arbitration organization, or
1180 representative of an arbitration organization with
1181 reasonable attorney fees and expenses of litigation
1182 under certain circumstances; amending s. 682.06, F.S.;
1183 revising provisions relating to the conduct of

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1184 arbitration hearings; providing for summary
1185 disposition, notice of hearings, adjournment, and
1186 rights of a party to the arbitration proceeding;
1187 requiring appointment of a replacement arbitrator in
1188 certain circumstances; amending s. 682.07, F.S.;
1189 providing that a party to an arbitration proceeding
1190 may be represented by an attorney; amending s. 682.08,
1191 F.S.; revising provisions relating to the issuance,
1192 service, and enforcement of subpoenas; revising
1193 provisions relating to depositions; authorizing an
1194 arbitrator to permit discovery in certain
1195 circumstances; authorizing an arbitrator to order
1196 compliance with discovery; authorizing protective
1197 orders by an arbitrator; providing for applicability
1198 of laws compelling a person under subpoena to testify
1199 and all fees for attending a judicial proceeding, a
1200 deposition, or a discovery proceeding as a witness;
1201 providing for court enforcement of a subpoena or
1202 discovery-related order; providing for witness fees;
1203 creating s. 682.081, F.S.; providing for judicial
1204 enforcement of a preaward ruling by an arbitrator in
1205 certain circumstances; amending s. 682.09, F.S.;
1206 revising provisions relating to the record needed for
1207 an award; revising provisions relating to the time
1208 within which an award must be made; amending s.
1209 682.10, F.S.; revising provisions relating to
1210 requirements for a motion to modify or correct an
1211 award; amending s. 682.11, F.S.; revising provisions

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1212 relating to fees and expenses of arbitration;
1213 authorizing punitive damages and other exemplary
1214 relief and remedies; amending s. 682.12, F.S.;;
1215 revising provisions relating to confirmation of an
1216 award; amending s. 682.13, F.S.;; revising provisions
1217 relating to grounds for vacating an award; revising
1218 provisions relating to a motion for vacating an award;
1219 providing for a rehearing in certain circumstances;
1220 amending s. 682.14, F.S.;; revising provisions relating
1221 to the time for moving to modify or correct an award;
1222 deleting references to the term "umpire"; revising a
1223 provision concerning confirmation of awards; amending
1224 s. 682.15, F.S.;; revising provisions relating to a
1225 court order confirming, vacating without directing a
1226 rehearing, modifying, or correcting an award;
1227 providing for award of costs and attorney fees in
1228 certain circumstances; repealing s. 682.16, F.S.,
1229 relating to judgment roll and docketing of certain
1230 orders; repealing s. 682.17, F.S., relating to
1231 application to court; repealing s. 682.18, F.S.,
1232 relating to the definition of the term "court" and
1233 jurisdiction; creating s. 682.181, F.S.;; providing for
1234 jurisdiction relating to the revised code; amending s.
1235 682.19, F.S.;; revising provisions relating to venue
1236 for actions relating to the code; amending s. 682.20,
1237 F.S.;; providing that an appeal may be taken from an
1238 order denying confirmation of an award unless the
1239 court has entered an order under specified provisions;

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1240 providing that all other orders denying confirmation
1241 of an award are final orders; repealing s. 682.21,
1242 F.S., relating to the previous code not applying
1243 retroactively; repealing s. 682.22, F.S., relating to
1244 conflict of laws; creating s. 682.23, F.S.; specifying
1245 the relationship of the code to the Electronic
1246 Signatures in Global and National Commerce Act;
1247 providing for applicability; creating s. 682.25, F.S.;
1248 providing that the revised code does not apply to any
1249 dispute involving child custody, visitation, or child
1250 support; amending s. 44.104, F.S.; deleting references
1251 to binding arbitration from provisions providing for
1252 voluntary trial resolution; providing for temporary
1253 relief; revising provisions relating to procedures in
1254 voluntary trial resolution; providing that a judgment
1255 is reviewable in the same manner as a judgment in a
1256 civil action; deleting provisions relating to
1257 applicability of the harmless error doctrine;
1258 providing limitations on the jurisdiction of a trial
1259 resolution judge; providing for the use of juries;
1260 providing for the title of a trial resolution judge
1261 and the use of judicial robes; amending s. 44.107,
1262 F.S.; providing immunity for voluntary trial
1263 resolution judges serving under specified provisions;
1264 amending ss. 440.1926, 489.1402, and 731.401, F.S.;
1265 conforming cross-references; providing a directive to
1266 the Division of Statutory Revision to redesignate the

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1267 title of ch. 44, F.S., as "Alternative Dispute
1268 Resolution"; providing an effective date.
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