

CHAPTER 2013-232

Committee Substitute for Senate Bill No. 530

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 of provisions to certain interlocal agreements; amending s. 682.03, F.S.; revising provisions relating to proceedings to compel and to stay arbitration; creating s. 682.031, F.S.; providing for a court to order provisional remedies before an arbitrator is appointed and is authorized and able to act; providing for orders for provisional remedies by an arbitrator; providing that a party does not waive a right of arbitration by seeking provisional remedies in court; creating s. 682.032, F.S.; providing for initiation of arbitration; providing that a person waives any objection to lack of or insufficiency of notice by appearing at the arbitration hearing; providing an exception; creating s. 682.033, F.S.; providing for consolidation of separate arbitration proceedings as to all or some of the claims in certain circumstances; prohibiting consolidation if the agreement prohibits consolidation; prescribing limitations of the section; amending s. 682.04, F.S.; revising provisions relating to appointment of an arbitrator; prohibiting an individual who has an interest in the outcome of an arbitration from serving as a neutral arbitrator; creating s. 682.041, F.S.; requiring certain disclosures of interests and relationships by a person before accepting appointment as an arbitrator; providing a continuing obligation to make such disclosures; providing for objections to an arbitrator based on information disclosed; providing for vacation of an award if an arbitrator failed to disclose a fact as required; providing that an arbitrator appointed as a neutral arbitrator who does not disclose certain interests or relationships is presumed to act with partiality for specified purposes; requiring parties to substantially comply with agreed-to procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made in order to seek vacation of an award on specified grounds; amending s. 682.05, F.S.; requiring that if there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators; requiring all arbitrators to

conduct the arbitration hearing; creating s. 682.051, F.S.; providing immunity from civil liability for an arbitrator or an arbitration organization acting in that capacity; providing that this immunity is supplemental to any immunity under other law; providing that failure to make a required disclosure does not remove immunity; providing that an arbitrator or representative of an arbitration organization is not competent to testify and may not be required to produce records concerning the arbitration; providing exceptions; providing for awarding an arbitrator, arbitration organization, or representative of an arbitration organization with reasonable attorney fees and expenses of litigation under certain circumstances; amending s. 682.06, F.S.; revising provisions relating to the conduct of arbitration hearings; providing for summary disposition, notice of hearings, adjournment, and rights of a party to the arbitration proceeding; requiring appointment of a replacement arbitrator in certain circumstances; amending s. 682.07, F.S.; providing that a party to an arbitration proceeding may be represented by an attorney; amending s. 682.08, F.S.; revising provisions relating to the issuance, service, and enforcement of subpoenas; revising provisions relating to depositions; authorizing an arbitrator to permit discovery in certain circumstances; authorizing an arbitrator to order compliance with discovery; authorizing protective orders by an arbitrator; providing for applicability of laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness; providing for court enforcement of a subpoena or discovery-related order; providing for witness fees; creating s. 682.081, F.S.; providing for judicial enforcement of a preaward ruling by an arbitrator in certain circumstances; providing exceptions; amending s. 682.09, F.S.; revising provisions relating to the record needed for an award; revising provisions relating to the time within which an award must be made; amending s. 682.10, F.S.; revising provisions relating to requirements for a motion to modify or correct an award; amending s. 682.11, F.S.; revising provisions relating to fees and expenses of arbitration; authorizing punitive damages and other exemplary relief and remedies; amending s. 682.12, F.S.; revising provisions relating to confirmation of an award; amending s. 682.13, F.S.; revising provisions relating to grounds for vacating an award; revising provisions relating to a motion for vacating an award; providing for a rehearing in certain circumstances; amending s. 682.14, F.S.; revising provisions relating to the time for moving to modify or correct an award; deleting references to the term “umpire”; revising a provision concerning confirmation of awards; amending s. 682.15, F.S.; revising provisions relating to a court order confirming, vacating without directing a rehearing, modifying, or correcting an award; providing for award of costs and attorney fees in certain circumstances; repealing s. 682.16, F.S., relating to judgment roll and docketing of certain orders; repealing s. 682.17, F.S., relating to application to court; repealing s. 682.18, F.S., relating to the definition of the term “court” and jurisdiction; creating s. 682.181, F.S.; providing for jurisdiction relating to the revised code; amending s. 682.19, F.S.; revising provisions relating to venue for actions relating to the code; amending s. 682.20, F.S.; providing that an appeal may be taken from an order denying

confirmation of an award unless the court has entered an order under specified provisions; providing that all other orders denying confirmation of an award are final orders; repealing s. 682.21, F.S., relating to the previous code not applying retroactively; repealing s. 682.22, F.S., relating to conflict of laws; creating s. 682.23, F.S.; specifying the relationship of the code to the Electronic Signatures in Global and National Commerce Act; providing for applicability; creating s. 682.25, F.S.; providing that the revised code does not apply to any dispute involving child custody, visitation, or child support; amending s. 731.401, F.S.; providing for application of the act to an arbitration provision in a will or trust; amending ss. 440.1926 and 489.1402, F.S.; conforming cross-references; providing an effective date.

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

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

682.01 ~~Short title Florida Arbitration Code.—This chapter Sections 682.01–682.22~~ may be cited as the “Revised Florida Arbitration Code.”

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

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

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

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

(3) “Court” means a court of competent jurisdiction in this state.

(4) “Knowledge” means actual knowledge.

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

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

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

682.012 Notice.—

(1) Except as otherwise provided in this chapter, a person gives notice to another person by taking action that is reasonably necessary to inform the

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

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

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

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

682.013 Applicability of revised code.—

(1) The Revised Florida Arbitration Code governs an agreement to arbitrate made on or after July 1, 2013.

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

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

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

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

682.014 Effect of agreement to arbitrate; nonwaivable provisions.—

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

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

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

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

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

3. Permitting provisional remedies under s. 682.031;

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

5. Conferring jurisdiction under s. 682.181; or

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

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

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

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

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

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

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

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

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

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

(f) The remedies provided under s. 682.12;

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

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

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

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

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

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

682.015 Petition for judicial relief.—

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

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

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

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

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

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

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

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

(5) Two or more parties may agree in writing to submit to arbitration any controversy existing between them at the time of the agreement, or they may include in a written contract a provision for the settlement by arbitration of any controversy thereafter arising between them relating to such contract or the failure or refusal to perform the whole or any part thereof. This section also applies to written interlocal agreements under ss. 163.01 and 373.713 in which two or more parties agree to submit to arbitration any controversy between them concerning water use permit applications and other matters, regardless of whether or not the water management district with jurisdiction over the subject application is a party to the interlocal agreement or a participant in the arbitration. Such agreement or provision shall be valid, enforceable, and irrevocable without regard to the justiciable character of the controversy; provided that this act shall not apply to any such agreement or provision to arbitrate in which it is stipulated that this law shall not apply or to any arbitration or award thereunder.

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

682.03 Proceedings to compel and to stay arbitration.—

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

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

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

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

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

(4) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established. On application the court may stay an arbitration proceeding commenced or about to be commenced, if it shall find that no agreement or provision for arbitration subject to this law exists between the party making the application and the party causing the arbitration to be had. The court shall summarily hear and determine the issue of the making of the

~~agreement or provision and, according to its determination, shall grant or deny the application.~~

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

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

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

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

682.031 Provisional remedies.—

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

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

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

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

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

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

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

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

682.032 Initiation of arbitration.—

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

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

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

682.033 Consolidation of separate arbitration proceedings.—

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

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

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

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

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

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

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation. Nothing in this section is intended or shall be construed to affect commencing,

maintaining, or certifying a claim or defense on behalf of a class or as a class action.

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

682.04 Appointment of arbitrators by court.—

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

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

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

(b) The agreed method fails;

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

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

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

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

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

682.041 Disclosure by arbitrator.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) If a person commences a civil action against an arbitrator, arbitration organization, or representative of an arbitration organization arising from the services of the arbitrator, organization, or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (4), and the court decides that the arbitrator, arbitration organization, or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization, or representative reasonable attorney fees and other reasonable expenses of litigation.

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

682.06 Hearing.—

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

(1)(a) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered or certified mail not less than 5 days before the hearing. Appearance at the hearing waives a party's right to such notice. The arbitrators may adjourn their hearing from time to time upon their own motion and shall do so upon the request of any party to the arbitration for good cause shown, provided that no adjournment or postponement of their hearing shall extend beyond the date fixed in the agreement or provision for making the award unless the

parties consent to a later date. An umpire authorized to hear and decide the cause upon failure of the arbitrators to agree upon an award shall, in the course of his or her jurisdiction, have like powers and be subject to like limitations thereon.

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

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

(a) If all interested parties agree; or

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

(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than 5 days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary, but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision. The hearing shall be conducted by all of the arbitrators but a majority may determine any question and render a final award. An umpire authorized to hear and decide the cause upon the failure of the arbitrators to agree upon an award shall sit with the arbitrators throughout their hearing but shall not be counted as a part of their quorum or in the making of their award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator, arbitrators or umpire appointed to act as neutrals may continue with the hearing and determination of the controversy.

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

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

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

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

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

682.08 Witnesses, subpoenas, depositions.—

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

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

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

~~(4) If an arbitrator permits discovery under subsection (3), the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery~~

proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

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

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

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

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

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

682.081 Judicial enforcement of preaward ruling by arbitrator.—

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

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

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

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

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

682.09 Award.—

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

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

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

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

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

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

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

(c) To clarify the award.

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

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

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

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

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

(c) To clarify the award.

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

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

682.11 Remedies; fees and expenses of arbitration proceeding.—

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

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

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

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

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

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

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

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

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

682.13 Vacating an award.—

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

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

(b) There was:

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

2. Corruption by an arbitrator; or

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

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

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

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

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

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

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

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

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

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

682.14 Modification or correction of award.—

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

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

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

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

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

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

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

682.15 Judgment or decree on award.—

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

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

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

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

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

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

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

682.181 Jurisdiction.—

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

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

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

682.19 Venue.—A petition pursuant to s. 682.015 must be filed in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the petition may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent petitions must be made in the court hearing the initial petition unless the court otherwise directs. Any application under this law may be made to the court of the county in which the other party to the agreement or provision for arbitration resides or has a place of business, or, if she or he has no residence or place of business in this state, then to the court of any county. All applications under this law subsequent to an initial application shall be made to the court hearing the initial application unless it shall order otherwise.

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

682.20 Appeals.—

(1) An appeal may be taken from:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

731.401 Arbitration of disputes.—

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

Section 38. Section 440.1926, Florida Statutes, is amended to read:

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

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

489.1402 Homeowners' Construction Recovery Fund; definitions.—

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

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

Section 40. This act shall take effect July 1, 2013.

Approved by the Governor June 28, 2013.

Filed in Office Secretary of State June 28, 2013.