



General Assembly

February Session, 2002

Raised Bill No. 5660

LCO No. 1427

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE UNIFORM ARBITRATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2002*) Sections 1 to 46,
2 inclusive, of this act may be cited as the Uniform Arbitration Act.

3 Sec. 2. (NEW) (*Effective October 1, 2002*) As used in this act:

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

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

11 (3) "Court" means the Superior Court.

12 (4) "Knowledge" means actual knowledge.

13 (5) "Person" means an individual, corporation, business trust, estate,

14 trust, partnership, limited liability company, association, joint venture,
15 government, governmental subdivision, agency or instrumentality,
16 public corporation or any other legal or commercial entity.

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

20 Sec. 3. (NEW) (*Effective October 1, 2002*) (a) Except as otherwise
21 provided in sections 10, 16, 20, 21 and 24 to 26, inclusive, of this act, a
22 person gives notice to another person by taking action that is
23 reasonably necessary to inform the other person in ordinary course,
24 whether or not the other person acquires knowledge of the notice.

25 (b) A person has notice if the person has knowledge of the notice or
26 has received notice.

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

31 Sec. 4. (NEW) (*Effective October 1, 2002*) (a) This act governs an
32 agreement to arbitrate made on or after the effective date of this act.

33 (b) This act governs an agreement to arbitrate made before the
34 effective date of this act if all the parties to the agreement or to the
35 arbitration proceeding so agree in a record.

36 (c) On and after October 1, 2003, this act governs an agreement to
37 arbitrate whenever made.

38 Sec. 5. (NEW) (*Effective October 1, 2002*) (a) Except as otherwise
39 provided in subsections (b) and (c) of this section, a party to an
40 agreement to arbitrate or to an arbitration proceeding may waive, or
41 the parties may vary the effect of, the requirements of this act to the
42 extent permitted by law.

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

45 (1) Waive or agree to vary the effect of the requirements of
46 subsection (a) of section 6 of this act, subsection (a) of section 7 of this
47 act, section 9 of this act, subsection (a) or (b) of section 18 of this act
48 and section 28 or 30 of this act;

49 (2) Agree to unreasonably restrict the right under section 10 of this
50 act to notice of the initiation of an arbitration proceeding;

51 (3) Agree to unreasonably restrict the right under section 13 of this
52 act to disclosure of any facts by a neutral arbitrator; or

53 (4) Waive the right under section 17 of this act of a party to an
54 agreement to arbitrate to be represented by a lawyer at any proceeding
55 or hearing under this act, but an employer and a labor organization
56 may waive the right to representation by a lawyer in a labor
57 arbitration.

58 (c) A party to an agreement to arbitrate or arbitration proceeding
59 may not waive, or the parties may not vary the effect of, the
60 requirements of this section or subsection (a) or (c) of section 4 of this
61 act, sections 8, 15 and 19 of this act, subsection (c) or (d) of section 21 of
62 this act, section 24, 25 or 26 of this act, subsection (a) or (b) of section 27
63 of this act or section 31, 32, 33 or 34 of this act.

64 Sec. 6. (NEW) (*Effective October 1, 2002*) (a) Except as otherwise
65 provided in section 30 of this act, an application for judicial relief
66 under this act shall be made by motion to the court and heard in the
67 manner provided by law or rule of court for making and hearing
68 motions.

69 (b) Unless a civil action involving the agreement to arbitrate is
70 pending, notice of an initial motion to the court under this act must be
71 served in the manner provided by law for the service of a summons in
72 a civil action. Otherwise, notice of the motion must be given in the

73 manner provided by law or rule of court for serving motions in
74 pending cases.

75 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) An agreement contained
76 in a record to submit to arbitration any existing or subsequent
77 controversy arising between the parties to the agreement is valid,
78 enforceable and irrevocable except upon a ground that exists at law or
79 in equity for the revocation of a contract.

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

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

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

89 Sec. 8. (NEW) (*Effective October 1, 2002*) (a) On motion of a person
90 showing an agreement to arbitrate and alleging another person's
91 refusal to arbitrate pursuant to the agreement:

92 (1) If the refusing party does not appear or does not oppose the
93 motion, the court shall order the parties to arbitrate; and

94 (2) If the refusing party opposes the motion, the court shall proceed
95 summarily to decide the issue and order the parties to arbitrate unless
96 it finds that there is no enforceable agreement to arbitrate.

97 (b) On motion of a person alleging that an arbitration proceeding
98 has been initiated or threatened but that there is no agreement to
99 arbitrate, the court shall proceed summarily to decide the issue. If the
100 court finds that there is an enforceable agreement to arbitrate it shall
101 order the parties to arbitrate.

102 (c) If the court finds that there is no enforceable agreement,
103 pursuant to subsection (a) or (b) of this section, it may not order the
104 parties to arbitrate.

105 (d) The court may not refuse to order arbitration because the claim
106 subject to arbitration lacks merit or grounds for the claim have not
107 been established.

108 (e) If a proceeding involving a claim referable to arbitration under
109 an alleged agreement to arbitrate is pending in court, a motion under
110 this section must be made in that court. Otherwise a motion under this
111 section may be made in any court as provided in section 29 of this act.

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

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

120 Sec. 9. (NEW) (*Effective October 1, 2002*) (a) Before an arbitrator is
121 appointed and is authorized and able to act, the court, upon motion of
122 a party to an arbitration proceeding and for good cause shown, may
123 enter an order for provisional remedies to protect the effectiveness of
124 the arbitration proceeding to the same extent and under the same
125 conditions as if the controversy were the subject of a civil action.

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

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

132 civil action; and

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

136 (c) A party does not waive a right of arbitration by making a motion
137 under subsection (a) or (b) of this section.

138 Sec. 10. (NEW) (*Effective October 1, 2002*) (a) A person initiates an
139 arbitration proceeding by giving notice in a record to the other parties
140 to the agreement to arbitrate in the agreed manner between the parties,
141 or in the absence of agreement, by certified or registered mail, return
142 receipt requested and obtained, or by service as authorized for the
143 commencement of a civil action. The notice must describe the nature of
144 the controversy and the remedy sought.

145 (b) Unless a person objects for lack or insufficiency of notice under
146 subsection (c) of section 16 of this act not later than the beginning of
147 the arbitration hearing, the person by appearing at the hearing waives
148 any objection to lack or insufficiency of notice.

149 Sec. 11. (NEW) (*Effective October 1, 2002*) (a) Except as otherwise
150 provided in subsection (c) of this section, upon motion of a party to an
151 agreement to arbitrate or to an arbitration proceeding, the court may
152 order consolidation of separate arbitration proceedings as to all or
153 some of the claims if:

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

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

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

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

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

170 (c) The court may not order consolidation of the claims of a party to
171 an agreement to arbitrate if the agreement prohibits consolidation.

172 Sec. 12. (NEW) (*Effective October 1, 2002*) (a) If the parties to an
173 agreement to arbitrate agree on a method for appointing an arbitrator,
174 that method must be followed, unless the method fails. If the parties
175 have not agreed on a method, the agreed method fails or an arbitrator
176 appointed fails or is unable to act and a successor has not been
177 appointed, the court, on motion of a party to the arbitration
178 proceeding, shall appoint the arbitrator. An arbitrator so appointed has
179 all the powers of an arbitrator designated in the agreement to arbitrate
180 or appointed pursuant to the agreed method.

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

185 Sec. 13. (NEW) (*Effective October 1, 2002*) (a) Before accepting
186 appointment, an individual who is requested to serve as an arbitrator,
187 after making a reasonable inquiry, shall disclose to all parties to the
188 agreement to arbitrate and arbitration proceeding and to any other
189 arbitrators any known facts that a reasonable person would consider
190 likely to affect the impartiality of the arbitrator in the arbitration

191 proceeding, including:

192 (1) A financial or personal interest in the outcome of the arbitration
193 proceeding; and

194 (2) An existing or past relationship with any of the parties to the
195 agreement to arbitrate or the arbitration proceeding, their counsel or
196 representatives, a witness or another arbitrator.

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

202 (c) If an arbitrator discloses a fact required by subsection (a) or (b) of
203 this section to be disclosed and a party timely objects to the
204 appointment or continued service of the arbitrator based upon the fact
205 disclosed, the objection may be a ground under subdivision (2) of
206 subsection (a) of section 25 of this act for vacating an award made by
207 the arbitrator.

208 (d) If the arbitrator did not disclose a fact as required by subsection
209 (a) or (b) of this section, upon timely objection by a party, the court
210 under subdivision (2) of subsection (a) of section 25 of this act may
211 vacate an award.

212 (e) An arbitrator appointed as a neutral arbitrator who does not
213 disclose a known, direct and material interest in the outcome of the
214 arbitration proceeding or a known, existing and substantial
215 relationship with a party is presumed to act with evident partiality
216 under subdivision (2) of subsection (a) of section 25 of this act.

217 (f) If the parties to an arbitration proceeding agree to the procedures
218 of an arbitration organization or any other procedures for challenges to
219 arbitrators before an award is made, substantial compliance with those
220 procedures is a condition precedent to a motion to vacate an award on

221 that ground under subdivision (2) of subsection (a) of section 25 of this
222 act.

223 Sec. 14. (NEW) (*Effective October 1, 2002*) If there is more than one
224 arbitrator, the powers of an arbitrator must be exercised by a majority
225 of the arbitrators, but all of them shall conduct the hearing under
226 subsection (c) of section 16 of this act.

227 Sec. 15. (NEW) (*Effective October 1, 2002*) (a) An arbitrator or an
228 arbitration organization acting in that capacity is immune from civil
229 liability to the same extent as a judge of a court of this state acting in a
230 judicial capacity.

231 (b) The immunity afforded by this section supplements any
232 immunity under other law.

233 (c) The failure of an arbitrator to make a disclosure required by
234 section 13 of this act does not cause any loss of immunity under this
235 section.

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

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

245 (2) To a hearing on a motion to vacate an award under subdivision
246 (1) or (2) of subsection (a) of section 25 of this act if the movant
247 establishes prima facie that a ground for vacating the award exists.

248 (e) If a person commences a civil action against an arbitrator,
249 arbitration organization or representative of an arbitration

250 organization arising from the services of the arbitrator, organization or
251 representative or if a person seeks to compel an arbitrator or a
252 representative of an arbitration organization to testify or produce
253 records in violation of subsection (d) of this section, and the court
254 decides that the arbitrator, arbitration organization or representative of
255 an arbitration organization is immune from civil liability or that the
256 arbitrator or representative of the organization is not competent to
257 testify, the court shall award to the arbitrator, organization or
258 representative reasonable attorney's fees and other reasonable
259 expenses of litigation.

260 Sec. 16. (NEW) (*Effective October 1, 2002*) (a) An arbitrator may
261 conduct an arbitration in such manner as the arbitrator considers
262 appropriate for a fair and expeditious disposition of the proceeding.
263 The authority conferred upon the arbitrator includes the power to hold
264 conferences with the parties to the arbitration proceeding before the
265 hearing and, among other matters, determine the admissibility,
266 relevance, materiality and weight of any evidence.

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

269 (1) If all interested parties agree; or

270 (2) Upon request of one party to the arbitration proceeding if that
271 party gives notice to all other parties to the proceeding and the other
272 parties have a reasonable opportunity to respond.

273 (c) If an arbitrator orders a hearing, the arbitrator shall set a time
274 and place and give notice of the hearing not less than five days before
275 the hearing begins. Unless a party to the arbitration proceeding makes
276 an objection to lack or insufficiency of notice not later than the
277 beginning of the hearing, the party's appearance at the hearing waives
278 the objection. Upon request of a party to the arbitration proceeding
279 and for good cause shown, or upon the arbitrator's own initiative, the
280 arbitrator may adjourn the hearing from time to time as necessary but

281 may not postpone the hearing to a time later than that fixed by the
282 agreement to arbitrate for making the award unless the parties to the
283 arbitration proceeding consent to a later date. The arbitrator may hear
284 and decide the controversy upon the evidence produced although a
285 party who was duly notified of the arbitration proceeding did not
286 appear. The court, on request, may direct the arbitrator to conduct the
287 hearing promptly and render a timely decision.

288 (d) At a hearing under subsection (c) of this section, a party to the
289 arbitration proceeding has a right to be heard, to present evidence
290 material to the controversy and to cross-examine witnesses appearing
291 at the hearing.

292 (e) If an arbitrator ceases or is unable to act during the arbitration
293 proceeding, a replacement arbitrator must be appointed in accordance
294 with section 12 of this act to continue the proceeding and to resolve the
295 controversy.

296 Sec. 17. (NEW) (*Effective October 1, 2002*) A party to an arbitration
297 proceeding may be represented by a lawyer.

298 Sec. 18. (NEW) (*Effective October 1, 2002*) (a) An arbitrator may issue
299 a subpoena for the attendance of a witness and for the production of
300 records and other evidence at any hearing and may administer oaths.
301 A subpoena must be served in the manner for service of subpoenas in
302 a civil action and, upon motion to the court by a party to the
303 arbitration proceeding or the arbitrator, enforced in the manner for
304 enforcement of subpoenas in a civil action.

305 (b) In order to make the proceedings fair, expeditious and cost
306 effective, upon request of a party to or a witness in an arbitration
307 proceeding, an arbitrator may permit a deposition of any witness to be
308 taken for use as evidence at the hearing, including a witness who
309 cannot be subpoenaed for or is unable to attend a hearing. The
310 arbitrator shall determine the conditions under which the deposition is
311 taken.

312 (c) An arbitrator may permit such discovery as the arbitrator
313 decides is appropriate in the circumstances, taking into account the
314 needs of the parties to the arbitration proceeding and other affected
315 persons and the desirability of making the proceeding fair, expeditious
316 and cost effective.

317 (d) If an arbitrator permits discovery under subsection (c) of this
318 section, the arbitrator may order a party to the arbitration proceeding
319 to comply with the arbitrator's discovery-related orders, issue
320 subpoenas for the attendance of a witness and for the production of
321 records and other evidence at a discovery proceeding, and take action
322 against a noncomplying party to the extent a court could if the
323 controversy were the subject of a civil action in this state.

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

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

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

344 Sec. 19. (NEW) (*Effective October 1, 2002*) If an arbitrator makes a
345 preaward ruling in favor of a party to the arbitration proceeding, the
346 party may request the arbitrator to incorporate the ruling into an
347 award under section 20 of this act. A prevailing party may make a
348 motion to the court for an expedited order to confirm the award under
349 section 24 of this act, in which case the court shall summarily decide
350 the motion. The court shall issue an order to confirm the award unless
351 the court vacates, modifies or corrects the award under section 25 or 26
352 of this act.

353 Sec. 20. (NEW) (*Effective October 1, 2002*) (a) An arbitrator shall make
354 a record of an award. The record must be signed or otherwise
355 authenticated by any arbitrator who concurs with the award. The
356 arbitrator or the arbitration organization shall give notice of the award,
357 including a copy of the award, to each party to the arbitration
358 proceeding.

359 (b) An award must be made within the time specified by the
360 agreement to arbitrate or, if not specified therein, within the time
361 ordered by the court. The court may extend or the parties to the
362 arbitration proceeding may agree in a record to extend the time. The
363 court or the parties may do so within or after the time specified or
364 ordered. A party waives any objection that an award was not timely
365 made unless the party gives notice of the objection to the arbitrator
366 before receiving notice of the award.

367 Sec. 21. (NEW) (*Effective October 1, 2002*) (a) On motion to an
368 arbitrator by a party to an arbitration proceeding, the arbitrator may
369 modify or correct an award:

370 (1) Upon a ground stated in subdivision (1) or (3) of subsection (a)
371 of section 26 of this act;

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

374 (3) To clarify the award.

375 (b) A motion under subsection (a) of this section shall be made and
376 notice given to all parties within twenty days after the movant receives
377 notice of the award.

378 (c) A party to the arbitration proceeding must give notice of any
379 objection to the motion within ten days after receipt of the notice.

380 (d) If a motion to the court is pending under section 24, 25 or 26 of
381 this act, the court may submit the claim to the arbitrator to consider
382 whether to modify or correct the award:

383 (1) Upon a ground stated in subdivision (1) or (3) of subsection (a)
384 of section 26 of this act;

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

387 (3) To clarify the award.

388 (e) An award modified or corrected pursuant to this section is
389 subject to subsection (a) of section 20 of this act and sections 24, 25 and
390 26 of this act.

391 Sec. 22. (NEW) (*Effective October 1, 2002*) (a) An arbitrator may
392 award punitive damages or other exemplary relief if such an award is
393 authorized by law in a civil action involving the same claim and the
394 evidence produced at the hearing justifies the award under the legal
395 standards otherwise applicable to the claim.

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

400 (c) As to all remedies other than those authorized by subsections (a)
401 and (b) of this section, an arbitrator may order such remedies as the

402 arbitrator considers just and appropriate under the circumstances of
403 the arbitration proceeding. The fact that such a remedy could not or
404 would not be granted by the court is not a ground for refusing to
405 confirm an award under section 24 of this act or for vacating an award
406 under section 25 of this act.

407 (d) An arbitrator's expenses and fees, together with other expenses,
408 must be paid as provided in the award.

409 (e) If an arbitrator awards punitive damages or other exemplary
410 relief under subsection (a) of this section, the arbitrator shall specify in
411 the award the basis in fact justifying and the basis in law authorizing
412 the award and state separately the amount of the punitive damages or
413 other exemplary relief.

414 Sec. 23. (NEW) (*Effective October 1, 2002*) Any application under
415 section 24, 25 or 26 of this act, shall be heard in the manner provided
416 by law for hearing written motions at a short calendar session, or
417 otherwise as the court may direct, in order to dispose of the case with
418 the least possible delay.

419 Sec. 24. (NEW) (*Effective October 1, 2002*) After a party to an
420 arbitration proceeding receives notice of an award, the party may
421 make a motion to the court for an order confirming the award at which
422 time the court shall issue a confirming order unless the award is
423 modified or corrected pursuant to section 21 or 24 of this act or is
424 vacated pursuant to section 25 of this act.

425 Sec. 25. (NEW) (*Effective October 1, 2002*) (a) Upon motion to the
426 court by a party to an arbitration proceeding, the court shall vacate an
427 award made in the arbitration proceeding if:

428 (1) The award was procured by corruption, fraud or other undue
429 means;

430 (2) There was: (A) Evident partiality by an arbitrator appointed as a
431 neutral arbitrator; (B) corruption by an arbitrator; or (C) misconduct by

432 an arbitrator prejudicing the rights of a party to the arbitration
433 proceeding;

434 (3) An arbitrator refused to postpone the hearing upon showing of
435 sufficient cause for postponement, refused to consider evidence
436 material to the controversy or otherwise conducted the hearing
437 contrary to section 16 of this act so as to prejudice substantially the
438 rights of a party to the arbitration proceeding;

439 (4) An arbitrator exceeded the arbitrator's powers;

440 (5) There was no agreement to arbitrate, unless the person
441 participated in the arbitration proceeding without raising the objection
442 under subsection (c) of section 16 of this act not later than the
443 beginning of the arbitration hearing; or

444 (6) The arbitration was conducted without proper notice of the
445 initiation of an arbitration as required in section 10 of this act so as to
446 prejudice substantially the rights of a party to the arbitration
447 proceeding.

448 (b) Except for a labor arbitration pursuant to section 31-97 of the
449 general statutes, a motion under this section must be filed within
450 ninety days after the movant receives notice of the award pursuant to
451 section 20 of this act or within ninety days after the movant receives
452 notice of a modified or corrected award pursuant to section 21 of this
453 act, unless the movant alleges that the award was procured by
454 corruption, fraud or other undue means, in which case the motion
455 must be made within ninety days after the ground is known or by the
456 exercise of reasonable care would have been known by the movant.

457 (c) If the court vacates an award on a ground other than that set
458 forth in subdivision (5) of subsection (a) of this section, it may order a
459 rehearing. If the award is vacated on a ground stated in subdivision (1)
460 or (2) of subsection (a) of this section, the rehearing must be before a
461 new arbitrator. If the award is vacated on a ground stated in

462 subdivision (3), (4) or (6) of subsection (a) of this section, the rehearing
463 may be before the arbitrator who made the award or the arbitrator's
464 successor. The arbitrator must render the decision in the rehearing
465 within the same time as that provided in subsection (b) of section 20 of
466 this act for an award.

467 (d) If the court denies a motion to vacate an award, it shall confirm
468 the award unless a motion to modify or correct the award is pending.

469 (e) Any party filing an application pursuant to subsection (a) of this
470 section concerning an arbitration award issued by the State Board of
471 Mediation and Arbitration shall notify said board and the Attorney
472 General, in writing, of such filing within five days of the date of filing.

473 Sec. 26. (NEW) (*Effective October 1, 2002*) (a) Except for a labor
474 arbitration pursuant to section 31-97 of the general statutes, upon
475 motion made within ninety days after the movant receives notice of
476 the award pursuant to section 20 of this act or within ninety days after
477 the movant receives notice of a modified or corrected award pursuant
478 to section 21 of this act, the court shall modify or correct the award if:

479 (1) There was an evident mathematical miscalculation or an evident
480 mistake in the description of a person, thing or property referred to in
481 the award;

482 (2) The arbitrator has made an award on a claim not submitted to
483 the arbitrator and the award may be corrected without affecting the
484 merits of the decision upon the claims submitted; or

485 (3) The award is imperfect in a matter of form not affecting the
486 merits of the decision on the claims submitted.

487 (b) If a motion made under subsection (a) of this section is granted,
488 the court shall modify or correct and confirm the award as modified or
489 corrected. Otherwise, unless a motion to vacate is pending, the court
490 shall confirm the award.

491 (c) A motion to modify or correct an award pursuant to this section
492 may be joined with a motion to vacate the award.

493 Sec. 27. (NEW) (*Effective October 1, 2002*) (a) Upon granting an order
494 confirming, vacating without directing a rehearing, modifying or
495 correcting an award, the court shall enter a judgment in conformity
496 therewith. The judgment may be recorded, docketed and enforced as
497 any other judgment in a civil action.

498 (b) A court may allow reasonable costs of the motion and
499 subsequent judicial proceedings.

500 (c) On application of a prevailing party to a contested judicial
501 proceeding under section 24, 25 or 26 of this act, the court may, if the
502 court finds that the position taken by the nonprevailing party was
503 frivolous, add reasonable attorney's fees and other reasonable
504 expenses of litigation incurred in a judicial proceeding after the award
505 is made to a judgment confirming, vacating without directing a
506 rehearing, modifying or correcting an award.

507 Sec. 28. (NEW) (*Effective October 1, 2002*) (a) A court of this state
508 having jurisdiction over the controversy and the parties may enforce
509 an agreement to arbitrate.

510 (b) An agreement to arbitrate providing for arbitration in this state
511 confers exclusive jurisdiction on the court to enter judgment on an
512 award under this act.

513 Sec. 29. (NEW) (*Effective October 1, 2002*) A motion pursuant to
514 section 6 of this act shall be made in the court for the judicial district in
515 which the agreement to arbitrate specifies the arbitration hearing is to
516 be held or, if the hearing has been held, in the court for the judicial
517 district in which it was held. Otherwise, the motion may be made in
518 the court for any judicial district in which an adverse party resides or
519 has a place of business or, if no adverse party has a residence or place
520 of business in this state, in the court for any judicial district in this

521 state. All subsequent motions shall be made in the court hearing the
522 initial motion unless the court otherwise directs.

523 Sec. 30. (NEW) (*Effective October 1, 2002*) (a) An appeal may be taken
524 from: (1) An order denying a motion to compel arbitration; (2) an order
525 granting a motion to stay arbitration; (3) an order confirming or
526 denying confirmation of an award; (4) an order modifying or
527 correcting an award; (5) an order vacating an award without directing
528 a rehearing; or (6) a final judgment entered pursuant to this act.

529 (b) An appeal under this section must be taken as from an order or a
530 judgment in a civil action.

531 Sec. 31. (NEW) (*Effective October 1, 2002*) At any time during an
532 arbitration, upon request of all the parties to the arbitration, the
533 arbitrators or an umpire shall make application to any designated
534 court, or to any designated judge, for a decision on any question
535 arising in the course of the hearing, provided such parties shall agree
536 in writing that the decision of such court or judge shall be final as to
537 the question determined and that it shall bind the arbitrators in
538 rendering their award. An application under this section may be heard
539 in the manner provided by law for the hearing of written motions at a
540 short calendar session, or otherwise as the court or judge may direct.

541 Sec. 32. (NEW) (*Effective October 1, 2002*) (a) Any party applying for
542 an order confirming, modifying or correcting an award shall, at the
543 time the order is filed with the clerk for the entry of judgment thereon,
544 file the following papers with the clerk: (1) The agreement to arbitrate,
545 (2) the selection or appointment, if any, of an additional or substitute
546 arbitrator or an umpire, (3) any written agreement requiring the
547 reference of any question as provided in section 31 of this act, (4) each
548 written extension of the time, if any, within which to make the award,
549 (5) the award, (6) each notice and other paper used upon an
550 application to confirm, modify or correct the award, and (7) a copy of
551 each order of the court upon such an application.

552 (b) The judgment or decree confirming, modifying or correcting an
553 award shall be docketed as if it were rendered in a civil action. The
554 judgment or decree so entered shall have the same force and effect in
555 all respects as, and be subject to all the provisions of law relating to, a
556 judgment or decree in a civil action; and it may be enforced as if it had
557 been rendered in a civil action in the court in which it is entered. When
558 the award requires the performance of any other act than the payment
559 of money, the court or judge entering the judgment or decree may
560 direct the enforcement thereof in the manner provided by law for the
561 enforcement of equitable decrees.

562 Sec. 33. (NEW) (*Effective October 1, 2002*) When the parties to any
563 action pending in court desire to refer it to arbitration, each may
564 choose one arbitrator and the court may appoint a third; and the
565 award of such arbitrators, returned to and accepted by the court, shall
566 be final, and judgment shall be rendered pursuant thereto and
567 execution granted thereon with costs.

568 Sec. 34. (NEW) (*Effective October 1, 2002*) In applying and construing
569 this uniform act, consideration must be given to the need to promote
570 uniformity of the law with respect to its subject matter among states
571 that enact it.

572 Sec. 35. (NEW) (*Effective October 1, 2002*) The provisions of this act
573 governing the legal effect, validity or enforceability of electronic
574 records or signatures and of contracts formed or performed with the
575 use of such records or signatures conform to the requirements of
576 Section 102 of the Electronic Signatures in Global and National
577 Commerce Act, P. L. No. 106-229, 114 Stat. 464 (2000), and supersede,
578 modify and limit the Electronic Signatures in Global and National
579 Commerce Act.

580 Sec. 36. Subsection (c) of section 4-61 of the general statutes is
581 repealed and the following is substituted in lieu thereof (*Effective*
582 *October 1, 2003*):

583 (c) Once a notice of claim is given to the agency head as required by
584 subsection (b) of this section, each party shall allow the other to
585 examine and copy any nonprivileged documents which may be
586 relevant either to the claimant's claims or to the state's defenses to such
587 claims. Requests to examine and copy documents which have been
588 prepared by the contractor in order to submit a bid shall be subject to a
589 claim of privilege and grounds for an application to any court or judge
590 [pursuant to section 52-415] for a decision on whether such documents
591 constitute trade secrets or other confidential research, development or
592 commercial information and whether such documents shall not be
593 disclosed to the state or shall be disclosed to the state only in a
594 designated way. Any such documents for which no decision is sought
595 or privilege obtained shall not be subject to disclosure under section 1-
596 210, as amended, and shall not be disclosed by the agency to any
597 person or agency that is not a party to the arbitration. Such documents
598 shall be used only for settlement or litigation of the parties' claims. The
599 arbitrators shall determine any issue of relevance of such documents
600 after an in camera inspection. The arbitrators shall seal such
601 documents during arbitration and shall return such documents to the
602 claimant after final disposition of the claim.

603 Sec. 37. Subdivision (10) of subsection (d) of section 7-473c of the
604 general statutes is repealed and the following is substituted in lieu
605 thereof (*Effective October 1, 2003*):

606 (10) The decision of the panel and the resolved issues shall be final
607 and binding upon the municipal employer and the municipal
608 employee organization except as provided in subdivision (12) of this
609 subsection and, if such award is not rejected by the legislative body
610 pursuant to said subdivision, except that a motion to vacate or modify
611 such decision may be made in accordance with sections [52-418 and
612 52-419] 25 and 26 of this act.

613 Sec. 38. Subdivision (15) of subsection (d) of section 7-473c of the
614 general statutes is repealed and the following is substituted in lieu

615 thereof (*Effective October 1, 2003*):

616 (15) Within five days after the completion of such review the
617 arbitrators or single arbitrator shall render a decision with respect to
618 each rejected issue which shall be final and binding upon the
619 municipal employer and the employee organization except that a
620 motion to vacate or modify such award may be made in accordance
621 with sections [52-418 and 52-419] 25 and 26 of this act. The decision of
622 the arbitrators or single arbitrator shall be in writing and shall include
623 specific reasons and standards used by each arbitrator in making a
624 decision on each issue. The decision shall be filed with the parties. The
625 reasonable costs of the arbitrators or single arbitrator and the cost of
626 the transcript shall be paid by the legislative body. Where the
627 legislative body of a municipal employer is the town meeting, the
628 board of selectmen shall perform all of the duties and shall have all of
629 the authority and responsibilities required of and granted to the
630 legislative body under this subsection.

631 Sec. 39. Subdivision (5) of section 7-478e of the general statutes is
632 repealed and the following is substituted in lieu thereof (*Effective*
633 *October 1, 2003*):

634 (5) The panel shall conclude the hearing within fifteen days after its
635 commencement. Within ten days after the hearing, the panel shall
636 issue, upon majority vote, and file with the State Board of Mediation
637 and Arbitration its decision which shall immediately and
638 simultaneously distribute a copy thereof to each party. In making its
639 decision, the panel shall accept the last best offer of either of the
640 parties. As part of the arbitration decision, each member shall state the
641 specific reasons and standards in making a choice on each unresolved
642 issue. In arriving at its decision, the panel shall be limited to the
643 consideration of the criteria set forth in subdivision (2) of subsection
644 (d) of section 7-473c. The decision of the panel shall be final and
645 binding upon the municipal employer and the municipal employee
646 organization except as provided in section 7-478f, as amended by this

647 act, and, if such award is not rejected by the legislative body pursuant
648 to section 7-478f, as amended by this act, except that a motion to vacate
649 or modify such decision may be made in accordance with sections [52-
650 418 and 52-419] 25 and 26 of this act.

651 Sec. 40. Subdivision (4) of section 7-478f of the general statutes is
652 repealed and the following is substituted in lieu thereof (*Effective*
653 *October 1, 2003*):

654 (4) Not later than December 15, 2000, after the completion of such
655 review, the arbitrators or single arbitrator shall render a written
656 decision with respect to each rejected issue which shall be final and
657 binding upon the municipal employer and the employee organization
658 except that a motion to vacate or modify such award may be made in
659 accordance with sections [52-418 and 52-419] 25 and 26 of this act. The
660 arbitrators or single arbitrator shall accept the last best offer of either of
661 the parties. The decision of the arbitrators or single arbitrator shall be
662 in writing and shall include specific reasons and standards used by
663 each arbitrator in making a decision on each issue. The decision shall
664 be filed with the parties. The reasonable costs of the arbitrators or
665 single arbitrator and the cost of the transcript shall be paid by the
666 legislative body. Where the legislative body of a municipal employer is
667 the town meeting, the board of selectmen shall perform all of the
668 duties and shall have all of the authority and responsibilities required
669 of and granted to the legislative body under this subsection.

670 Sec. 41. Section 10-153m of the general statutes is repealed and the
671 following is substituted in lieu thereof (*Effective October 1, 2003*):

672 In any action brought pursuant to section [52-418] 25 of this act to
673 vacate an arbitration award rendered in a controversy between a board
674 of education and a teacher or the organization which is the exclusive
675 representative of a group of teachers, or to confirm, pursuant to section
676 [52-417] 24 of this act, such an arbitration award, reasonable attorney's
677 fees and costs may be awarded in accordance with the following: (1)
678 Where the board of education moves to vacate an award and the

679 award is not vacated, the court may award reasonable attorney's fees
680 and costs to the teacher; (2) where the teacher moves to vacate an
681 award and the award is not vacated, the court may award reasonable
682 attorney's fees and costs to the board of education; (3) where the
683 teacher moves to confirm an award, if the board of education refuses
684 to stipulate to such confirmation and if the award is confirmed, the
685 court may award reasonable attorney's fees and costs to the teacher; (4)
686 where the board of education moves to confirm an award, if the
687 teacher refuses to stipulate to such confirmation and if the award is
688 confirmed, the court may award reasonable attorney's fees and costs to
689 the board of education.

690 Sec. 42. Section 31-92a of the general statutes is repealed and the
691 following is substituted in lieu thereof (*Effective October 1, 2003*):

692 (a) Each public member of the Board of Mediation and Arbitration,
693 including alternates, shall be sworn once at the beginning of [his] the
694 member's term of office (1) to support the Constitution of the United
695 States, and the Constitution of the state of Connecticut, so long as [he]
696 the member continues a citizen thereof, (2) to faithfully discharge,
697 according to law, the duties of the office of member of the Board of
698 Mediation and Arbitration for the state of Connecticut to the best of
699 [his] the member's abilities, (3) to hear and examine all matters in
700 controversy which come before [him] the member during [his] the
701 member's term faithfully and fairly, and (4) to make a just award
702 according to the best of [his] the member's understanding.
703 Notwithstanding the provisions of [subsection (d) of section 52-414]
704 section 18 of this act, the taking of this oath shall cover all matters
705 heard during the term and the completion of any matter pending at the
706 expiration of such term.

707 (b) Each member of the Board of Mediation and Arbitration
708 representing the interests of employees or employers, including
709 alternate members, shall be sworn once at the beginning of [his] the
710 member's term of office (1) to support the Constitution of the United

711 States, and the Constitution of the state of Connecticut, so long as [he]
712 the member continues a citizen thereof, (2) to faithfully discharge,
713 according to law, the duties of the office of member of the Board of
714 Mediation and Arbitration for the state of Connecticut to the best of
715 [his] the member's abilities, (3) to represent the interests of employees
716 or employers respectively in hearing and examining all matters in
717 controversy, and (4) to make a just award according to the best of [his]
718 the member's understanding. Notwithstanding the provisions of
719 [subsection (d) of section 52-414] section 18 of this act, the taking of this
720 oath shall cover all matters heard during the term and the completion
721 of any matter pending at the expiration of such term.

722 Sec. 43. Section 31-97 of the general statutes is amended by adding
723 subsection (c) as follows (*Effective October 1, 2003*):

724 (NEW) (c) No motion to vacate, modify or correct an award
725 pursuant to this section may be made later than thirty days after notice
726 of the award to the moving party.

727 Sec. 44. Subdivision (2) of subsection (b) of section 38a-9 of the
728 general statutes is repealed and the following is substituted in lieu
729 thereof (*Effective October 1, 2003*):

730 (2) The commissioner shall prepare a list of at least ten persons, who
731 have not been employed by the department or an insurance company
732 during the preceding twelve months, to serve as arbitrators in the
733 settlement of such disputes. The arbitrators shall be members of any
734 dispute resolution organization approved by the commissioner. One
735 arbitrator shall be appointed to hear and decide each complaint.
736 Appointment shall be based solely on the order of the list. If an
737 arbitrator is unable to serve on a given day, or if either party objects to
738 the arbitrator, then the next arbitrator on the list will be selected. The
739 department shall schedule arbitration hearings as often, and in such
740 locations, as it deems necessary. Parties to the dispute shall be
741 provided written notice of the hearing, at least ten days prior to the
742 hearing date. The commissioner may issue subpoenas on behalf of the

743 arbitrator to compel the attendance of witnesses and the production of
744 documents, papers and records relevant to the dispute. Decisions shall
745 be made on the basis of the evidence presented at the arbitration
746 hearing. Where the arbitrator believes that technical expertise is
747 necessary to decide a case, [he] the arbitrator may consult with an
748 independent expert recommended by the commissioner. The arbitrator
749 and any independent technical expert shall be paid by the department
750 on a per dispute basis as established by the commissioner. The
751 arbitrator, as expeditiously as possible, but not later than fifteen days
752 after the arbitration hearing, shall render a written decision based on
753 the information gathered and disclose the findings and the reasons to
754 the parties involved. The arbitrator shall award filing fees to the
755 prevailing party. If the decision favors the consumer the decision shall
756 provide specific and appropriate remedies including interest at the rate
757 of ten per cent on the arbitration award concerning the disputed
758 amount of the claim, retroactive to the date of payment for the
759 undisputed amount of the claim. The decision may include costs for
760 loss of use and storage of the motor vehicle and shall specify a date for
761 performance and completion of all awarded remedies.
762 Notwithstanding any provision of the general statutes or any
763 regulation to the contrary, the Insurance Department shall not amend,
764 reverse, rescind, or revoke any decision or action of any arbitrator. The
765 department shall contact the consumer within ten working days after
766 the date for performance, to determine whether performance has
767 occurred. Either party may make application to the superior court for
768 the judicial district in which one of the parties resides or, when the
769 court is not in session, any judge thereof for an order confirming,
770 vacating, modifying or correcting any award, in accordance with the
771 provisions of sections [52-417, 52-418, 52-419 and 52-420] 23, 24, 25 and
772 26 of this act. If it is determined by the court that either party's position
773 after review has been improved by at least ten per cent over that
774 party's position after arbitration, the court, in its discretion, may grant
775 to that party its costs and reasonable attorney's fees. No evidence,
776 testimony, findings, or decision from the department arbitration

777 procedure shall be admissible in any civil proceeding, except judicial
778 review of the arbitrator's decision as contemplated by this subsection.

779 Sec. 45. Subdivision (4) of subsection (c) of section 42-181 of the
780 general statutes is repealed and the following is substituted in lieu
781 thereof (*Effective October 1, 2003*):

782 (4) Any other remedies available under the applicable warranties,
783 section 42-179, this section and sections 42-182 to 42-184, inclusive, or
784 the Magnuson-Moss Warranty-Federal Trade Commission
785 Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect
786 on October 1, 1982, other than repair of the vehicle. The decision shall
787 specify a date for performance and completion of all awarded
788 remedies. Notwithstanding any provision of the general statutes or
789 any regulation to the contrary, the Department of Consumer Protection
790 shall not amend, reverse, rescind or revoke any decision or action of an
791 arbitration panel. The department shall contact the consumer, within
792 ten working days after the date for performance, to determine whether
793 performance has occurred. The manufacturer shall act in good faith in
794 abiding by any arbitration decision. In addition, either party to the
795 arbitration may make application to the superior court for the judicial
796 district in which one of the parties resides [or, when the court is not in
797 session, any judge thereof] for an order confirming, vacating,
798 modifying or correcting any award, in accordance with the provisions
799 of this section and sections [52-417, 52-418, 52-419 and 52-420] 23, 24, 25
800 and 26 of this act. Upon filing such application the moving party shall
801 mail a copy of the application to the Attorney General and, upon entry
802 of any judgment or decree, shall mail a copy of such judgment or
803 decree to the Attorney General. A review of such application shall be
804 confined to the record of the proceedings before the arbitration panel.
805 The court shall conduct a de novo review of the questions of law raised
806 in the application. In addition to the grounds set forth in sections [52-
807 418 and 52-419] 25 and 26 of this act, the court shall consider questions
808 of fact raised in the application. In reviewing questions of fact, the
809 court shall uphold the award unless it determines that the factual

810 findings of the arbitrators are not supported by substantial evidence in
811 the record and that the substantial rights of the moving party have
812 been prejudiced. If the arbitrators fail to state findings or reasons for
813 the award, or the stated findings or reasons are inadequate, the court
814 shall search the record to determine whether a basis exists to uphold
815 the award. If it is determined by the court that the manufacturer has
816 acted without good cause in bringing an appeal of an award, the court,
817 in its discretion, may grant to the consumer [his] costs and reasonable
818 attorney's fees. If the manufacturer fails to perform all awarded
819 remedies by the date for performance specified by the arbitrators, and
820 the enforcement of the award has not been stayed, [pursuant to
821 subsection (c) of section 52-420,] then each additional day the
822 manufacturer wilfully fails to comply shall be deemed a separate
823 violation for purposes of section 42-184.

824 Sec. 46. (*Effective October 1, 2003*) Sections 52-408 to 52-424, inclusive,
825 of the general statutes are repealed.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>
Sec. 8	<i>October 1, 2002</i>
Sec. 9	<i>October 1, 2002</i>
Sec. 10	<i>October 1, 2002</i>
Sec. 11	<i>October 1, 2002</i>
Sec. 12	<i>October 1, 2002</i>
Sec. 13	<i>October 1, 2002</i>
Sec. 14	<i>October 1, 2002</i>
Sec. 15	<i>October 1, 2002</i>
Sec. 16	<i>October 1, 2002</i>
Sec. 17	<i>October 1, 2002</i>
Sec. 18	<i>October 1, 2002</i>

Sec. 19	<i>October 1, 2002</i>
Sec. 20	<i>October 1, 2002</i>
Sec. 21	<i>October 1, 2002</i>
Sec. 22	<i>October 1, 2002</i>
Sec. 23	<i>October 1, 2002</i>
Sec. 24	<i>October 1, 2002</i>
Sec. 25	<i>October 1, 2002</i>
Sec. 26	<i>October 1, 2002</i>
Sec. 27	<i>October 1, 2002</i>
Sec. 28	<i>October 1, 2002</i>
Sec. 29	<i>October 1, 2002</i>
Sec. 30	<i>October 1, 2002</i>
Sec. 31	<i>October 1, 2002</i>
Sec. 32	<i>October 1, 2002</i>
Sec. 33	<i>October 1, 2002</i>
Sec. 34	<i>October 1, 2002</i>
Sec. 35	<i>October 1, 2002</i>
Sec. 36	<i>October 1, 2003</i>
Sec. 37	<i>October 1, 2003</i>
Sec. 38	<i>October 1, 2003</i>
Sec. 39	<i>October 1, 2003</i>
Sec. 40	<i>October 1, 2003</i>
Sec. 41	<i>October 1, 2003</i>
Sec. 42	<i>October 1, 2003</i>
Sec. 43	<i>October 1, 2003</i>
Sec. 44	<i>October 1, 2003</i>
Sec. 45	<i>October 1, 2003</i>
Sec. 46	<i>October 1, 2003</i>

Statement of Purpose:

To update and make more effective Connecticut's laws by adopting the Uniform Arbitration Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]