



# House of Representatives

General Assembly

**File No. 548**

February Session, 2008

House Bill No. 5531

*House of Representatives, April 9, 2008*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## ***AN ACT ADOPTING THE REVISED UNIFORM ARBITRATION ACT.***

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

1 Section 1. (NEW) (*Effective October 1, 2008*) As used in sections 1 to  
2 31, inclusive, of this act:

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

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

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

11 (4) "Knowledge" means actual knowledge.

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

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

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

19 Sec. 2. (NEW) (*Effective October 1, 2008*) (a) Except as otherwise  
20 provided in sections 9, 15, 19, 20 and 22 to 24, inclusive, of this act, a  
21 person gives notice to another person by taking action that is  
22 reasonably necessary to inform the other person in ordinary course,  
23 whether or not the other person acquires knowledge of the notice.

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

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

30 Sec. 3. (NEW) (*Effective October 1, 2008*) (a) Sections 1 to 31, inclusive,  
31 of this act govern an agreement to arbitrate made on or after October 1,  
32 2008.

33 (b) Sections 1 to 31, inclusive, of this act govern an agreement to  
34 arbitrate made before October 1, 2008, if all the parties to the  
35 agreement or to the arbitration proceeding so agree in a record.

36 (c) On and after October 1, 2009, sections 1 to 31, inclusive, of this  
37 act govern an agreement to arbitrate whenever made.

38 Sec. 4. (NEW) (*Effective October 1, 2008*) (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 sections 1 to 31,  
42 inclusive, of this act to the 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 5 of this act, subsection (a) of section 6 of this  
47 act, section 8 of this act, subsection (a) or (b) of section 17 of this act  
48 and section 26 or 28 of this act;

49 (2) Agree to unreasonably restrict the right under section 9 of this  
50 act to notice of the initiation of an arbitration proceeding;

51 (3) Agree to unreasonably restrict the right under section 12 of this  
52 act to disclosure of any facts by a neutral arbitrator; or

53 (4) Waive the right under section 16 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 sections 1 to 31, inclusive, of this act, but an employer  
56 and a labor organization may waive the right to representation by a  
57 lawyer in a labor 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 3 of this  
61 act, sections 7, 14 and 18 of this act, subsection (c) or (d) of section 20 of  
62 this act, section 22, 23 or 24 of this act, subsection (a) or (b) of section 25  
63 of this act or section 29, 30, 31 or 32 of this act.

64 Sec. 5. (NEW) (*Effective October 1, 2008*) (a) Except as otherwise  
65 provided in section 28 of this act, an application for judicial relief  
66 under sections 1 to 31, inclusive, of this act shall be made by motion to  
67 the court and heard in the manner provided by law or rule of court for  
68 making and hearing motions.

69 (b) Unless a civil action involving the agreement to arbitrate is  
70 pending, notice of an initial motion to the court under sections 1 to 31,  
71 inclusive, of this act must be served in the manner provided by law for  
72 the service of a summons in a civil action. Otherwise, notice of the  
73 motion must be given in the manner provided by law or rule of court

74 for serving motions in pending cases.

75 Sec. 6. (NEW) (*Effective October 1, 2008*) (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. 7. (NEW) (*Effective October 1, 2008*) (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, it may

103 not pursuant to subsection (a) or (b) of this section order the parties to  
104 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 27 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. 8. (NEW) (*Effective October 1, 2008*) (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. 9. (NEW) (*Effective October 1, 2008*) (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 15 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. 10. (NEW) (*Effective October 1, 2008*) (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. 11. (NEW) (*Effective October 1, 2008*) (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. 12. (NEW) (*Effective October 1, 2008*) (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 23 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 23 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 23 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 23 of this  
222 act.

223 Sec. 13. (NEW) (*Effective October 1, 2008*) 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 15 of this act.

227 Sec. 14. (NEW) (*Effective October 1, 2008*) (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 12 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 23 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. 15. (NEW) (*Effective October 1, 2008*) (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 11 of this act to continue the proceeding and to resolve the  
295 controversy.

296 Sec. 16. (NEW) (*Effective October 1, 2008*) A party to an arbitration  
297 proceeding may be represented by a lawyer.

298 Sec. 17. (NEW) (*Effective October 1, 2008*) (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. 18. (NEW) (*Effective October 1, 2008*) 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 19 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 22 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 23 or 24

352 of this act.

353 Sec. 19. (NEW) (*Effective October 1, 2008*) (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. 20. (NEW) (*Effective October 1, 2008*) (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 24 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 22, 23 or 24 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 24 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 19 of this act and sections 22, 23 and  
390 24 of this act.

391 Sec. 21. (NEW) (*Effective October 1, 2008*) (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 22 of this act or for vacating an award  
406 under section 23 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. 22. (NEW) (*Effective October 1, 2008*) After a party to an  
415 arbitration proceeding receives notice of an award, the party may  
416 make a motion to the court for an order confirming the award at which  
417 time the court shall issue a confirming order unless the award is  
418 modified or corrected pursuant to section 20 or 24 of this act or is  
419 vacated pursuant to section 23 of this act.

420 Sec. 23. (NEW) (*Effective October 1, 2008*) (a) Upon motion to the  
421 court by a party to an arbitration proceeding, the court shall vacate an  
422 award made in the arbitration proceeding if:

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

425 (2) There was: (A) Evident partiality by an arbitrator appointed as a  
426 neutral arbitrator; (B) corruption by an arbitrator; or (C) misconduct by  
427 an arbitrator prejudicing the rights of a party to the arbitration  
428 proceeding;

429 (3) An arbitrator refused to postpone the hearing upon showing of  
430 sufficient cause for postponement, refused to consider evidence  
431 material to the controversy or otherwise conducted the hearing  
432 contrary to section 15 of this act so as to prejudice substantially the  
433 rights of a party to the arbitration proceeding;

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

435 (5) There was no agreement to arbitrate, unless the person  
436 participated in the arbitration proceeding without raising the objection  
437 under subsection (c) of section 15 of this act not later than the  
438 beginning of the arbitration hearing; or

439 (6) The arbitration was conducted without proper notice of the

440 initiation of an arbitration as required in section 9 of this act so as to  
441 prejudice substantially the rights of a party to the arbitration  
442 proceeding.

443 (b) A motion under this section must be filed within ninety days  
444 after the movant receives notice of the award pursuant to section 19 of  
445 this act or within ninety days after the movant receives notice of a  
446 modified or corrected award pursuant to section 20 of this act, unless  
447 the movant alleges that the award was procured by corruption, fraud  
448 or other undue means, in which case the motion must be made within  
449 ninety days after the ground is known or by the exercise of reasonable  
450 care would have been known by the movant.

451 (c) If the court vacates an award on a ground other than that set  
452 forth in subdivision (5) of subsection (a) of this section, it may order a  
453 rehearing. If the award is vacated on a ground stated in subdivision (1)  
454 or (2) of subsection (a) of this section, the rehearing must be before a  
455 new arbitrator. If the award is vacated on a ground stated in  
456 subdivision (3), (4) or (6) of subsection (a) of this section, the rehearing  
457 may be before the arbitrator who made the award or the arbitrator's  
458 successor. The arbitrator must render the decision in the rehearing  
459 within the same time as that provided in subsection (b) of section 19 of  
460 this act for an award.

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

463 Sec. 24. (NEW) (*Effective October 1, 2008*) (a) Upon motion made  
464 within ninety days after the movant receives notice of the award  
465 pursuant to section 19 of this act or within ninety days after the  
466 movant receives notice of a modified or corrected award pursuant to  
467 section 20 of this act, the court shall modify or correct the award if:

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

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

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

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

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

482 Sec. 25. (NEW) (*Effective October 1, 2008*) (a) Upon granting an order  
483 confirming an award, vacating an award without directing a  
484 rehearing, modifying an award or correcting an award, the court shall  
485 enter a judgment in conformity therewith. The judgment may be  
486 recorded, docketed and enforced as any other judgment in a civil  
487 action.

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

490 Sec. 26. (NEW) (*Effective October 1, 2008*) (a) A court of this state  
491 having jurisdiction over the controversy and the parties may enforce  
492 an agreement to arbitrate.

493 (b) An agreement to arbitrate providing for arbitration in this state  
494 confers exclusive jurisdiction on the court to enter judgment on an  
495 award under sections 1 to 31, inclusive, of this act.

496 Sec. 27. (NEW) (*Effective October 1, 2008*) A motion pursuant to  
497 section 5 of this act shall be made in the court for the judicial district in  
498 which the agreement to arbitrate specifies the arbitration hearing is to  
499 be held or, if the hearing has been held, in the court for the judicial  
500 district in which it was held. Otherwise, the motion may be made in

501 the court for any judicial district in which an adverse party resides or  
502 has a place of business or, if no adverse party has a residence or place  
503 of business in this state, in the court for any judicial district in this  
504 state. All subsequent motions shall be made in the court hearing the  
505 initial motion unless the court otherwise directs.

506 Sec. 28. (NEW) (*Effective October 1, 2008*) (a) An appeal may be taken  
507 from: (1) An order denying a motion to compel arbitration; (2) an order  
508 granting a motion to stay arbitration; (3) an order confirming or  
509 denying confirmation of an award; (4) an order modifying or  
510 correcting an award; (5) an order vacating an award without directing  
511 a rehearing; or (6) a final judgment entered pursuant to sections 1 to  
512 31, inclusive, of this act.

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

515 Sec. 29. (NEW) (*Effective October 1, 2008*) In applying and construing  
516 the uniform provisions of sections 1 to 31, inclusive, of this act,  
517 consideration must be given to the need to promote uniformity of the  
518 law with respect to its subject matter among states that enact such  
519 uniform provisions.

520 Sec. 30. (NEW) (*Effective October 1, 2008*) The provisions of sections 1  
521 to 31, inclusive, of this act governing the legal effect, validity or  
522 enforceability of electronic records or signatures and of contracts  
523 formed or performed with the use of such records or signatures  
524 conform to the requirements of Section 102 of the Electronic Signatures  
525 in Global and National Commerce Act.

526 Sec. 31. (NEW) (*Effective October 1, 2008*) The provisions of sections 1  
527 to 30, inclusive, of this act do not affect an action or proceeding  
528 commenced or right accrued before October 1, 2008. Subject to section  
529 3 of this act, an arbitration agreement made before October 1, 2008, is  
530 governed by sections 52-408 to 52-424, inclusive, of the general  
531 statutes, revised to January 1, 2007.

532 Sec. 32. Subsection (c) of section 4-61 of the general statutes is  
533 repealed and the following is substituted in lieu thereof (*Effective*  
534 *October 1, 2009*):

535 (c) Once a notice of claim is given to the agency head as required by  
536 subsection (b) of this section, each party shall allow the other to  
537 examine and copy any nonprivileged documents which may be  
538 relevant either to the claimant's claims or to the state's defenses to such  
539 claims. Requests to examine and copy documents which have been  
540 prepared by the contractor in order to submit a bid shall be subject to a  
541 claim of privilege and grounds for an application to any court or judge  
542 [pursuant to section 52-415] for a decision on whether such documents  
543 constitute trade secrets or other confidential research, development or  
544 commercial information and whether such documents shall not be  
545 disclosed to the state or shall be disclosed to the state only in a  
546 designated way. Any such documents for which no decision is sought  
547 or privilege obtained shall not be subject to disclosure under section 1-  
548 210 of the 2008 supplement to the general statutes and shall not be  
549 disclosed by the agency to any person or agency that is not a party to  
550 the arbitration. Such documents shall be used only for settlement or  
551 litigation of the parties' claims. The arbitrators shall determine any  
552 issue of relevance of such documents after an in camera inspection.  
553 The arbitrators shall seal such documents during arbitration and shall  
554 return such documents to the claimant after final disposition of the  
555 claim.

556 Sec. 33. Subdivision (10) of subsection (d) of section 7-473c of the  
557 general statutes is repealed and the following is substituted in lieu  
558 thereof (*Effective October 1, 2009*):

559 (10) The decision of the panel and the resolved issues shall be final  
560 and binding upon the municipal employer and the municipal  
561 employee organization except as provided in subdivision (12) of this  
562 subsection and, if such award is not rejected by the legislative body  
563 pursuant to said subdivision, except that a motion to vacate such  
564 decision or to modify or correct such decision may be made in

565 accordance with [sections 52-418 and 52-419] section 23 or 24 of this  
566 act, as applicable.

567 Sec. 34. Subdivision (15) of subsection (d) of section 7-473c of the  
568 general statutes is repealed and the following is substituted in lieu  
569 thereof (*Effective October 1, 2009*):

570 (15) Within five days after the completion of such review the  
571 arbitrators or single arbitrator shall render a decision with respect to  
572 each rejected issue which shall be final and binding upon the  
573 municipal employer and the employee organization except that a  
574 motion to vacate such award or to modify or correct such award may  
575 be made in accordance with [sections 52-418 and 52-419] section 23 or  
576 24 of this act, as applicable. The decision of the arbitrators or single  
577 arbitrator shall be in writing and shall include specific reasons and  
578 standards used by each arbitrator in making a decision on each issue.  
579 The decision shall be filed with the parties. The reasonable costs of the  
580 arbitrators or single arbitrator and the cost of the transcript shall be  
581 paid by the legislative body. Where the legislative body of a municipal  
582 employer is the town meeting, the board of selectmen shall perform all  
583 of the duties and shall have all of the authority and responsibilities  
584 required of and granted to the legislative body under this subsection.

585 Sec. 35. Subdivision (5) of section 7-478e of the general statutes is  
586 repealed and the following is substituted in lieu thereof (*Effective*  
587 *October 1, 2009*):

588 (5) The panel shall conclude the hearing within fifteen days after its  
589 commencement. Within ten days after the hearing, the panel shall  
590 issue, upon majority vote, and file with the State Board of Mediation  
591 and Arbitration its decision which shall immediately and  
592 simultaneously distribute a copy thereof to each party. In making its  
593 decision, the panel shall accept the last best offer of either of the  
594 parties. As part of the arbitration decision, each member shall state the  
595 specific reasons and standards in making a choice on each unresolved  
596 issue. In arriving at its decision, the panel shall be limited to the  
597 consideration of the criteria set forth in subdivision (2) of subsection

598 (d) of section 7-473c. The decision of the panel shall be final and  
599 binding upon the municipal employer and the municipal employee  
600 organization except as provided in section 7-478f, as amended by this  
601 act, and, if such award is not rejected by the legislative body pursuant  
602 to section 7-478f, as amended by this act, except that a motion to vacate  
603 such decision or to modify or correct such decision may be made in  
604 accordance with [sections 52-418 and 52-419] section 23 or 24 of this  
605 act, as applicable.

606 Sec. 36. Subdivision (4) of section 7-478f of the general statutes is  
607 repealed and the following is substituted in lieu thereof (*Effective*  
608 *October 1, 2009*):

609 (4) Not later than December 15, 2000, after the completion of such  
610 review, the arbitrators or single arbitrator shall render a written  
611 decision with respect to each rejected issue which shall be final and  
612 binding upon the municipal employer and the employee organization  
613 except that a motion to vacate such award or to modify or correct such  
614 award may be made in accordance with [sections 52-418 and 52-419]  
615 section 23 or 24 of this act, as applicable. The arbitrators or single  
616 arbitrator shall accept the last best offer of either of the parties. The  
617 decision of the arbitrators or single arbitrator shall be in writing and  
618 shall include specific reasons and standards used by each arbitrator in  
619 making a decision on each issue. The decision shall be filed with the  
620 parties. The reasonable costs of the arbitrators or single arbitrator and  
621 the cost of the transcript shall be paid by the legislative body. Where  
622 the legislative body of a municipal employer is the town meeting, the  
623 board of selectmen shall perform all of the duties and shall have all of  
624 the authority and responsibilities required of and granted to the  
625 legislative body under this subsection.

626 Sec. 37. Section 10-153m of the general statutes is repealed and the  
627 following is substituted in lieu thereof (*Effective October 1, 2009*):

628 In any action brought pursuant to section [52-418] 23 of this act to  
629 vacate an arbitration award rendered in a controversy between a board  
630 of education and a teacher or the organization which is the exclusive

631 representative of a group of teachers, or to confirm, pursuant to section  
632 [52-417] 22 of this act, such an arbitration award, reasonable attorney's  
633 fees and costs may be awarded in accordance with the following: (1)  
634 Where the board of education moves to vacate an award and the  
635 award is not vacated, the court may award reasonable attorney's fees  
636 and costs to the teacher; (2) where the teacher moves to vacate an  
637 award and the award is not vacated, the court may award reasonable  
638 attorney's fees and costs to the board of education; (3) where the  
639 teacher moves to confirm an award, if the board of education refuses  
640 to stipulate to such confirmation and if the award is confirmed, the  
641 court may award reasonable attorney's fees and costs to the teacher; (4)  
642 where the board of education moves to confirm an award, if the  
643 teacher refuses to stipulate to such confirmation and if the award is  
644 confirmed, the court may award reasonable attorney's fees and costs to  
645 the board of education.

646 Sec. 38. Section 31-92a of the general statutes is repealed and the  
647 following is substituted in lieu thereof (*Effective October 1, 2009*):

648 (a) Each public member of the Board of Mediation and Arbitration,  
649 including alternates, shall be sworn once at the beginning of such  
650 member's term of office (1) to support the Constitution of the United  
651 States, and the Constitution of the state of Connecticut, as long as such  
652 member continues to be a citizen thereof, (2) to faithfully discharge,  
653 according to law, the duties of the office of member of the Board of  
654 Mediation and Arbitration for the state of Connecticut to the best of  
655 such member's abilities, (3) to hear and examine all matters in  
656 controversy which come before such member during such member's  
657 term faithfully and fairly, and (4) to make a just award according to the  
658 best of such member's understanding. [Notwithstanding the  
659 provisions of subsection (d) of section 52-414, the] The taking of [this]  
660 such oath shall cover all matters heard during the term and the  
661 completion of any matter pending at the expiration of such term.

662 (b) Each member of the Board of Mediation and Arbitration  
663 representing the interests of employees or employers, including

664 alternate members, shall be sworn once at the beginning of such  
665 member's term of office (1) to support the Constitution of the United  
666 States, and the Constitution of the state of Connecticut, as long as such  
667 member continues to be a citizen thereof, (2) to faithfully discharge,  
668 according to law, the duties of the office of member of the Board of  
669 Mediation and Arbitration for the state of Connecticut to the best of  
670 such member's abilities, (3) to represent the interests of employees or  
671 employers respectively in hearing and examining all matters in  
672 controversy, and (4) to make a just award according to the best of such  
673 member's understanding. [Notwithstanding the provisions of  
674 subsection (d) of section 52-414, the] The taking of [this] such oath shall  
675 cover all matters heard during the term and the completion of any  
676 matter pending at the expiration of such term.

677 Sec. 39. Subdivision (2) of subsection (b) of section 38a-9 of the  
678 general statutes is repealed and the following is substituted in lieu  
679 thereof (*Effective October 1, 2009*):

680 (2) The commissioner shall prepare a list of at least ten persons, who  
681 have not been employed by the department or an insurance company  
682 during the preceding twelve months, to serve as arbitrators in the  
683 settlement of such disputes. The arbitrators shall be members of any  
684 dispute resolution organization approved by the commissioner. One  
685 arbitrator shall be appointed to hear and decide each complaint.  
686 Appointment shall be based solely on the order of the list. If an  
687 arbitrator is unable to serve on a given day, or if either party objects to  
688 the arbitrator, then the next arbitrator on the list will be selected. The  
689 department shall schedule arbitration hearings as often, and in such  
690 locations, as it deems necessary. Parties to the dispute shall be  
691 provided written notice of the hearing, at least ten days prior to the  
692 hearing date. The commissioner may issue subpoenas on behalf of the  
693 arbitrator to compel the attendance of witnesses and the production of  
694 documents, papers and records relevant to the dispute. Decisions shall  
695 be made on the basis of the evidence presented at the arbitration  
696 hearing. Where the arbitrator believes that technical expertise is  
697 necessary to decide a case, [he] the arbitrator may consult with an

698 independent expert recommended by the commissioner. The arbitrator  
699 and any independent technical expert shall be paid by the department  
700 on a per dispute basis as established by the commissioner. The  
701 arbitrator, as expeditiously as possible, but not later than fifteen days  
702 after the arbitration hearing, shall render a written decision based on  
703 the information gathered and disclose the findings and the reasons to  
704 the parties involved. The arbitrator shall award filing fees to the  
705 prevailing party. If the decision favors the consumer, the decision shall  
706 provide specific and appropriate remedies including interest at the rate  
707 of ten per cent on the arbitration award concerning the disputed  
708 amount of the claim, retroactive to the date of payment for the  
709 undisputed amount of the claim. The decision may include costs for  
710 loss of use and storage of the motor vehicle and shall specify a date for  
711 performance and completion of all awarded remedies.  
712 Notwithstanding any provision of the general statutes or any  
713 regulation to the contrary, the Insurance Department shall not amend,  
714 reverse, rescind [ ] or revoke any decision or action of any arbitrator.  
715 The department shall contact the consumer within ten working days  
716 after the date for performance [ ] to determine whether performance  
717 has occurred. Either party may make application to the superior court  
718 for the judicial district in which one of the parties resides or, when the  
719 court is not in session, any judge thereof for an order confirming,  
720 vacating, modifying or correcting any award, in accordance with the  
721 provisions of [sections 52-417, 52-418, 52-419 and 52-420] section 22, 23  
722 or 24 of this act, as applicable. If it is determined by the court that  
723 either party's position after review has been improved by at least ten  
724 per cent over that party's position after arbitration, the court, in its  
725 discretion, may grant to that party its costs and reasonable attorney's  
726 fees. No evidence, testimony, findings [ ] or decision from the  
727 department arbitration procedure shall be admissible in any civil  
728 proceeding, except judicial review of the arbitrator's decision as  
729 contemplated by this subsection.

730 Sec. 40. Subsection (c) of section 42-181 of the 2008 supplement to  
731 the general statutes is repealed and the following is substituted in lieu  
732 thereof (*Effective October 1, 2009*):

733 (c) The Department of Consumer Protection shall investigate, gather  
734 and organize all information necessary for a fair and timely decision in  
735 each dispute. The commissioner may issue subpoenas on behalf of any  
736 arbitrator to compel the attendance of witnesses and the production of  
737 documents, papers and records relevant to the dispute. The  
738 department shall forward a copy of all written testimony, including all  
739 documentary evidence, to an independent technical expert certified by  
740 the National Institute of Automotive Service Excellence or having a  
741 degree or other credentials from a nationally recognized organization  
742 or institution attesting to automotive expertise, who shall review such  
743 material and be available to advise and consult with the arbitrator. An  
744 expert shall sit as a nonvoting member of an arbitration panel  
745 whenever oral testimony is presented. Such experts may be  
746 recommended by the Commissioner of Motor Vehicles at the request  
747 of the Commissioner of Consumer Protection. An arbitrator shall, as  
748 expeditiously as possible, but not later than sixty days after the time  
749 the consumer files the complaint form together with the filing fee,  
750 render a fair decision based on the information gathered and disclose  
751 his or her findings and the reasons therefor to the parties involved. The  
752 failure of the arbitrator to render a decision within sixty days shall not  
753 void any subsequent decision or otherwise limit the powers of the  
754 arbitrator. The arbitrator shall base his or her determination of liability  
755 solely on whether the manufacturer has failed to comply with section  
756 42-179. The arbitration decision shall be final and binding as to the  
757 rights of the parties pursuant to section 42-179, subject only to judicial  
758 review as set forth in this subsection. The decision shall provide  
759 appropriate remedies, including, but not limited to one or more of the  
760 following:

761 (1) Replacement of the vehicle with an identical or comparable new  
762 vehicle acceptable to the consumer;

763 (2) Refund of the full contract price, plus collateral charges as  
764 specified in subsection (d) of said section 42-179;

765 (3) Reimbursement for expenses and compensation for incidental

766 damages as specified in subsection (d) of said section 42-179;

767 (4) Any other remedies available under the applicable warranties,  
768 section 42-179, this section and sections 42-182 to 42-184, inclusive, or  
769 the Magnuson-Moss Warranty-Federal Trade Commission  
770 Improvement Act, 88 Stat. 2183 (1975), 15 USC 2301 et seq., as in effect  
771 on October 1, 1982, other than repair of the vehicle. The decision shall  
772 specify a date for performance and completion of all awarded  
773 remedies. Notwithstanding any provision of the general statutes or  
774 any regulation to the contrary, the Department of Consumer Protection  
775 shall not amend, reverse, rescind or revoke any decision or action of an  
776 arbitrator. The department shall contact the consumer, within ten  
777 working days after the date for performance, to determine whether  
778 performance has occurred. The manufacturer shall act in good faith in  
779 abiding by any arbitration decision. In addition, either party to the  
780 arbitration may make application to the superior court for the judicial  
781 district in which one of the parties resides or, when the court is not in  
782 session, any judge thereof for an order confirming, vacating,  
783 modifying or correcting any award, in accordance with the provisions  
784 of this section and [sections 52-417, 52-418, 52-419 and 52-420] section  
785 22, 23 or 24 of this act, as applicable. Upon filing such application the  
786 moving party shall mail a copy of the application to the Attorney  
787 General and, upon entry of any judgment or decree, shall mail a copy  
788 of such judgment or decree to the Attorney General. A review of such  
789 application shall be confined to the record of the proceedings before  
790 the arbitrator. The court shall conduct a de novo review of the  
791 questions of law raised in the application. In addition to the grounds  
792 set forth in [sections 52-418 and 52-419] section 23 or 24 of this act, as  
793 applicable, the court shall consider questions of fact raised in the  
794 application. In reviewing questions of fact, the court shall uphold the  
795 award unless it determines that the factual findings of the arbitrator  
796 are not supported by substantial evidence in the record and that the  
797 substantial rights of the moving party have been prejudiced. If the  
798 arbitrator fails to state findings or reasons for the award, or the stated  
799 findings or reasons are inadequate, the court shall search the record to  
800 determine whether a basis exists to uphold the award. If it is

801 determined by the court that the manufacturer has acted without good  
 802 cause in bringing an appeal of an award, the court, in its discretion,  
 803 may grant to the consumer his or her costs and reasonable attorney's  
 804 fees. If the manufacturer fails to perform all awarded remedies by the  
 805 date for performance specified by the arbitrator, and the enforcement  
 806 of the award has not been stayed, [pursuant to subsection (c) of section  
 807 52-420,] then each additional day the manufacturer wilfully fails to  
 808 comply shall be deemed a separate violation for purposes of section  
 809 42-184.

810 Sec. 41. (Effective October 1, 2009) Sections 52-408 to 52-424, inclusive,  
 811 of the general statutes are repealed.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	New section
Sec. 3	<i>October 1, 2008</i>	New section
Sec. 4	<i>October 1, 2008</i>	New section
Sec. 5	<i>October 1, 2008</i>	New section
Sec. 6	<i>October 1, 2008</i>	New section
Sec. 7	<i>October 1, 2008</i>	New section
Sec. 8	<i>October 1, 2008</i>	New section
Sec. 9	<i>October 1, 2008</i>	New section
Sec. 10	<i>October 1, 2008</i>	New section
Sec. 11	<i>October 1, 2008</i>	New section
Sec. 12	<i>October 1, 2008</i>	New section
Sec. 13	<i>October 1, 2008</i>	New section
Sec. 14	<i>October 1, 2008</i>	New section
Sec. 15	<i>October 1, 2008</i>	New section
Sec. 16	<i>October 1, 2008</i>	New section
Sec. 17	<i>October 1, 2008</i>	New section
Sec. 18	<i>October 1, 2008</i>	New section
Sec. 19	<i>October 1, 2008</i>	New section
Sec. 20	<i>October 1, 2008</i>	New section
Sec. 21	<i>October 1, 2008</i>	New section
Sec. 22	<i>October 1, 2008</i>	New section
Sec. 23	<i>October 1, 2008</i>	New section
Sec. 24	<i>October 1, 2008</i>	New section

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Sec. 25	<i>October 1, 2008</i>	New section
Sec. 26	<i>October 1, 2008</i>	New section
Sec. 27	<i>October 1, 2008</i>	New section
Sec. 28	<i>October 1, 2008</i>	New section
Sec. 29	<i>October 1, 2008</i>	New section
Sec. 30	<i>October 1, 2008</i>	New section
Sec. 31	<i>October 1, 2008</i>	New section
Sec. 32	<i>October 1, 2009</i>	4-61(c)
Sec. 33	<i>October 1, 2009</i>	7-473c(d)(10)
Sec. 34	<i>October 1, 2009</i>	7-473c(d)(15)
Sec. 35	<i>October 1, 2009</i>	7-478e(5)
Sec. 36	<i>October 1, 2009</i>	7-478f(4)
Sec. 37	<i>October 1, 2009</i>	10-153m
Sec. 38	<i>October 1, 2009</i>	31-92a
Sec. 39	<i>October 1, 2009</i>	38a-9(b)(2)
Sec. 40	<i>October 1, 2009</i>	42-181(c)
Sec. 41	<i>October 1, 2009</i>	Repealer section

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill codifies arbitration rules, standards, and common practices. It also makes other minor procedural changes that have no fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****HB 5531*****AN ACT ADOPTING THE REVISED UNIFORM ARBITRATION ACT.*****SUMMARY:**

This bill implements, with one exception, the Revised Uniform Arbitration Act (RUAA). It codifies arbitration rules, standards, and common practices that are currently not regulated by statute, but permits parties to waive or modify many of them. In this respect, the bill creates a statutory default procedure when the parties' arbitration agreement does not otherwise specify one. The bill covers:

1. the enforceability of agreements;
2. notice requirements;
3. court jurisdiction and procedures before the completion of an arbitration;
4. arbitrability;
5. arbitrators' qualifications, information they must disclose, and their powers;
6. arbitration proceedings; and
7. court proceedings after an award has been issued.

These provisions appear to be inapplicable to arbitrations mandated by other state laws except to the extent that those laws incorporate them.

The bill repeals existing general arbitration statutes on October 1, 2009. In the meantime, the bill will apply to (1) arbitration agreements made on or after October 1, 2008 and (2) earlier agreements, if all

parties agree. But its provisions do not affect actions or proceeding that are pending on October 1, 2008 or rights that accrued before that date. On or after October 1, 2009, it will cover agreements regardless of their execution date.

The repeal of current laws eliminates an arbitrator's authority to ask courts for legal interpretations during arbitration proceedings. It also eliminates a method for agreed-upon submissions of pending court cases to binding arbitration. Finally, it eliminates specific provisions relating to required court filings and judicial disposition procedures, substituting instead the bill's generic language.

The bill eliminates references to current law in other laws as of October 1, 2009 and instead refers to the applicable RUAA provision, if one exists.

EFFECTIVE DATE: October 1, 2008, except the repeal of existing arbitration statutes and modification of the municipal employee, teacher, Board of Mediation and Arbitration, insurance, and consumer protection laws are effective October 1, 2009.

#### **§ 29 — UNIFORM CONSTRUCTION**

The bill directs that, in applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. (Currently, 13 states have adopted the RUAA.) This provision cannot be waived or modified by the parties.

#### **§§ 26 & 30 — ENFORCEABLE AGREEMENTS**

The bill appears to expand substantially the methods people can use to create arbitration agreements. It specifies that an "agreement" contained in a "record" to submit to arbitration any existing or future controversy 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. It defines "record" as "information that is inscribed on a tangible medium that is stored in an electronic or other medium and is retrievable in perceivable form."

The bill states that its provisions governing the legal effect, validity, or enforceability of electronic records or signatures and of contracts that contain them conform with § 102 of the federal Electronic Signatures in Global and National Commerce Act (P.L. 106-229) which regulates the use of electronic records and signatures in interstate and foreign commerce.

Permissible methods for creating arbitration agreements under current law are (1) written contracts or in a separate writing executed by the parties to any written contract that specifies arbitration of any controversy arising out of the contract, (2) written articles of association or bylaws of an association or corporation which require members to submit future controversies to arbitration, or (3) written agreements between two or more people to submit to arbitration any controversy existing between them. It permits legal and equitable principles for the avoidance of written contracts (such as fraud, lack of consideration, or unconscionability) to be grounds for making arbitration agreements invalid, revocable, or unenforceable.

## **§ 2 — NOTICE**

The bill contains a general definition of notice that parties can waive or modify. It specifies that a person gives notice when he takes reasonably necessary action to inform another in ordinary course, regardless of whether that person actually learns about it. A person receives notice under this provision if he receives it or learns about it, or when the notice is delivered to his home, office, or other location he designated. "Persons" under the bill include people, government entities, businesses, and other legal and commercial entities.

Current arbitration laws do not define notice.

## **§ 9 — *Notice of Initiation of Arbitration Proceeding***

The bill creates an exception to the general rule for notices when a party seeks to initiate an arbitration proceeding. It specifies that unless the parties have agreed otherwise, they must do this by certified or registered mail, return receipt requested and obtained, or by a service

method (such as personal delivery) permitted for beginning a civil lawsuit. The notice must describe the controversy and the requested remedy. If the parties have agreed to a different arrangement for giving notice, the bill specifies that it may be used if it is not unreasonably restrictive.

Parties who appear at the hearing waive objections based on lack of notice or insufficiency unless they object no later than at the beginning of the hearing. Parties can make other agreements for making or preserving these objections.

## **COURT AUTHORITY**

### **§§ 26, 27 & 5 — *Jurisdiction and Venue Generally***

The Superior Court has exclusive jurisdiction to enter judgment on arbitration awards under the bill when the arbitration agreement provides for arbitration in the state. Its judges can enforce other arbitration agreements if the court has jurisdiction over the dispute and the parties. Once a controversy arises, parties can make other agreements about jurisdiction.

The bill specifies that applications for court relief must be filed by motion in Superior Court and heard in the manner provided by law or rule of court for making and hearing such motions.

When a pending judicial proceeding involves a claim that a person maintains is arbitrable, the bill requires filing of motions in that court to compel arbitration. Otherwise, motions may be filed in the court in a location that the parties have agreed to. In the absence of an agreement, they must be filed (1) where the arbitration is being held; (2) in any judicial district in Connecticut where an adverse party resides or has an office; or (3) if no adverse party has a residence or office in Connecticut, in any Connecticut Superior Court. The bill permits parties to arbitration agreements to waive, vary, or modify this provision after a controversy arises.

The bill also specifies that, unless the parties have agreed to a different rule, notice of an initial court motion must be served in the

manner provided by law for service of a summons in a civil action. Service of subsequent motions can be given in the manner provided for pending civil cases.

### **§ 6 — Arbitrability**

Unless the parties agree otherwise, the bill directs courts to decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate. It directs arbitrators to decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable. When a party has refused to arbitrate, courts must decide whether the agreement is enforceable.

Current statutes do not specify who decides these issues, but courts generally follow this rule.

### **§ 7 — Compelling Arbitration**

The bill's mandatory procedures require a party to file a motion showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement. If the refusing party does not appear or does not oppose the motion, the court must order the parties to arbitrate, unless it finds that there is no enforceable agreement.

If the refusing party opposes the motion, the court must proceed "summarily" to decide the issue and order the parties to arbitrate, unless it finds that there is no enforceable arbitration agreement. But it cannot refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

The law currently specifies that (1) applications for orders to proceed with (i.e., compel) arbitration must be made by writ of summons and complaint and (2) complaint allegations not answered within five days of the complaint's return date are deemed denied by operation of law. They must be filed in the Superior Court district where one of the parties resides or, when land is involved, in the court

where the land is located. If the courts are closed, applications can be filed with any Superior Court judge. Judges must hear the matter either at a short calendar session, or as a privileged case, or otherwise, in order to dispose of the case with the least possible delay. Under the bill, these provisions are repealed October 1, 2009.

### ***Motions to Stay Arbitration***

The bill permits people to file motions when an arbitration proceeding has been threatened or initiated and they claim that there is no arbitration agreement. As with motions to compel, the court must decide this issue summarily. If it finds that there is an enforceable arbitration agreement, it must order arbitration to proceed.

The bill permits an arbitrator to go forward with his proceeding while the court considers the challenge. But it permits (1) judges to order otherwise and (2) parties to make different agreements.

Current law has no express mechanism for obtaining court orders to stay arbitrations.

### ***Court Order Staying Court Proceedings***

If a judge orders arbitration, he must stay any judicial proceeding that involves a claim subject to the arbitration, unless he determines that it would not be just. Where not all claims in the court proceeding are subject to arbitration, the bill permits the judge to order a partial stay, permitting the lawsuit to continue with respect to non-arbitrable issues.

Current law permits the filing of motions to stay court proceedings. It has a similar standard for granting them, but unlike the bill, requires the moving party to show that he is ready and willing to proceed with the arbitration.

### ***§ 8 — Provisional Remedies***

Under the bill, before an arbitrator is appointed and able to act, the court, upon motion of a party to an arbitration proceeding and for good cause, may enter orders for provisional remedies to protect the

effectiveness of the arbitration proceeding. The bill specifies that the judge's authority is the same as if the controversy were the subject of a civil action.

But after an arbitrator has been appointed and is authorized to act, the bill provides that judges can order provisional remedies only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy. This appears to include the right to ask a judge to direct an arbitrator to conduct the hearing promptly and render a timely decision. The bill specifies that a party filing a court motion for provisional relief does not waive his right to arbitration by doing so.

Parties to arbitration agreements can waive the bill's provisional remedy provisions, or make other agreements, only after a particular controversy arises.

Under current law, courts have the authority to issue provisional remedies (pendente lite orders) throughout the arbitration process to protect parties' rights and secure enforcement if an award in their favor is ultimately issued and confirmed.

### **§ 10 — Consolidations**

Unless the parties have agreed otherwise, the bill permits (1) any party to an arbitration agreement or proceeding to file a motion and (2) the court to order consolidation of separate arbitration proceedings as to all or some of the claims. They may do this if:

1. there are separate agreements to arbitrate or separate arbitration proceedings between the same people or entities or one of them is a party to a separate agreement to arbitrate or a separate arbitration with a third person;
2. the claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

3. the existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitration proceedings; and
4. prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay, prejudice, or hardship to parties opposing consolidation.

The bill permits judges to order consolidation of arbitration proceedings on some claims and allow other claims to be resolved in separate proceedings. But it cannot consolidate the claims of a party whose agreement prohibits consolidation.

Current law has no consolidation provision.

## **§§ 11-14 — ARBITRATORS**

### ***Appointing Arbitrators***

The bill permits parties to agree on a method for appointing an arbitrator or arbitration panel and requires them to follow it unless the method fails. But it specifies that the court must appoint arbitrators on motion of any party if (1) the parties cannot agree, (2) the agreed-upon method fails, or (3) an appointed arbitrator fails or is unable to act and a successor has not been appointed. Court-appointed arbitrators have all the powers of the arbitrator designated in the arbitration agreement or appointed pursuant to the agreed method.

The bill's provisions are similar to the requirements in the current law that it replaces, although the current law specifies that such proceedings be initiated and decided in the same way as applications to proceed with arbitrations. Current law also specifies that when a substitute or additional arbitrator is appointed to a case where evidence has already been presented, that person must re-hear the case unless the parties agree in writing otherwise.

### ***Required Disclosures by Arbitrators***

Unless the parties agree otherwise, and the scope of their agreement does not unreasonably restrict the parties' rights to disclosure, before

accepting appointment to serve as arbitrator, a person must make reasonable inquiry and disclose to all parties and to any other arbitrators any known facts that a reasonable person would consider likely to affect his impartiality. Information that must be disclosed under the bill includes (1) any financial or personal interest in the outcome of the arbitration proceeding and (2) any existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or another arbitrator.

The bill specifies that a person appointed as a neutral arbitrator who does not disclose the above information is presumed to have acted with evident partiality, and that a court may vacate his award on that basis.

Arbitrators must continue to disclose to all parties and other arbitrators facts that they learn after accepting appointment that a reasonable person would consider likely to affect the arbitrator's impartiality.

Current statutes do not have information disclosure provisions.

Unless the parties agree otherwise, the bill prohibits a person with a known, direct, and material interest in the outcome of the arbitration proceeding, or a known, existing, and substantial relationship with a party to serve as a neutral arbitrator. There is no similar provision in current law.

### ***Objections to an Arbitrator's Appointment or Continued Service***

The bill requires parties to make "timely" objections to an arbitrator's appointment, both when he discloses a fact or when he does not disclose a fact that he should have. In the absence of an agreement between the parties as to what constitutes a timely objection, it is unclear what the bill's time limits are. The bill also specifies that parties who have agreed to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made must comply substantially with

those before asking a court to vacate an award on evident partiality grounds.

Current law, which permits courts to vacate awards when they determine that the arbitrator did not act impartially, does not specifically require parties to have first objected to the arbitrator.

### ***Arbitrator and Arbitration Organization Immunity***

The bill specifies that an arbitrator and an arbitration organization, acting in those capacities, have the same immunity in civil lawsuits as Superior Court judges have. (By law, judges are immune from liability for actions taken in their judicial capacity.) The bill specifies that an arbitrator's failure to disclose required personal or financial information to the parties or other arbitrators does not strip him of this immunity and that this immunity supplements any immunity under other law.

The bill also specifies that arbitrators and arbitration organization representatives are not competent (i.e., cannot) to testify in judicial, administrative, or similar proceedings. They can only be required to produce records concerning any statement, conduct, decision, or ruling occurring during the arbitration proceeding to the same extent as a state court judge acting in a judicial capacity. But the bill does not apply if testimony or records are needed to determine an arbitrator or arbitration organization's claim against a party to the arbitration proceeding (such as for unpaid fees) or to a hearing on a motion to vacate when the moving party establishes a prima facie case (i.e., makes a preliminary showing) of misconduct by an arbitrator.

The bill requires courts to award arbitrators and arbitration organizations attorneys fees and other reasonable costs of litigation when they are sued or a person seeks to compel them to testify or produce records but the court finds they are immune from civil liability or incompetent to testify.

These provisions of the bill cannot be waived. Current law does not afford arbitrators immunity or shield them from testifying.

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**Arbitration Panels**

Unless the parties agree otherwise, the bill specifies that when more than one arbitrator is designated to decide an issue (i.e., a panel), the decision of a majority must be obtained. But all must conduct an arbitration hearing. This is consistent with existing law.

**§§ 15-21 — ARBITRATION PROCEEDINGS**

Unless the parties agree otherwise, the bill permits arbitrators to handle proceedings in the manner they consider appropriate for a fair and expeditious disposition. They may hold conferences before the hearing and, among other things, determine the admissibility, relevance, material value, and weight of evidence. And they may order such provisional remedies as they determine are necessary to protect the arbitration process.

Under the bill, they may also decide claims or issues summarily if all interested parties agree or when one party requests this and gives notice of the request to all other parties to the proceeding. The parties must have a reasonable opportunity to respond.

**Subpoenas and Depositions**

The bill also gives arbitrators the power to administer oaths and issue subpoenas directing witnesses to attend and produce documents at any hearing. It directs them to serve subpoenas in the same way as for civil actions, and it permits any party or the arbitrator to file a court motion and have a judge enforce the subpoena in the same manner that he would in a civil action. Parties can waive this rule after a controversy arises.

Currently, both arbitrators and others legally authorized to issue subpoenas (such as a party's lawyer) may issue these subpoenas. It appears that, under the bill, only arbitrators may do so unless the parties agree otherwise.

The bill permits arbitrators, in order to make the proceedings fair, expeditious, and cost effective, to allow the taking of depositions for use as evidence at the hearing. They may specify the conditions under

which they are taken. Witnesses who may be deposed in this manner include those who cannot be subpoenaed for, or are unable to attend, a hearing. Parties can waive this rule or make other agreements after a controversy arises. There is no similar provision in current statutes.

### ***Discovery***

Unless the parties agree otherwise, arbitrators under the bill may also permit the parties to engage in discovery (i.e., gather information through written requests or depositions to prepare for the arbitration hearing). The arbitrator must take into account the needs of the parties and other affected persons and the desirability of making the proceeding fair, expeditious, and cost effective. When discovery is permitted, arbitrators can order parties to comply, issue discovery subpoenas, and have the same power as Superior Court judges to take action against people who fail to comply. There is no similar provision in current law.

The bill gives the arbitrator the authority to issue a protective order to prevent the disclosure of privileged or 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 the state. It specifies that all laws compelling a person under subpoena to testify and all witness fees applicable in court proceedings also apply to arbitrations.

### ***Court Enforcement***

The bill permits courts to enforce an arbitrator's subpoena or discovery-related orders, but their powers depend on whether the matter involves in-state or out-of-state proceedings. They may order the attendance of witnesses within the state. But in cases where an arbitrator asks them to enforce his order directing someone to produce records or other evidence at an out-of-state proceeding, they may set conditions to make the arbitration proceeding fair, expeditious, and cost effective. The bill requires subpoenas or discovery-related orders from out-of-state arbitrators to be served in the manner provided under Connecticut law for serving subpoenas in a civil action.

Current law permits courts to enforce an arbitrator's or other party's subpoenas summoning witnesses or documents to a hearing but does not distinguish between in-state and out-of-state arbitrations. The bill appears to extinguish parties' right to judicial enforcement of subpoenas they issue.

### **Hearings**

Unless the parties agree otherwise, the arbitrator must set a time and place and give notice of the hearing at least five days in advance. Unless a party to the arbitration proceeding objects to the lack or insufficiency of notice by the beginning of the hearing, his appearance at the hearing waives the objection. Current statutes do not specify how much advance notice parties must get, or provide for the waiver of objections to the adequacy of hearing notices.

The bill specifies that, unless the parties agree otherwise, a party to an arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing. A lawyer may represent a party, but the bill permits labor arbitration and post-controversy agreements to the contrary. Current statutes contain no similar provisions.

Hearings may be adjourned by the arbitrator or if any party requests it and shows good cause for adjournment. The bill specifies that hearings cannot be postponed to a time later than that fixed by the arbitration agreement for making the award unless the parties consent.

Unless the parties have agreed otherwise, the bill gives the arbitrator the authority to proceed and decide controversies upon the evidence presented when a party who was "duly notified" of the proceeding does not appear. The bill's provisions are consistent with existing law.

### **Pre-award Rulings**

The bill requires arbitrators to incorporate a favorable pre-award ruling (i.e., an interim ruling disposing of only some issues or claims) in an award if the prevailing party requests it. The prevailing party

may then file a court motion for an expedited order confirming the award, which the court must decide summarily. The court must issue an order to confirm the award unless the court vacates, modifies, or corrects it on grounds specified by the bill. This provision of the bill cannot be waived or altered by agreement.

Current law does not specifically permit parties to bring pre-award rulings before the courts.

### **Awards**

Unless the parties agree otherwise, the arbitrator must make a record of his award. Any other arbitrator concurring with it must either sign or otherwise “authenticate” it. Either the arbitrator or the arbitration organization must give notice and a copy of the award to each party. The bill specifies that the award must be made within the time specified by the agreement to arbitrate, or if not specified, within the time ordered by the court.

These provisions are consistent with current law, although current law specifies that when the parties’ agreement is silent, the time limit is 30 days from the close of the hearing or from the date fixed for the submission of materials to the arbitrator (such as briefs) after the hearing concludes.

Courts can extend or the parties 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. Unless the parties agree otherwise, a party waives any objection that the award was not timely unless he objects to the arbitrator before he receives notice of the award.

Currently, an award issued after time limits have expired has no legal effect unless the parties have agreed in writing to be bound by it.

### **Motions to the Arbitrator to Modify or Correct**

Unless otherwise agreed, parties may ask the arbitrator by motion to modify or correct an award for the following reasons:

1. evident mathematical miscalculation or mistake in the description of a person, thing, or property referred to in the award;
2. the award is imperfect in a matter of form not affecting the merits of the decision;
3. because the arbitrator has not made a final and definite award on a claim that was submitted to him; or
4. to clarify the award.

Motions must be filed within 20 days after the moving party receives notice of the award, and he must give notice to all parties. Objections must be filed within 10 days of receipt. The latter deadline cannot be waived or modified.

Current law has no similar provisions.

### **Remedies**

Unless the parties have specified otherwise, the bill permits arbitrators to award punitive and exemplary damages when 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. If the arbitrators do so, the award must specify their factual and legal justification. It must also state separately the amount of the punitive damages or other exemplary relief.

The bill also permits arbitrators to award reasonable attorneys fees and other arbitration costs if this is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration. Parties may waive or modify this provision.

For all other remedies, the bill authorizes arbitrators, absent agreement of the parties, to fashion such remedies as they consider just and appropriate under the circumstances of the arbitration proceeding. It specifies that courts cannot refuse to confirm or vacate awards on the

grounds that the arbitrator's remedy could not or would not be granted by a court.

The bill specifies that, absent agreement, an arbitrator's expenses and fees, together with other expenses must be paid as provided in the award.

Current law does not expressly address remedies. Parties may raise this issue in a motion to vacate, claiming that the arbitrator did not have the authority to order a particular remedy.

## **§§ 22-25 — POST-ARBITRATION COURT PROCEEDINGS**

### ***Motion to Confirm***

The bill permits parties to file court motions to confirm an arbitrator's award and requires courts to grant them unless they modify, correct, or vacate the award at the request of another party. This rule cannot be waived.

Current law requires such motions to be filed within one year of the award, but the bill does not specify a time limit. It also specifies that parties applying for these orders (and for orders to modify or vacate an award) must also include (1) the arbitration agreement; (2) substitute arbitrator appointment documentation, if appropriate; (3) written referrals to courts for legal interpretations during the arbitration, if appropriate; (4) written extensions of award deadlines; (5) the award; (6) notices and other court documents relating to the application; and (7) court orders relating to it. The bill eliminates these requirements as of October 1, 2009.

### ***Motion to Vacate***

The bill requires courts to vacate an award if:

1. it was procured by corruption, fraud, or other undue means;
2. there was (a) evident partiality by an arbitrator appointed as a neutral, (b) corruption by an arbitrator, or (c) misconduct by an arbitrator prejudicing the rights of a party;

3. an arbitrator refused to postpone the hearing upon showing of sufficient cause, refused to consider evidence material to the controversy, or otherwise substantially prejudiced a party's rights by the manner in which he conducted the hearing;
4. an arbitrator exceeded his powers;
5. there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising this objection before or when the hearing began; or
6. the arbitration was conducted without proper notice and a party's rights were substantially prejudiced as a result.

The parties cannot waive or modify these reasons by agreement. Current law establishes the first four criteria as grounds for vacating an award. It also permits this when an arbitrator carried out his authority so imperfectly that the resulting award is not mutual, final, or definite.

The bill requires parties to file motions to vacate within 90 days of (1) receiving notice of the award or (2) receiving notice of a modified or corrected award. Where the moving party alleges that the award was procured by corruption, fraud, or other undue means, he must file the motion within 90 days after he learns, or in the exercise of reasonable care, should have learned, this information.

These time limits cannot be waived or modified by agreement. Currently, all motions to vacate must be filed within 30 days of receipt of the notice of an award.

Under the bill, courts that grant a motion to vacate may order re-hearings in cases unless the reason for vacating the award is lack of agreement to arbitrate or where the time limits for issuing the award have expired. In cases where the reason for vacating the award is one involving corruption or misconduct by an arbitrator, a different arbitrator must conduct the rehearing. When the reason involves lack of notice, or an arbitrator's refusal to postpone or acting in excess of his

powers, the court may permit him to conduct the rehearing. Arbitrators must render decisions on rehearings within deadlines set for issuance of the original award.

Currently, courts may direct rehearings when the time limits for issuing an award have not expired. They must do so in labor arbitration proceedings, regardless of these time limits, unless a party shows that there is no issue in dispute.

Under the bill, courts that deny a motion to vacate must simultaneously confirm the award, unless a motion to modify or correct has been filed within the bill's time limits. Courts may join proceedings arising from motions to vacate and to modify or correct. There are no similar provisions in current law.

### ***Motions to Modify or Correct***

Courts can grant motions to modify or correct for the same reasons that they can re-submit cases to arbitrators, i.e., evident mathematical errors, mistaken identifications in the award, and formal defects that do not affect the merits of the decision. They may also do so when the arbitrator makes an award on a claim that the parties did not submit to him, so long as the award can be corrected without affecting the merits of his decision on the questions submitted to him.

Motions must be filed within 90 days of the original award or 90 days after an arbitrator modifies or corrects it. If the court grants the motion, it must modify or correct the award and confirm it. If it denies the motion, it must confirm the award unless a motion to vacate is pending. These provisions cannot be waived.

The current limitation period for filing these motions is 30 days from notice of the award.

### ***Court Remand to Arbitrator***

When a party has filed a motion in court to confirm, vacate, modify or correct an award, the bill allows the court to return the matter to the arbitrator to consider whether to modify or correct his award for any

of the above reasons. Parties cannot vary this by agreement.

Modified or corrected awards must be in records and signed or authenticated by other concurring arbitrators, as is required for the initial award. Parties can ask courts to confirm, enforce, modify, or correct them unless they have agreed otherwise.

### **§ 28 — APPEALS**

Unless the parties have agreed otherwise in a particular controversy, the bill allows appeals to be taken from a Superior Court order:

1. denying a motion to compel arbitration,
2. granting a stay of arbitration proceedings,
3. confirming or denying confirmation of an award,
4. modifying or correcting an award,
5. vacating an award without directing a rehearing, or
6. of final judgment in a covered proceeding.

It specifies that the same rules that apply to appeals from court orders or judgments in civil matters apply to these appeals.

Current law does not permit appeals from the denial of a motion to compel arbitration or the granting of a stay of arbitration proceedings.

### **§§ 32-40 — CONFORMING CHANGES**

The bill makes conforming changes in statutes that refer to provisions that it repeals. These concern State Board of Mediation and Arbitration oaths and arbitration of (1) public works contracts, (2) municipal employee and teacher grievances, (3) insurance disputes, and (4) disputes with car manufacturers.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (03/24/2008)