



General Assembly

February Session, 2008

Raised Bill No. 5531

LCO No. 1806

01806_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

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 4-478e 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
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>	4-478e(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

Statement of Purpose:

To respond to the increased use of arbitration in resolving disputes and revise and modernize arbitration procedures by adopting the Revised Uniform Arbitration Act.

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