House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

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Second Regular Session
2010

CHAPTER 139

HOUSE BILL 2430

AN ACT

AMENDING SECTIONS 10-1806, 12-2101.01 AND 41-2615, ARIZONA REVISED STATUTES; AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 21; RELATING TO ARBITRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 10-1806, Arizona Revised Statutes, is amended to read:

10-1806. Settlement of disputes; arbitration

The articles of incorporation may provide for arbitration of any deadlock or dispute involving the internal affairs of the corporation. To the extent the articles of incorporation do not provide to the contrary, such arbitration shall be governed by ~~the provisions of~~ title 12, chapter ~~9, article 1~~ 21. Unless otherwise provided in the articles of incorporation, if the arbitrators determine that such deadlock or dispute either impairs or threatens to impair the value of the assets or continued conduct of the business of the corporation, ~~then~~ the arbitrators may appoint a conservator or interim manager to preserve the business and assets of the corporation or to continue the operation of the business of the corporation, or both, during the pendency of such arbitration proceedings. If such arbitrators appoint a conservator or interim manager, the arbitrators may suspend, revoke or nullify the authority of any existing manager or managers. The articles of incorporation may also provide that the arbitrators may suspend, revoke or nullify the employment or any employment contract of any existing manager or managers without payment of compensation and without liability for damages or breach of contract. Unless provided otherwise in the articles of incorporation, the arbitrators may define the authority and set the compensation of the conservator or interim manager, and shall immediately file a certificate of the appointment of such conservator or interim manager with the commission. Such arbitration proceedings shall not supersede the power of the superior court of Arizona to appoint an interim manager under section 10-1814. A court appointed interim manager shall replace any conservator or interim manager appointed under ~~the provisions of~~ this section.

Sec. 2. Section 12-2101.01, Arizona Revised Statutes, is amended to read:

12-2101.01. Appeals from arbitration awards

A. An appeal may be taken from ANY OF THE FOLLOWING:

1. An order denying an application to compel arbitration made under ~~the terms of~~ section 12-1502~~;~~ OR 12-3007.

2. An order granting an application to stay arbitration made under ~~the terms of subsection B of~~ section 12-1502~~;~~ OR 12-3007.

3. An order denying confirmation of an award. ~~;~~

4. An order modifying or correcting an award. ~~;~~

5. An order vacating an award without directing a rehearing. ~~; or~~

6. A judgment or decree entered pursuant to ~~the provisions of article 1,~~ chapter 9~~;~~ OR 21 of this title.

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

1 Sec. 3. Title 12, Arizona Revised Statutes, is amended by adding
2 chapter 21, to read:
3 CHAPTER 21
4 REVISED UNIFORM ARBITRATION ACT
5 ARTICLE 1. GENERAL PROVISIONS
6 12-3001. Definitions
7 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
8 1. "ARBITRATION ORGANIZATION" MEANS AN ASSOCIATION, AGENCY, BOARD,
9 COMMISSION OR OTHER ENTITY THAT IS NEUTRAL AND THAT INITIATES, SPONSORS OR
10 ADMINISTERS AN ARBITRATION PROCEEDING OR IS INVOLVED IN THE APPOINTMENT OF AN
11 ARBITRATOR.
12 2. "ARBITRATOR" MEANS AN INDIVIDUAL WHO IS APPOINTED TO RENDER AN
13 AWARD, ALONE OR WITH OTHERS, IN A CONTROVERSY THAT IS SUBJECT TO AN AGREEMENT
14 TO ARBITRATE.
15 3. "COURT" MEANS A COURT OF COMPETENT JURISDICTION IN THIS STATE.
16 4. "KNOWLEDGE" MEANS ACTUAL KNOWLEDGE.
17 5. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
18 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,
19 GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY OR PUBLIC
20 CORPORATION OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.
21 6. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM
22 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND THAT IS RETRIEVABLE IN
23 PERCEIVABLE FORM.
24 12-3002. Notice
25 A. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON GIVES NOTICE
26 TO ANOTHER PERSON BY TAKING ACTION THAT IS REASONABLY NECESSARY TO INFORM THE
27 OTHER PERSON IN ORDINARY COURSE, WHETHER OR NOT THE OTHER PERSON ACQUIRES
28 KNOWLEDGE OF THE NOTICE.
29 B. A PERSON HAS NOTICE IF THE PERSON HAS KNOWLEDGE OF THE NOTICE OR
30 HAS RECEIVED NOTICE.
31 C. A PERSON RECEIVES NOTICE WHEN IT COMES TO THE PERSON'S ATTENTION OR
32 THE NOTICE IS DELIVERED AT THE PERSON'S PLACE OF RESIDENCE OR PLACE OF
33 BUSINESS OR AT ANOTHER LOCATION HELD OUT BY THE PERSON AS A PLACE OF DELIVERY
34 OF SUCH COMMUNICATIONS.
35 12-3003. Applicability
36 A. EXCEPT AS PROVIDED IN SUBSECTION B:
37 1. THIS CHAPTER GOVERNS AN AGREEMENT TO ARBITRATE MADE ON OR AFTER
38 JANUARY 1, 2011.
39 2. THIS CHAPTER GOVERNS AN AGREEMENT TO ARBITRATE MADE BEFORE JANUARY
40 1, 2011 IF ALL THE PARTIES TO THE AGREEMENT OR TO THE ARBITRATION PROCEEDING
41 SO AGREE IN A RECORD.
42 3. ON OR AFTER JANUARY 1, 2011, THIS CHAPTER GOVERNS AN AGREEMENT TO
43 ARBITRATE WHENEVER MADE.

B. BEGINNING JANUARY 1, 2011 THIS CHAPTER SHALL NOT APPLY TO AN AGREEMENT TO ARBITRATE ANY EXISTING OR SUBSEQUENT CONTROVERSY:

1. BETWEEN AN EMPLOYER AND EMPLOYEE OR THEIR RESPECTIVE REPRESENTATIVES.

2. CONTAINED IN A CONTRACT OF INSURANCE.

3. BETWEEN A NATIONAL BANKING ASSOCIATION OR A FEDERAL SAVINGS ASSOCIATION OR ITS AFFILIATE, SUBSIDIARY OR HOLDING COMPANY AND ANY CUSTOMER.

4. IF THE ARBITRATION IS CONDUCTED OR ADMINISTERED BY A SELF-REGULATORY ORGANIZATION AS DEFINED IN THE SECURITIES EXCHANGE ACT OF 1934 (15 UNITED STATES CODE SECTION 78c), THE COMMODITY EXCHANGE ACT (7 UNITED STATES CODE CHAPTER 1) OR REGULATIONS ADOPTED UNDER THOSE ACTS.

C. AN AGREEMENT TO ARBITRATE THAT IS DESCRIBED IN SUBSECTION B, PARAGRAPHS 2, 3 AND 4 SHALL BE GOVERNED BY CHAPTER 9, ARTICLE 1 OF THIS TITLE.

12-3004. Effect of agreement to arbitrate; nonwaivable provisions

A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS B AND C OF THIS SECTION, A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING MAY WAIVE, OR THE PARTIES MAY VARY THE EFFECT OF, THE REQUIREMENTS OF THIS CHAPTER TO THE EXTENT PERMITTED BY LAW.

B. BEFORE A CONTROVERSY ARISES THAT IS SUBJECT TO AN AGREEMENT TO ARBITRATE, A PARTY TO THE AGREEMENT MAY NOT:

1. WAIVE OR AGREE TO VARY THE EFFECT OF THE REQUIREMENTS PRESCRIBED IN SECTION 12-2101.01, 12-3005, 12-3006 OR 12-3008, SECTION 12-3017, SUBSECTION A OR B OR SECTION 12-3026.

2. AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 12-3009 TO NOTICE OF THE INITIATION OF AN ARBITRATION PROCEEDING.

3. AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 12-3012 TO DISCLOSURE OF ANY FACTS BY A NEUTRAL ARBITRATOR.

4. WAIVE THE RIGHT UNDER SECTION 12-3016 OF A PARTY TO AN AGREEMENT TO ARBITRATE TO BE REPRESENTED BY A LAWYER AT ANY PROCEEDING OR HEARING UNDER THIS CHAPTER, BUT AN EMPLOYER AND A LABOR ORGANIZATION MAY WAIVE THE RIGHT TO REPRESENTATION BY A LAWYER IN A LABOR ARBITRATION.

C. A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING MAY NOT WAIVE, OR THE PARTIES MAY NOT VARY THE EFFECT OF, THE REQUIREMENTS OF THIS SECTION, SECTION 12-2101.01, SECTION 12-3003, SUBSECTION A, PARAGRAPH 1 OR 3, SECTION 12-3007, 12-3014 OR 12-3018, SECTION 12-3020, SUBSECTION D OR E, SECTION 12-3022, 12-3023 OR 12-3024, SECTION 12-3025, SUBSECTION A OR B OR SECTION 12-3028, 12-3029 OR 41-2615.

12-3005. Application for judicial relief

A. AN APPLICATION FOR JUDICIAL RELIEF UNDER THIS CHAPTER MUST BE MADE BY MOTION TO THE COURT AND HEARD IN THE MANNER PROVIDED BY LAW OR COURT RULE FOR MAKING AND HEARING MOTIONS.

B. UNLESS A CIVIL ACTION INVOLVING THE AGREEMENT TO ARBITRATE IS PENDING, NOTICE OF AN INITIAL MOTION TO THE COURT UNDER THIS CHAPTER MUST BE SERVED IN THE MANNER PROVIDED BY LAW FOR THE SERVICE OF A SUMMONS IN A CIVIL ACTION. OTHERWISE, NOTICE OF THE MOTION MUST BE GIVEN IN THE MANNER PROVIDED BY LAW OR COURT RULE FOR SERVING MOTIONS IN PENDING CASES.

12-3006. Validity of agreement to arbitrate

A. AN AGREEMENT CONTAINED IN A RECORD TO SUBMIT TO ARBITRATION ANY EXISTING OR SUBSEQUENT CONTROVERSY ARISING BETWEEN THE PARTIES TO THE AGREEMENT IS VALID, ENFORCEABLE AND IRREVOCABLE EXCEPT ON A GROUND THAT EXISTS AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

B. THE COURT SHALL DECIDE WHETHER AN AGREEMENT TO ARBITRATE EXISTS OR A CONTROVERSY IS SUBJECT TO AN AGREEMENT TO ARBITRATE.

C. AN ARBITRATOR SHALL DECIDE WHETHER A CONDITION PRECEDENT TO ARBITRABILITY HAS BEEN FULFILLED AND WHETHER A CONTRACT CONTAINING A VALID AGREEMENT TO ARBITRATE IS ENFORCEABLE.

D. IF A PARTY TO A JUDICIAL PROCEEDING CHALLENGES THE EXISTENCE OF, OR CLAIMS THAT A CONTROVERSY IS NOT SUBJECT TO, AN AGREEMENT TO ARBITRATE, THE ARBITRATION PROCEEDING MAY CONTINUE PENDING FINAL RESOLUTION OF THE ISSUE BY THE COURT, UNLESS THE COURT OTHERWISE ORDERS.

12-3007. Motion to compel or stay arbitration

A. ON MOTION OF A PERSON SHOWING AN AGREEMENT TO ARBITRATE AND ALLEGING ANOTHER PERSON'S REFUSAL TO ARBITRATE PURSUANT TO THE AGREEMENT:

1. IF THE REFUSING PARTY DOES NOT APPEAR OR DOES NOT OPPOSE THE MOTION, THE COURT SHALL ORDER THE PARTIES TO ARBITRATE.

2. IF THE REFUSING PARTY OPPOSES THE MOTION, THE COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE AND ORDER THE PARTIES TO ARBITRATE UNLESS IT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT TO ARBITRATE.

B. ON MOTION OF A PERSON ALLEGING THAT AN ARBITRATION PROCEEDING HAS BEEN INITIATED OR THREATENED BUT THAT THERE IS NO AGREEMENT TO ARBITRATE, THE COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE. IF THE COURT FINDS THAT THERE IS AN ENFORCEABLE AGREEMENT TO ARBITRATE, IT SHALL ORDER THE PARTIES TO ARBITRATE.

C. IF THE COURT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT, IT MAY NOT ORDER THE PARTIES TO ARBITRATE PURSUANT TO SUBSECTION A OR B OF THIS SECTION.

D. THE COURT MAY NOT REFUSE TO ORDER ARBITRATION BECAUSE THE CLAIM SUBJECT TO ARBITRATION LACKS MERIT OR GROUNDS FOR THE CLAIM HAVE NOT BEEN ESTABLISHED.

E. IF A PROCEEDING INVOLVING A CLAIM REFERABLE TO ARBITRATION UNDER AN ALLEGED AGREEMENT TO ARBITRATE IS PENDING IN COURT, A MOTION UNDER THIS SECTION MUST BE MADE IN THAT COURT. OTHERWISE, A MOTION UNDER THIS SECTION MAY BE MADE IN ANY COURT AS PROVIDED IN SECTION 12-3027.

F. IF A PARTY MAKES A MOTION TO THE COURT TO ORDER ARBITRATION, THE COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM

ALLEGED TO BE SUBJECT TO THE ARBITRATION UNTIL THE COURT RENDERS A FINAL DECISION UNDER THIS SECTION.

G. IF THE COURT ORDERS ARBITRATION, THE COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM SUBJECT TO THE ARBITRATION. IF A CLAIM SUBJECT TO THE ARBITRATION IS SEVERABLE, THE COURT MAY LIMIT THE STAY TO THAT CLAIM.

12-3008. Interim remedies

A. BEFORE AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT, THE COURT, ON MOTION OF A PARTY TO AN ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, MAY ENTER AN ORDER FOR INTERIM REMEDIES TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION PROCEEDING TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

B. AFTER AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT:

1. THE ARBITRATOR MAY ISSUE SUCH ORDERS FOR INTERIM REMEDIES, INCLUDING INTERIM AWARDS, AS THE ARBITRATOR FINDS NECESSARY TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION PROCEEDING AND TO PROMOTE THE FAIR AND EXPEDITIOUS RESOLUTION OF THE CONTROVERSY, TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

2. A PARTY TO AN ARBITRATION PROCEEDING MAY MOVE THE COURT FOR AN INTERIM REMEDY ONLY IF THE MATTER IS URGENT AND THE ARBITRATOR IS NOT ABLE TO ACT TIMELY OR THE ARBITRATOR CANNOT PROVIDE AN ADEQUATE REMEDY.

C. A PARTY DOES NOT WAIVE A RIGHT OF ARBITRATION BY MAKING A MOTION UNDER SUBSECTION A OR B.

12-3009. Initiation of arbitration; notice

A. A PERSON INITIATES AN ARBITRATION PROCEEDING BY GIVING NOTICE IN A RECORD TO THE OTHER PARTIES TO THE AGREEMENT TO ARBITRATE IN THE AGREED MANNER BETWEEN THE PARTIES OR, IN THE ABSENCE OF AN AGREEMENT, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED AND OBTAINED, OR BY SERVICE AS AUTHORIZED FOR THE COMMENCEMENT OF A CIVIL ACTION. THE NOTICE MUST DESCRIBE THE NATURE OF THE CONTROVERSY AND THE REMEDY SOUGHT.

B. UNLESS A PERSON OBJECTS FOR LACK OR INSUFFICIENCY OF NOTICE UNDER SECTION 12-3015, SUBSECTION C NOT LATER THAN THE BEGINNING OF THE ARBITRATION HEARING, THE PERSON BY APPEARING AT THE HEARING WAIVES ANY OBJECTION TO LACK OR INSUFFICIENCY OF NOTICE.

12-3010. Consolidation of separate arbitration proceedings

A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C, ON MOTION OF A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING, THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO ALL OR SOME OF THE CLAIMS IF ALL OF THE FOLLOWING APPLY:

1. THERE ARE SEPARATE AGREEMENTS TO ARBITRATE OR SEPARATE ARBITRATION PROCEEDINGS BETWEEN THE SAME PERSONS OR ONE OF THEM IS A PARTY TO A SEPARATE AGREEMENT TO ARBITRATE OR A SEPARATE ARBITRATION PROCEEDING WITH A THIRD PERSON.

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.

4. PREJUDICE RESULTING FROM A FAILURE TO CONSOLIDATE IS NOT OUTWEIGHED BY THE RISK OF UNDUE DELAY OR PREJUDICE TO THE RIGHTS OF OR HARDSHIP TO PARTIES OPPOSING CONSOLIDATION.

B. THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO SOME CLAIMS AND ALLOW OTHER CLAIMS TO BE RESOLVED IN SEPARATE ARBITRATION PROCEEDINGS.

C. THE COURT MAY NOT ORDER CONSOLIDATION OF THE CLAIMS OF A PARTY TO AN AGREEMENT TO ARBITRATE IF THE AGREEMENT PROHIBITS CONSOLIDATION.

12-3011. Appointment of arbitrator; service as a neutral arbitrator

A. IF THE PARTIES TO AN AGREEMENT TO ARBITRATE AGREE ON A METHOD FOR APPOINTING AN ARBITRATOR, THAT METHOD MUST BE FOLLOWED UNLESS THE METHOD FAILS. IF THE PARTIES HAVE NOT AGREED ON A METHOD, THE AGREED METHOD FAILS OR AN ARBITRATOR APPOINTED FAILS OR IS UNABLE TO ACT AND A SUCCESSOR HAS NOT BEEN APPOINTED, THE COURT, ON MOTION OF A PARTY TO THE ARBITRATION PROCEEDING, SHALL APPOINT THE ARBITRATOR. AN ARBITRATOR SO APPOINTED HAS ALL THE POWERS OF AN ARBITRATOR DESIGNATED IN THE AGREEMENT TO ARBITRATE OR APPOINTED PURSUANT TO THE AGREED METHOD.

B. AN INDIVIDUAL WHO HAS A KNOWN, DIRECT AND MATERIAL INTEREST IN THE OUTCOME OF THE ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL RELATIONSHIP WITH A PARTY MAY NOT SERVE AS AN ARBITRATOR REQUIRED BY AN AGREEMENT TO BE NEUTRAL.

12-3012. Disclosure by arbitrator

A. BEFORE ACCEPTING APPOINTMENT, AN INDIVIDUAL WHO IS REQUESTED TO SERVE AS AN ARBITRATOR, AFTER MAKING A REASONABLE INQUIRY, SHALL DISCLOSE TO ALL PARTIES TO THE AGREEMENT TO ARBITRATE, TO THE ARBITRATION PROCEEDING AND TO ANY OTHER ARBITRATORS ANY KNOWN FACTS THAT A REASONABLE PERSON WOULD CONSIDER LIKELY TO AFFECT THE IMPARTIALITY OF THE ARBITRATOR IN THE ARBITRATION PROCEEDING, INCLUDING BOTH:

1. A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF THE ARBITRATION PROCEEDING.

2. AN 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.

B. AN ARBITRATOR HAS A CONTINUING OBLIGATION TO DISCLOSE TO ALL PARTIES TO THE AGREEMENT TO ARBITRATE, TO THE ARBITRATION PROCEEDING AND TO ANY OTHER ARBITRATORS ANY FACTS THAT THE ARBITRATOR LEARNS AFTER ACCEPTING APPOINTMENT THAT A REASONABLE PERSON WOULD CONSIDER LIKELY TO AFFECT THE IMPARTIALITY OF THE ARBITRATOR.

C. IF AN ARBITRATOR DISCLOSES A FACT REQUIRED BY SUBSECTION A OR B OF THIS SECTION TO BE DISCLOSED AND A PARTY TIMELY OBJECTS TO THE APPOINTMENT OR CONTINUED SERVICE OF THE ARBITRATOR BASED ON THE FACT DISCLOSED, THE

OBJECTION MAY BE A GROUND UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2 FOR VACATING AN AWARD MADE BY THE ARBITRATOR.

D. IF THE ARBITRATOR DID NOT DISCLOSE A FACT AS REQUIRED BY SUBSECTION A OR B OF THIS SECTION, ON TIMELY OBJECTION BY A PARTY, THE COURT UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2 MAY VACATE AN AWARD MADE BY THE ARBITRATOR.

E. AN ARBITRATOR APPOINTED AS A NEUTRAL ARBITRATOR WHO DOES NOT DISCLOSE A KNOWN, DIRECT AND MATERIAL INTEREST IN THE OUTCOME OF THE ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL RELATIONSHIP WITH A PARTY IS PRESUMED TO ACT WITH EVIDENT PARTIALITY UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2.

F. IF THE PARTIES TO AN ARBITRATION PROCEEDING AGREE TO THE PROCEDURES OF AN ARBITRATION ORGANIZATION OR ANY OTHER PROCEDURES FOR CHALLENGES TO ARBITRATORS BEFORE AN AWARD IS MADE, SUBSTANTIAL COMPLIANCE WITH THOSE PROCEDURES IS A CONDITION PRECEDENT TO A MOTION TO VACATE AN AWARD ON THAT GROUND UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2.

12-3013. Action by majority

IF THERE IS MORE THAN ONE ARBITRATOR, THE POWERS OF AN ARBITRATOR MUST BE EXERCISED BY A MAJORITY OF THE ARBITRATORS, BUT ALL OF THEM SHALL CONDUCT THE HEARING UNDER SECTION 12-3015, SUBSECTION C.

12-3014. Immunity of arbitrator; competency to testify; attorney fees and litigation expenses

A. AN ARBITRATOR OR AN ARBITRATION ORGANIZATION ACTING IN THAT CAPACITY IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

B. THE IMMUNITY AFFORDED BY THIS SECTION SUPPLEMENTS ANY IMMUNITY UNDER OTHER LAW.

C. THE FAILURE OF AN ARBITRATOR TO MAKE A DISCLOSURE REQUIRED BY SECTION 12-3012 DOES NOT CAUSE ANY LOSS OF IMMUNITY UNDER THIS SECTION.

D. IN A JUDICIAL, ADMINISTRATIVE OR SIMILAR PROCEEDING, AN ARBITRATOR OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS NOT COMPETENT TO TESTIFY, AND MAY NOT BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT, DECISION OR RULING OCCURRING DURING THE ARBITRATION PROCEEDING, TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY. THIS SUBSECTION DOES NOT APPLY:

1. TO THE EXTENT NECESSARY TO DETERMINE THE CLAIM OF AN ARBITRATOR, ARBITRATION ORGANIZATION OR REPRESENTATIVE OF THE ARBITRATION ORGANIZATION AGAINST A PARTY TO THE ARBITRATION PROCEEDING.

2. TO A HEARING ON A MOTION TO VACATE AN AWARD UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 1 OR 2 IF THE MOVANT ESTABLISHES PRIMA FACIE THAT A GROUND FOR VACATING THE AWARD EXISTS.

E. IF A PERSON COMMENCES A CIVIL ACTION AGAINST AN ARBITRATOR, ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION ARISING FROM THE SERVICES OF THE ARBITRATOR, ORGANIZATION OR REPRESENTATIVE OR IF A PERSON SEEKS TO COMPEL AN ARBITRATOR OR A REPRESENTATIVE OF AN

ARBITRATION ORGANIZATION TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF SUBSECTION D OF THIS SECTION, AND THE COURT DECIDES THAT THE ARBITRATOR, ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS IMMUNE FROM CIVIL LIABILITY OR THAT THE ARBITRATOR OR REPRESENTATIVE OF THE ORGANIZATION IS NOT COMPETENT TO TESTIFY, THE COURT SHALL AWARD TO THE ARBITRATOR, ORGANIZATION OR REPRESENTATIVE REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF LITIGATION.

12-3015. Arbitration process

A. AN ARBITRATOR MAY CONDUCT AN ARBITRATION IN SUCH MANNER AS THE ARBITRATOR CONSIDERS APPROPRIATE FOR A FAIR AND EXPEDITIOUS DISPOSITION OF THE PROCEEDING. THE AUTHORITY CONFERRED ON THE ARBITRATOR INCLUDES THE POWER TO HOLD CONFERENCES WITH THE PARTIES TO THE ARBITRATION PROCEEDING BEFORE THE HEARING AND, AMONG OTHER MATTERS, TO DETERMINE THE ADMISSIBILITY, RELEVANCE, MATERIALITY AND WEIGHT OF ANY EVIDENCE.

B. AN ARBITRATOR MAY DECIDE A REQUEST FOR SUMMARY DISPOSITION OF A CLAIM OR PARTICULAR ISSUE EITHER:

1. IF ALL INTERESTED PARTIES AGREE.

2. ON REQUEST OF ONE PARTY TO THE ARBITRATION PROCEEDING IF THAT PARTY GIVES NOTICE TO ALL OTHER PARTIES TO THE PROCEEDING AND THE OTHER PARTIES HAVE A REASONABLE OPPORTUNITY TO RESPOND.

C. IF AN ARBITRATOR ORDERS A HEARING, THE ARBITRATOR SHALL SET A TIME AND PLACE AND GIVE NOTICE OF THE HEARING AT LEAST FIVE DAYS BEFORE THE HEARING BEGINS. UNLESS A PARTY TO THE ARBITRATION PROCEEDING MAKES AN OBJECTION TO LACK OR INSUFFICIENCY OF NOTICE NOT LATER THAN THE BEGINNING OF THE HEARING, THE PARTY'S APPEARANCE AT THE HEARING WAIVES THE OBJECTION. ON REQUEST OF A PARTY TO THE ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, OR ON THE ARBITRATOR'S OWN INITIATIVE, THE ARBITRATOR MAY ADJOURN THE HEARING FROM TIME TO TIME AS NECESSARY BUT MAY NOT POSTPONE THE HEARING TO A TIME LATER THAN THAT FIXED BY THE AGREEMENT TO ARBITRATE FOR MAKING THE AWARD UNLESS THE PARTIES TO THE ARBITRATION PROCEEDING CONSENT TO A LATER DATE. THE ARBITRATOR MAY HEAR AND DECIDE THE CONTROVERSY ON THE EVIDENCE PRODUCED ALTHOUGH A PARTY WHO WAS DULY NOTIFIED OF THE ARBITRATION PROCEEDING DID NOT APPEAR. THE COURT, ON REQUEST, MAY DIRECT THE ARBITRATOR TO CONDUCT THE HEARING PROMPTLY AND RENDER A TIMELY DECISION.

D. AT A HEARING UNDER SUBSECTION C OF THIS SECTION, A PARTY TO THE ARBITRATION PROCEEDING HAS A RIGHT TO BE HEARD, TO PRESENT EVIDENCE MATERIAL TO THE CONTROVERSY AND TO CROSS-EXAMINE WITNESSES APPEARING AT THE HEARING.

E. IF AN ARBITRATOR CEASES OR IS UNABLE TO ACT DURING THE ARBITRATION PROCEEDING, A REPLACEMENT ARBITRATOR MUST BE APPOINTED IN ACCORDANCE WITH SECTION 12-3011 TO CONTINUE THE PROCEEDING AND TO RESOLVE THE CONTROVERSY.

12-3016. Representation by lawyer

A PARTY TO AN ARBITRATION PROCEEDING MAY BE REPRESENTED BY A LAWYER.

12-3017. Witnesses; subpoenas; depositions; discovery

A. AN ARBITRATOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT ANY HEARING AND MAY

ADMINISTER OATHS. A SUBPOENA MUST BE SERVED IN THE MANNER FOR SERVICE OF SUBPOENAS IN A CIVIL ACTION AND, ON MOTION TO THE COURT BY A PARTY TO THE ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION.

B. IN ORDER TO MAKE THE PROCEEDINGS FAIR, EXPEDITIOUS AND COST EFFECTIVE, ON REQUEST OF A PARTY TO OR A WITNESS IN AN ARBITRATION PROCEEDING, AN ARBITRATOR MAY PERMIT A DEPOSITION OF ANY WITNESS TO BE TAKEN FOR USE AS EVIDENCE AT THE HEARING, INCLUDING A WITNESS WHO CANNOT BE SUBPOENAED FOR OR IS UNABLE TO ATTEND A HEARING. THE ARBITRATOR SHALL DETERMINE THE CONDITIONS UNDER WHICH THE DEPOSITION IS TAKEN.

C. AN ARBITRATOR MAY PERMIT SUCH DISCOVERY AS THE ARBITRATOR DECIDES IS APPROPRIATE IN THE CIRCUMSTANCES, TAKING INTO ACCOUNT THE NEEDS OF THE PARTIES TO THE ARBITRATION PROCEEDING AND OTHER AFFECTED PERSONS AND THE DESIRABILITY OF MAKING THE PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE.

D. IF AN ARBITRATOR PERMITS DISCOVERY UNDER SUBSECTION C, THE ARBITRATOR MAY ORDER A PARTY TO THE ARBITRATION PROCEEDING TO COMPLY WITH THE ARBITRATOR'S DISCOVERY RELATED ORDERS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT A DISCOVERY PROCEEDING AND TAKE ACTION AGAINST A NONCOMPLYING PARTY TO THE EXTENT A COURT COULD IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

E. AN ARBITRATOR MAY ISSUE A PROTECTIVE ORDER TO PREVENT THE DISCLOSURE OF PRIVILEGED INFORMATION, CONFIDENTIAL INFORMATION, TRADE SECRETS AND OTHER INFORMATION PROTECTED FROM DISCLOSURE TO THE EXTENT A COURT COULD IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

F. ALL LAWS COMPELLING A PERSON UNDER SUBPOENA TO TESTIFY AND ALL FEES FOR ATTENDING A JUDICIAL PROCEEDING, A DEPOSITION OR A DISCOVERY PROCEEDING AS A WITNESS APPLY TO AN ARBITRATION PROCEEDING AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

G. THE COURT MAY ENFORCE A SUBPOENA OR DISCOVERY RELATED ORDER FOR THE ATTENDANCE OF A WITNESS WITHIN THIS STATE AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE ISSUED BY AN ARBITRATOR IN CONNECTION WITH AN ARBITRATION PROCEEDING IN ANOTHER STATE ON CONDITIONS DETERMINED BY THE COURT SO AS TO MAKE THE ARBITRATION PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE. A SUBPOENA OR DISCOVERY RELATED ORDER ISSUED BY AN ARBITRATOR IN ANOTHER STATE MUST BE SERVED IN THE MANNER PROVIDED BY LAW FOR SERVICE OF SUBPOENAS IN A CIVIL ACTION IN THIS STATE AND, ON MOTION TO THE COURT BY A PARTY TO THE ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER PROVIDED BY LAW FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION IN THIS STATE.

12-3018. Judicial enforcement of preaward ruling by arbitrator

IF AN ARBITRATOR MAKES A PREAWARD RULING IN FAVOR OF A PARTY TO THE ARBITRATION PROCEEDING, THE PARTY MAY REQUEST THE ARBITRATOR TO INCORPORATE THE RULING INTO AN AWARD UNDER SECTION 12-3019. A PREVAILING PARTY MAY MAKE A MOTION TO THE COURT FOR AN EXPEDITED ORDER TO CONFIRM THE AWARD UNDER SECTION 12-3022, IN WHICH CASE THE COURT SHALL SUMMARILY DECIDE THE MOTION.

THE COURT SHALL ISSUE AN ORDER TO CONFIRM THE AWARD UNLESS THE COURT VACATES, MODIFIES OR CORRECTS THE AWARD UNDER SECTION 12-3023 OR 12-3024.

12-3019. Award

A. AN ARBITRATOR SHALL MAKE A RECORD OF AN AWARD. THE RECORD MUST BE SIGNED OR OTHERWISE AUTHENTICATED BY ANY ARBITRATOR WHO CONCURS WITH THE AWARD. THE ARBITRATOR OR THE ARBITRATION ORGANIZATION SHALL GIVE NOTICE OF THE AWARD, INCLUDING A COPY OF THE AWARD, TO EACH PARTY TO THE ARBITRATION PROCEEDING.

B. AN AWARD MUST BE MADE WITHIN THE TIME SPECIFIED BY THE AGREEMENT TO ARBITRATE OR, IF NOT SPECIFIED THEREIN, WITHIN THE TIME ORDERED BY THE COURT. THE COURT MAY EXTEND OR THE PARTIES TO THE ARBITRATION PROCEEDING MAY AGREE IN A RECORD TO EXTEND THE TIME. THE COURT OR THE PARTIES MAY DO SO WITHIN OR AFTER THE TIME SPECIFIED OR ORDERED. A PARTY WAIVES ANY OBJECTION THAT AN AWARD WAS NOT TIMELY MADE UNLESS THE PARTY GIVES NOTICE OF THE OBJECTION TO THE ARBITRATOR BEFORE RECEIVING NOTICE OF THE AWARD.

12-3020. Change of award by arbitrator

A. ON MOTION TO AN ARBITRATOR BY A PARTY TO AN ARBITRATION PROCEEDING, THE ARBITRATOR MAY MODIFY OR CORRECT AN AWARD EITHER:

1. ON A GROUND STATED IN SECTION 12-3024, SUBSECTION A, PARAGRAPH 1 OR 3.

2. BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD ON A CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING.

3. TO CLARIFY THE AWARD.

B. A MOTION UNDER SUBSECTION A OF THIS SECTION MUST BE MADE AND NOTICE GIVEN TO ALL PARTIES WITHIN TWENTY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD.

C. A PARTY TO THE ARBITRATION PROCEEDING MUST GIVE NOTICE OF ANY OBJECTION TO THE MOTION WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE.

D. IF A MOTION TO THE COURT IS PENDING UNDER SECTION 12-3022, 12-3023 OR 12-3024, THE COURT MAY SUBMIT THE CLAIM TO THE ARBITRATOR TO CONSIDER WHETHER TO MODIFY OR CORRECT THE AWARD EITHER:

1. ON A GROUND STATED IN SECTION 12-3024, SUBSECTION A, PARAGRAPH 1 OR 3.

2. BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD ON A CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING.

3. TO CLARIFY THE AWARD.

E. AN AWARD MODIFIED OR CORRECTED PURSUANT TO THIS SECTION IS SUBJECT TO SECTION 12-3019, SUBSECTION A AND SECTIONS 12-3022, 12-3023 AND 12-3024.

12-3021. Remedies; fees and expenses of arbitration proceeding

A. AN ARBITRATOR MAY AWARD PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF IF SUCH AN AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME CLAIM AND THE EVIDENCE PRODUCED AT THE HEARING JUSTIFIES THE AWARD UNDER THE LEGAL STANDARDS OTHERWISE APPLICABLE TO THE CLAIM.

B. AN ARBITRATOR MAY AWARD REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF ARBITRATION ONLY IF THAT AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME CLAIM OR BY THE AGREEMENT OF THE PARTIES TO THE ARBITRATION PROCEEDING.

C. AS TO ALL REMEDIES OTHER THAN THOSE AUTHORIZED BY SUBSECTIONS A AND B OF THIS SECTION, AN ARBITRATOR MAY ORDER SUCH REMEDIES AS THE ARBITRATOR CONSIDERS JUST AND APPROPRIATE UNDER THE CIRCUMSTANCES OF THE ARBITRATION PROCEEDING. THE FACT THAT SUCH A REMEDY COULD NOT OR WOULD NOT BE GRANTED BY THE COURT IS NOT A GROUND FOR REFUSING TO CONFIRM AN AWARD UNDER SECTION 12-3022 OR FOR VACATING AN AWARD UNDER SECTION 12-3023.

D. AN ARBITRATOR'S EXPENSES AND FEES, TOGETHER WITH OTHER EXPENSES, MUST BE PAID AS PROVIDED IN THE AWARD.

E. IF AN ARBITRATOR AWARDS PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF UNDER SUBSECTION A OF THIS SECTION, THE ARBITRATOR SHALL SPECIFY IN THE AWARD THE BASIS IN FACT JUSTIFYING AND THE BASIS IN LAW AUTHORIZING THE AWARD AND STATE SEPARATELY THE AMOUNT OF THE PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF.

12-3022. Confirmation of award

AFTER A PARTY TO AN ARBITRATION PROCEEDING RECEIVES NOTICE OF AN AWARD, THE PARTY MAY MAKE A MOTION TO THE COURT FOR AN ORDER CONFIRMING THE AWARD AT WHICH TIME THE COURT SHALL ISSUE A CONFIRMING ORDER UNLESS THE AWARD IS MODIFIED OR CORRECTED PURSUANT TO SECTION 12-3020 OR 12-3024 OR IS VACATED PURSUANT TO SECTION 12-3023.

12-3023. Vacating award

A. ON MOTION TO THE COURT BY A PARTY TO AN ARBITRATION PROCEEDING, THE COURT SHALL VACATE AN AWARD MADE IN THE ARBITRATION PROCEEDING IF ANY OF THE FOLLOWING APPLIES:

1. THE AWARD WAS PROCURED BY CORRUPTION, FRAUD OR OTHER UNDUE MEANS.

2. THERE WAS EITHER:

(a) EVIDENT PARTIALITY BY AN ARBITRATOR APPOINTED AS A NEUTRAL ARBITRATOR.

(b) CORRUPTION BY AN ARBITRATOR.

(c) MISCONDUCT BY AN ARBITRATOR PREJUDICING THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING.

3. AN ARBITRATOR REFUSED TO POSTPONE THE HEARING ON SHOWING OF SUFFICIENT CAUSE FOR POSTPONEMENT, REFUSED TO CONSIDER EVIDENCE MATERIAL TO THE CONTROVERSY OR OTHERWISE CONDUCTED THE HEARING CONTRARY TO SECTION 12-3015, SO AS TO PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING.

4. AN ARBITRATOR EXCEEDED THE ARBITRATOR'S POWERS.

5. THERE WAS NO AGREEMENT TO ARBITRATE, UNLESS THE PERSON PARTICIPATED IN THE ARBITRATION PROCEEDING WITHOUT RAISING THE OBJECTION UNDER SECTION 12-3015, SUBSECTION C NOT LATER THAN THE BEGINNING OF THE ARBITRATION HEARING.

6. THE ARBITRATION WAS CONDUCTED WITHOUT PROPER NOTICE OF THE INITIATION OF AN ARBITRATION AS REQUIRED IN SECTION 12-3009 SO AS TO PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING.

B. A MOTION UNDER THIS SECTION MUST BE FILED WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD PURSUANT TO SECTION 12-3019 OR WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD PURSUANT TO SECTION 12-3020, UNLESS THE MOVANT ALLEGES THAT THE AWARD WAS PROCURED BY CORRUPTION, FRAUD OR OTHER UNDUE MEANS, IN WHICH CASE THE MOTION MUST BE MADE WITHIN NINETY DAYS AFTER THE GROUND IS KNOWN OR BY THE EXERCISE OF REASONABLE CARE WOULD HAVE BEEN KNOWN BY THE MOVANT.

C. IF THE COURT VACATES AN AWARD ON A GROUND OTHER THAN THAT SET FORTH IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION, IT MAY ORDER A REHEARING. IF THE AWARD IS VACATED ON A GROUND STATED IN SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION, THE REHEARING MUST BE BEFORE A NEW ARBITRATOR. IF THE AWARD IS VACATED ON A GROUND STATED IN SUBSECTION A, PARAGRAPH 3, 4 OR 6 OF THIS SECTION, THE REHEARING MAY BE BEFORE THE ARBITRATOR WHO MADE THE AWARD OR THE ARBITRATOR'S SUCCESSOR. THE ARBITRATOR MUST RENDER THE DECISION IN THE REHEARING WITHIN THE SAME TIME AS THAT PROVIDED IN SECTION 12-3019, SUBSECTION B FOR AN AWARD.

D. IF THE COURT DENIES A MOTION TO VACATE AN AWARD, IT SHALL CONFIRM THE AWARD UNLESS A MOTION TO MODIFY OR CORRECT THE AWARD IS PENDING.

12-3024. Modification or correction of award

A. ON MOTION MADE WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD PURSUANT TO SECTION 12-3019 OR WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD PURSUANT TO SECTION 12-3020, THE COURT SHALL MODIFY OR CORRECT THE AWARD IF EITHER:

1. THERE WAS AN EVIDENT MATHEMATICAL MISCALCULATION OR AN EVIDENT MISTAKE IN THE DESCRIPTION OF A PERSON OR THING OR PROPERTY REFERRED TO IN THE AWARD.

2. THE ARBITRATOR MADE AN AWARD ON A CLAIM NOT SUBMITTED TO THE ARBITRATOR AND THE AWARD MAY BE CORRECTED WITHOUT AFFECTING THE MERITS OF THE DECISION ON THE CLAIMS SUBMITTED.

3. THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS OF THE DECISION ON THE CLAIMS SUBMITTED.

B. IF A MOTION MADE UNDER SUBSECTION A OF THIS SECTION IS GRANTED, THE COURT SHALL MODIFY OR CORRECT AND CONFIRM THE AWARD AS MODIFIED OR CORRECTED. OTHERWISE, UNLESS A MOTION TO VACATE IS PENDING, THE COURT SHALL CONFIRM THE AWARD.

C. A MOTION TO MODIFY OR CORRECT AN AWARD PURSUANT TO THIS SECTION MAY BE JOINED WITH A MOTION TO VACATE THE AWARD.

12-3025. Judgment on award; attorney fees and litigation expenses

A. ON GRANTING AN ORDER VACATING AN AWARD WITHOUT DIRECTING A REHEARING OR CONFIRMING, MODIFYING OR CORRECTING AN AWARD, THE COURT SHALL

ENTER A JUDGMENT IN CONFORMITY WITH THE ORDER. THE JUDGMENT MAY BE RECORDED, DOCKETED AND ENFORCED AS ANY OTHER JUDGMENT IN A CIVIL ACTION.

B. A COURT MAY ALLOW REASONABLE COSTS OF THE MOTION AND SUBSEQUENT JUDICIAL PROCEEDINGS.

C. ON APPLICATION OF A PREVAILING PARTY TO A CONTESTED JUDICIAL PROCEEDING UNDER SECTION 12-3022, 12-3023 OR 12-3024, THE COURT MAY ADD REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF LITIGATION INCURRED IN A JUDICIAL PROCEEDING AFTER THE AWARD IS MADE TO A JUDGMENT VACATING AN AWARD WITHOUT DIRECTING A REHEARING OR CONFIRMING, MODIFYING OR CORRECTING AN AWARD.

12-3026. Jurisdiction

A. A COURT OF THIS STATE HAVING JURISDICTION OVER THE CONTROVERSY AND THE PARTIES MAY ENFORCE AN AGREEMENT TO ARBITRATE.

B. AN AGREEMENT TO ARBITRATE PROVIDING FOR ARBITRATION IN THIS STATE CONFERS EXCLUSIVE JURISDICTION ON THE COURT TO ENTER JUDGMENT ON AN AWARD UNDER THIS CHAPTER.

12-3027. Venue

A MOTION PURSUANT TO SECTION 12-3005 MUST BE MADE IN THE COURT OF THE COUNTY IN WHICH THE AGREEMENT TO ARBITRATE SPECIFIES THE ARBITRATION HEARING IS TO BE HELD OR, IF THE HEARING HAS BEEN HELD, IN THE COURT OF THE COUNTY IN WHICH IT WAS HELD. OTHERWISE, THE MOTION MAY BE MADE IN THE COURT OF ANY COUNTY IN WHICH AN ADVERSE PARTY RESIDES OR HAS A PLACE OF BUSINESS OR, IF NO ADVERSE PARTY HAS A RESIDENCE OR PLACE OF BUSINESS IN THIS STATE, IN THE COURT OF ANY COUNTY IN THIS STATE. ALL SUBSEQUENT MOTIONS MUST BE MADE IN THE COURT HEARING THE INITIAL MOTION UNLESS THE COURT OTHERWISE DIRECTS.

12-3028. Uniformity of application and construction

IN APPLYING AND CONSTRUING THIS CHAPTER, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

12-3029. Relationship to electronic signatures in global and national commerce act

THE PROVISIONS OF THIS CHAPTER GOVERNING THE LEGAL EFFECT, VALIDITY AND ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES AND OF CONTRACTS PERFORMED WITH THE USE OF SUCH RECORDS OR SIGNATURES CONFORM TO THE REQUIREMENTS OF SECTION 102 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (P.L. 106-229; 114 STAT. 463; 15 UNITED STATES CODE SECTIONS 7001 AND 7002).

Sec. 4. Section 41-2615, Arizona Revised Statutes, is amended to read:

41-2615. Exclusive remedy

Notwithstanding any law to the contrary, including ~~the provisions of~~ title 12, chapter 7, article 2 and title 12, chapter ~~9, article 1~~ 21, this article and the rules ~~promulgated~~ ADOPTED under this article shall provide the exclusive procedure for asserting a claim against this state or any agency of this state arising in relation to any procurement conducted under this chapter.

1 Sec. 5. Savings clause
2 Title 12, chapter 21, Arizona Revised Statutes, as added by this act,
3 does not affect an action or proceeding commenced or a right accrued before
4 January 1, 2011. Subject to section 12-3003, Arizona Revised Statutes, as
5 added by this act, an arbitration agreement made before January 1, 2011 is
6 governed by title 12, chapter 9, article 1, Arizona Revised Statutes.
7 Sec. 6. Effective date
8 Sections 10-1806, 12-2101.01 and 41-2615, Arizona Revised Statutes, as
9 amended by this act, and title 12, chapter 21, Arizona Revised Statutes, as
10 added by this act, are effective from and after December 31, 2010.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.

Passed the House March 15, 2010

by the following vote: 51 Ayes,

3 Nays, 5 Not Voting

1 vacancy

Speaker of the House

Chief Clerk of the House

Passed the Senate April 19, 2010

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 2010

at 4:40 o'clock P. M.

Secretary to the Governor

Approved this 23rd day of

April

at 7:28 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 26th day of April, 2010

at 12:30 o'clock P. M.

Secretary of State

H.B. 2430