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Title 15 - Civil Remedies and Procedures

CHAPTER 48.

UNIFORM ARBITRATION ACT

SECTION 15-48-10. Validity of arbitration agreement; exceptions from operation of chapter.

(a) A written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. Notice that a contract is subject to arbitration pursuant to this chapter shall be typed in underlined capital letters, or rubber-stamped prominently, on the first page of the contract and unless such notice is displayed thereon the contract shall not be subject to arbitration.

(b) This chapter however shall not apply to:

(1) Any agreement or provision to arbitrate in which it is stipulated that this chapter shall not

apply or to any arbitration or award thereunder;

(2) Arbitration agreements between employers and employees or between their respective representatives unless the agreement provides that this chapter shall apply; provided, however, that notwithstanding any other provision of law, employers and employees or their respective representatives may not agree that workmen's compensation claims, unemployment compensation claims and collective bargaining disputes shall be subject to the provisions of this chapter and any such provision so agreed upon shall be null and void. An agreement to apply this chapter shall not be made a condition of employment.

(3) A pre-agreement entered into when the relationship of the contracting parties is such that of lawyer-client or doctor-patient and the term "doctor" shall include all those persons licensed to practice medicine pursuant to Chapters 9, 15, 31, 37, 47, 51, 55, 67 and 69 of Title 40 of the 1976 Code.

(4) Any claim arising out of personal injury, based on contract or tort, or to any insured or beneficiary under any insurance policy or annuity contract.

HISTORY: 1978 Act No. 492, Section 1.

SECTION 15-48-20. Proceedings to compel or stay arbitration.

(a) On application of a party showing an agreement described in Section 15-48-10, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party, otherwise, the application shall be denied.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under subdivision (a) of this section, the application shall be made therein. Otherwise and subject to Section 15-48-190, the application may be made in any court of competent jurisdiction.

(d) Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under this section or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(e) An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

HISTORY: 1978 Act No. 492, Section 2.

SECTION 15-48-30. Appointment of arbitrators.

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, there shall be three arbitrators with one chosen by the party making the demand for arbitration, one chosen by the party against whom demand is made and third being chosen by those two chosen by the parties.

HISTORY: 1978 Act No. 492, Section 3.

SECTION 15-48-40. Majority action by arbitrators.

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this chapter.

HISTORY: 1978 Act No. 492, Section 4.

SECTION 15-48-50. Hearing; record thereof.

Unless otherwise provided by the agreement:

(a) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(b) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(c) The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

(d) Upon the request of any party or arbitrator, the arbitrators shall cause to be made a record of the testimony and evidence introduced at the hearing.

HISTORY: 1978 Act No. 492, Section 5.

SECTION 15-48-60. Joinder of parties to arbitration.

Upon application to the arbitration panel by a party, a person who is subject to service of process over the subject matter of the arbitration shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) lead any of the persons already parties subject to a substantial risk of incurred double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the arbitrators shall order that he be made a party. Any person joined as a party to the arbitration shall have the same time to answer which was given to the initial defendant in the case.

HISTORY: 1978 Act No. 492, Section 6.

SECTION 15-48-70. Representation by attorney.

A party has the right to be represented by an attorney at any proceeding or hearing under this chapter. A waiver thereof prior to the proceeding or hearing is ineffective.

HISTORY: 1978 Act No. 492, Section 7.

SECTION 15-48-80. Witnesses; subpoenas; depositions.

(a) The arbitrators may issue (cause to be issued) subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and shall have the power to administer oaths. Subpoenas so issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

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

HISTORY: 1978 Act No. 492, Section 8.

SECTION 15-48-90. Award.

(a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

HISTORY: 1978 Act No. 492, Section 9.

SECTION 15-48-100. Change of award by arbitrators.

On application of a party or, if an application to the court is pending under Sections 15-48-120, 15-48-130, 15-48-140, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in paragraphs (1) and (3) of subdivision (a) of Section 15-48-140, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating he must serve his objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of Sections 15-48-120, 15-48-130 and 15-48-140.

HISTORY: 1978 Act No. 492, Section 10.

SECTION 15-48-110. Fees and expenses of arbitration.

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

HISTORY: 1978 Act No. 492, Section 11.

SECTION 15-48-120. Confirmation of an award.

Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in Sections 15-48-130 and 15-48-140.

HISTORY: 1978 Act No. 492, Section 12.

SECTION 15-48-130. Vacating an award.

(a) Upon application of a party, the court shall vacate an award where:

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

(2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;

(3) The arbitrators exceeded their powers;

(4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Section 15-48-50, as to prejudice substantially the rights of a party; or

(5) There was no arbitration agreement and the issue was not adversely determined in proceedings under Section 15-48-20 and the party did not participate in the arbitration hearing without raising the objection;

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

(b) An application under this section shall be made within ninety days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in item (5) of subsection (a) the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with Section 15-48-30, or, if the award is vacated on grounds set forth in items (3) and (4) of subsection (a) the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with Section 15-48-30. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

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

HISTORY: 1978 Act No. 492, Section 13.

SECTION 15-48-140. Modification or correction of award.

(a) Upon application made within ninety days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;

(2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award so as to effect its

intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

HISTORY: 1978 Act No. 492, Section 14.

SECTION 15-48-150. Judgment or decree on award.

Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

HISTORY: 1978 Act No. 492, Section 15.

SECTION 15-48-160. Judgment roll; docketing.

(a) On entry of judgment or decree, the clerk of court shall prepare the judgment roll consisting, to the extent filed, of the following:

- (1) The agreement and each written extension of the time within which to make the award;
- (2) The award;
- (3) A copy of the order confirming, modifying or correcting the award; and
- (4) A copy of the judgment or decree.

(b) The judgment or decree may be docketed as if rendered in an action.

HISTORY: 1978 Act No. 492, Section 16.

SECTION 15-48-170. Applications to court.

Except as otherwise provided, an application to the court under this chapter shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action.

HISTORY: 1978 Act No. 492, Section 17.

SECTION 15-48-180. Court; jurisdiction; questions of law and fact.

The term "court" means any court of competent jurisdiction of this State. The making of an agreement described in Section 15-48-10 providing for arbitration in this State confers jurisdiction on the court to enforce the agreement under this chapter and to enter judgment on an award thereunder. Unless otherwise provided by the arbitration agreement, when a dispute is submitted to arbitration, the arbitrators shall determine questions of both law and fact.

HISTORY: 1978 Act No. 492, Section 18.

SECTION 15-48-190. Venue.

An initial application shall be made to the court of the county in which the agreement provides the arbitration hearing shall be held or, if the hearing has been held, in the county in which it was held. Otherwise the application shall be made in the county where the adverse party resides or has a place of business or, if he has no residence or place of business in this State, to the court of any county. All subsequent applications shall be made to the court hearing the initial application unless the court otherwise directs.

HISTORY: 1978 Act No. 492, Section 19.

SECTION 15-48-200. Appeals.

(a) An appeal may be taken from:

- (1) An order denying an application to compel arbitration made under Section 15-48-20;
- (2) An order granting an application to stay arbitration made under Section 15-48-20(b);
- (3) An order confirming or 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 this chapter.

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

HISTORY: 1978 Act No. 492, Section 20.

SECTION 15-48-210. Chapter not retroactive.

This chapter applies only to agreements made subsequent to the effective date of this chapter.

HISTORY: 1978 Act No. 492, Section 21.

SECTION 15-48-220. Mechanics liens not precluded.

Nothing in this chapter shall preclude the filing and perfecting of a mechanics lien by any party to an arbitration agreement.

HISTORY: 1978 Act No. 492, Section 22.

SECTION 15-48-230. Uniformity of interpretation.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

HISTORY: 1978 Act No. 492, Section 23.

SECTION 15-48-240. Short title.

This chapter may be cited as the "Uniform Arbitration Act".

HISTORY: 1978 Act No. 492, Section 24.