

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 34 Session of 2015

INTRODUCED BY GRELL, CUTLER, MARSICO, EVERETT, JAMES, OBERLANDER, M. K. KELLER, PETRI AND MOUL, FEBRUARY 5, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 14, 2015

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, extensively revising the <--
3 Uniform Arbitration Act STATUTORY ARBITRATION; and making <--
4 editorial changes.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Subchapter A of Chapter 73 of Title 42 of the <--
8 Pennsylvania Consolidated Statutes is repealed:

9 [SUBCHAPTER A

10 STATUTORY ARBITRATION

11 Sec.

12 7301. Short title of subchapter.

13 7302. Scope of subchapter.

14 7303. Validity of agreement to arbitrate.

15 7304. Court proceedings to compel or stay arbitration.

16 7305. Appointment of arbitrators by court.

17 7306. Action by arbitrators.

18 7307. Hearing before arbitrators.

- 1 ~~7308. Representation by attorney.~~  
2 ~~7309. Witnesses, subpoenas, oaths and depositions.~~  
3 ~~7310. Award of arbitrators.~~  
4 ~~7311. Change of award by arbitrators.~~  
5 ~~7312. Fees and expenses of arbitration.~~  
6 ~~7313. Confirmation of award by court.~~  
7 ~~7314. Vacating award by court.~~  
8 ~~7315. Modification or correction of award by court.~~  
9 ~~7316. Judgment or decree on award.~~  
10 ~~7317. Form and service of applications to court.~~  
11 ~~7318. Court and jurisdiction.~~  
12 ~~7319. Venue of court proceedings.~~  
13 ~~7320. Appeals from court orders.~~  
14 ~~§ 7301. Short title of subchapter.~~

15 ~~This subchapter shall be known and may be cited as the~~  
16 ~~"Uniform Arbitration Act."~~

17 ~~§ 7302. Scope of subchapter.~~

18 ~~(a) General rule. An agreement to arbitrate a controversy~~  
19 ~~on a nonjudicial basis shall be conclusively presumed to be an~~  
20 ~~agreement to arbitrate pursuant to Subchapter B (relating to~~  
21 ~~common law arbitration) unless the agreement to arbitrate is in~~  
22 ~~writing and expressly provides for arbitration pursuant to this~~  
23 ~~subchapter or any other similar statute, in which case the~~  
24 ~~arbitration shall be governed by this subchapter.~~

25 ~~(b) Collective bargaining agreements. This subchapter shall~~  
26 ~~apply to a collective bargaining agreement to arbitrate~~  
27 ~~controversies between employers and employees or their~~  
28 ~~respective representatives only where the arbitration pursuant~~  
29 ~~to this subchapter is consistent with any statute regulating~~  
30 ~~labor and management relations.~~

1       ~~(c) Government contracts. This subchapter shall apply to~~  
2 ~~any written contract to which a government unit of this~~  
3 ~~Commonwealth is a party to the same extent as if the government~~  
4 ~~unit were a private person, except that where a contract to~~  
5 ~~which the Commonwealth government is a party provides for~~  
6 ~~arbitration of controversies but does not provide for~~  
7 ~~arbitration pursuant to any specified statutory provision, the~~  
8 ~~arbitration shall be governed by this subchapter.~~

9       ~~(d) Special application.~~

10       ~~(1) Paragraph (2) shall be applicable where:~~

11           ~~(i) The Commonwealth government submits a~~  
12 ~~controversy to arbitration.~~

13           ~~(ii) A political subdivision submits a controversy~~  
14 ~~with an employee or a representative of employees to~~  
15 ~~arbitration.~~

16           ~~(iii) Any person has been required by law to submit~~  
17 ~~or to agree to submit a controversy to arbitration~~  
18 ~~pursuant to this subchapter.~~

19       ~~(2) Where this paragraph is applicable a court in~~  
20 ~~reviewing an arbitration award pursuant to this subchapter~~  
21 ~~shall, notwithstanding any other provision of this~~  
22 ~~subchapter, modify or correct the award where the award is~~  
23 ~~contrary to law and is such that had it been a verdict of a~~  
24 ~~jury the court would have entered a different judgment or a~~  
25 ~~judgment notwithstanding the verdict.~~

26 ~~§ 7303. Validity of agreement to arbitrate.~~

27       ~~A written agreement to subject any existing controversy to~~  
28 ~~arbitration or a provision in a written agreement to submit to~~  
29 ~~arbitration any controversy thereafter arising between the~~  
30 ~~parties is valid, enforceable and irrevocable, save upon such~~

1 ~~grounds as exist at law or in equity relating to the validity,~~  
2 ~~enforceability or revocation of any contract.~~

3 ~~§ 7304. Court proceedings to compel or stay arbitration.~~

4 ~~(a) Compelling arbitration. On application to a court to~~  
5 ~~compel arbitration made by a party showing an agreement~~  
6 ~~described in section 7303 (relating to validity of agreement to~~  
7 ~~arbitrate) and a showing that an opposing party refused to~~  
8 ~~arbitrate, the court shall order the parties to proceed with~~  
9 ~~arbitration. If the opposing party denies the existence of an~~  
10 ~~agreement to arbitrate, the court shall proceed summarily to~~  
11 ~~determine the issue so raised and shall order the parties to~~  
12 ~~proceed with arbitration if it finds for the moving party.~~  
13 ~~Otherwise, the application shall be denied.~~

14 ~~(b) Stay of arbitration. On application of a party to a~~  
15 ~~court to stay an arbitration proceeding threatened or commenced~~  
16 ~~the court may stay an arbitration on a showing that there is no~~  
17 ~~agreement to arbitrate. When in substantial and bona fide~~  
18 ~~dispute, such an issue shall be forthwith and summarily tried~~  
19 ~~and determined and a stay of the arbitration proceedings shall~~  
20 ~~be ordered if the court finds for the moving party. If the court~~  
21 ~~finds for the opposing party, the court shall order the parties~~  
22 ~~to proceed with arbitration.~~

23 ~~(c) Venue. If a controversy alleged to be or not to be~~  
24 ~~referable to arbitration under the agreement is also involved in~~  
25 ~~an action or proceeding pending in a court having jurisdiction~~  
26 ~~to hear applications to compel or stay arbitration, the~~  
27 ~~application shall be made to that court. Otherwise, subject to~~  
28 ~~section 7319 (relating to venue of court proceedings), the~~  
29 ~~application may be made in any court of competent jurisdiction.~~

30 ~~(d) Stay of judicial proceedings. An action or proceeding,~~

1 ~~allegedly involving an issue subject to arbitration, shall be~~  
2 ~~stayed if a court order to proceed with arbitration has been~~  
3 ~~made or an application for such an order has been made under~~  
4 ~~this section. If the issue allegedly subject to arbitration is~~  
5 ~~severable, the stay of the court action or proceeding may be~~  
6 ~~made with respect to the severable issue only. If the~~  
7 ~~application for an order to proceed with arbitration is made in~~  
8 ~~such action or proceeding and is granted, the court order to~~  
9 ~~proceed with arbitration shall include a stay of the action or~~  
10 ~~proceeding.~~

11 ~~(e) No examination of merits. An application for a court~~  
12 ~~order to proceed with arbitration shall not be refused, nor~~  
13 ~~shall an application to stay arbitration be granted, by the~~  
14 ~~court on the ground that the controversy lacks merit or bona~~  
15 ~~fides or on the ground that no fault or basis for the~~  
16 ~~controversy sought to be arbitrated has been shown.~~

17 ~~§ 7305. Appointment of arbitrators by court.~~

18 ~~If the agreement to arbitrate prescribes a method of~~  
19 ~~appointment of arbitrators, the prescribed method shall be~~  
20 ~~followed. In the absence of a prescribed method or if the~~  
21 ~~prescribed method fails or for any reason cannot be followed, or~~  
22 ~~when an arbitrator appointed fails to act or is unable to act~~  
23 ~~and his successor has not been appointed, the court on~~  
24 ~~application of a party shall appoint one or more arbitrators. An~~  
25 ~~arbitrator so appointed has all the powers of an arbitrator~~  
26 ~~specifically named in the agreement.~~

27 ~~§ 7306. Action by arbitrators.~~

28 ~~The powers of the arbitrators shall be exercised by a~~  
29 ~~majority unless otherwise prescribed by the agreement or~~  
30 ~~provided by this subchapter.~~

1 ~~§ 7307. Hearing before arbitrators.~~

2 ~~(a) General rule. Unless otherwise prescribed by the~~  
3 ~~agreement:~~

4 ~~(1) The arbitrators shall appoint a time and place for~~  
5 ~~the arbitration hearing and cause written notice thereof to~~  
6 ~~be served personally or by registered or certified mail on~~  
7 ~~all parties not less than ten days before the hearing.~~  
8 ~~Appearance at the hearing constitutes a waiver of such~~  
9 ~~notice.~~

10 ~~(2) The arbitrators may adjourn the hearing from time to~~  
11 ~~time as necessary and, on request of a party and for good~~  
12 ~~cause, or upon their own motion, may postpone the hearing to~~  
13 ~~a time not later than the date fixed by the agreement for~~  
14 ~~making the award unless the parties consent to a later date.~~

15 ~~(3) The arbitrators may hear and determine the~~  
16 ~~controversy upon the evidence produced at the arbitration~~  
17 ~~hearing notwithstanding the failure of a duly notified party~~  
18 ~~to appear. On application by a party the court may direct the~~  
19 ~~arbitrators to proceed promptly with the hearing and~~  
20 ~~determination of the controversy.~~

21 ~~(4) The parties and their attorneys have the right to be~~  
22 ~~heard, to present evidence material to the controversy and to~~  
23 ~~cross examine witnesses appearing at the hearing.~~

24 ~~(5) The hearing shall be conducted by all the~~  
25 ~~arbitrators but a majority may determine any issue and render~~  
26 ~~a final award. If, during the course of the hearing, an~~  
27 ~~arbitrator for any reason ceases to act, the remaining~~  
28 ~~arbitrator or arbitrators appointed to act as neutrals may~~  
29 ~~continue with the hearing and determine the controversy.~~

30 ~~(b) Record. On request of a party who shall pay the fees~~

1 ~~therefor all testimony shall be taken stenographically and a~~  
2 ~~transcript thereof made a part of the record.~~

3 ~~§ 7308. Representation by attorney.~~

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

7 ~~§ 7309. Witnesses, subpoenas, oaths and depositions.~~

8 ~~(a) General rule. The arbitrators may issue subpoenas in~~  
9 ~~the form prescribed by general rules for the attendance of~~  
10 ~~witnesses and for the production of books, records, documents~~  
11 ~~and other evidence. Subpoenas so issued shall be served and,~~  
12 ~~upon application to the court by a party or by the arbitrators,~~  
13 ~~shall be enforced in the manner provided or prescribed by law~~  
14 ~~for the service and enforcement of subpoenas in a civil action.~~

15 ~~(b) Depositions. On application of a party and for use as~~  
16 ~~evidence the arbitrators, in the manner and upon the terms~~  
17 ~~designated by them, may permit a deposition to be taken of a~~  
18 ~~witness who cannot be served with a subpoena or who is unable to~~  
19 ~~attend the hearing.~~

20 ~~(c) Compulsory testimony. The arbitrators shall have power~~  
21 ~~to administer oaths. All provisions of law compelling a person~~  
22 ~~under subpoena to testify are applicable.~~

23 ~~(d) Fees. Fees and expenses for attendance as a witness~~  
24 ~~shall be governed by the provisions of section 5903 (relating to~~  
25 ~~compensation and expenses of witnesses).~~

26 ~~§ 7310. Award of arbitrators.~~

27 ~~(a) General rule. The award of the arbitrators shall be in~~  
28 ~~writing and signed by the arbitrators joining in the award. The~~  
29 ~~arbitrators shall deliver a copy of the award to each party~~  
30 ~~personally or by registered or certified mail, or as prescribed~~

1 ~~in the agreement to arbitrate.~~

2 ~~(b) Time limitation. The award shall be made within the~~  
3 ~~time fixed by the agreement or, if not fixed by the agreement,~~  
4 ~~within such time as is ordered by the court on application of a~~  
5 ~~party. The parties by written stipulation may extend the time~~  
6 ~~either before or after the expiration thereof. A party waives~~  
7 ~~the objection that an award was not made within the time~~  
8 ~~required unless he notifies the arbitrators of his objection~~  
9 ~~prior to delivery of the award to him.~~

10 ~~§ 7311. Change of award by arbitrators.~~

11 ~~(a) General rule. On application of a party to the~~  
12 ~~arbitrators, or on submission to the arbitrators by the court~~  
13 ~~under such conditions as the court may order if an application~~  
14 ~~to the court is pending under section 7313 (relating to~~  
15 ~~confirmation of award by court), section 7314 (relating to~~  
16 ~~vacating award by court) or section 7315 (relating to~~  
17 ~~modification or correction of award by court), the arbitrators~~  
18 ~~may modify or correct the award upon the grounds stated in~~  
19 ~~section 7315(a) (1) and (2), or for the purpose of clarifying the~~  
20 ~~award.~~

21 ~~(b) Time limitation. An application to the arbitrators~~  
22 ~~under subsection (a) shall be made within ten days after~~  
23 ~~delivery of the award to the applicant. Written notice of~~  
24 ~~presentation of the application shall be given forthwith by the~~  
25 ~~applicant to all other parties stating that they must serve~~  
26 ~~objections thereto within ten days from the date of the notice.~~  
27 ~~The award as modified or corrected is subject to the provisions~~  
28 ~~of sections 7313, 7314 and 7315.~~

29 ~~§ 7312. Fees and expenses of arbitration.~~

30 ~~Unless otherwise prescribed in the agreement to arbitrate,~~

1 ~~the expenses and fees of the arbitrators and other expenses (but~~  
2 ~~not including counsel fees) incurred in the conduct of the~~  
3 ~~arbitration shall be paid as prescribed in the award.~~

4 ~~§ 7313. Confirmation of award by court.~~

5 ~~On application of a party, the court shall confirm an award,~~  
6 ~~unless within the time limits imposed by this subchapter,~~  
7 ~~grounds are urged for vacating or modifying or correcting the~~  
8 ~~award, in which case the court shall proceed as provided in~~  
9 ~~section 7314 (relating to vacating award by court) or section~~  
10 ~~7315 (relating to modification or correction of award by court).~~

11 ~~§ 7314. Vacating award by court.~~

12 ~~(a) General rule.—~~

13 ~~(1) On application of a party, the court shall vacate an~~  
14 ~~award where:~~

15 ~~(i) the court would vacate the award under section~~  
16 ~~7341 (relating to common law arbitration) if this~~  
17 ~~subchapter were not applicable;~~

18 ~~(ii) there was evident partiality by an arbitrator~~  
19 ~~appointed as a neutral or corruption or misconduct in any~~  
20 ~~of the arbitrators prejudicing the rights of any party;~~

21 ~~(iii) the arbitrators exceeded their powers;~~

22 ~~(iv) the arbitrators refused to postpone the hearing~~  
23 ~~upon good cause being shown therefor or refused to hear~~  
24 ~~evidence material to the controversy or otherwise so~~  
25 ~~conducted the hearing, contrary to the provisions of~~  
26 ~~section 7307 (relating to hearing before arbitrators), as~~  
27 ~~to prejudice substantially the rights of a party; or~~

28 ~~(v) there was no agreement to arbitrate and the~~  
29 ~~issue of the existence of an agreement to arbitrate was~~  
30 ~~not adversely determined in proceedings under section~~

1           ~~7304 (relating to court proceedings to compel or stay~~  
2           ~~arbitration) and the applicant party raised the issue of~~  
3           ~~the existence of an agreement to arbitrate at the~~  
4           ~~hearing.~~

5           ~~(2) The fact that the relief awarded by the arbitrators~~  
6           ~~was such that it could not or would not be granted by a court~~  
7           ~~of law or equity is not a ground for vacating or refusing to~~  
8           ~~confirm the award.~~

9           ~~(b) Time limitation. An application under this section~~  
10          ~~shall be made within 30 days after delivery of a copy of the~~  
11          ~~award to the applicant, except that, if predicated upon~~  
12          ~~corruption, fraud, misconduct or other improper means, it shall~~  
13          ~~be made within 30 days after such grounds are known or should~~  
14          ~~have been known to the applicant.~~

15          ~~(c) Further hearing. If the court vacates the award on~~  
16          ~~grounds other than stated in subsection (a) (1) (v), the court may~~  
17          ~~order a rehearing before new arbitrators chosen as prescribed in~~  
18          ~~the agreement to arbitrate. Absent a method prescribed in the~~  
19          ~~agreement to arbitrate, the court shall choose new arbitrators~~  
20          ~~in accordance with section 7305 (relating to appointment of~~  
21          ~~arbitrators by court). If the award is vacated on grounds not~~  
22          ~~affecting the competency of the arbitrators under subsection (a)~~  
23          ~~(1) (i) through (iv), the court may order a rehearing before the~~  
24          ~~arbitrators who made the award or their successors appointed in~~  
25          ~~accordance with section 7305. The time period within which the~~  
26          ~~agreement requires the original award to be made is applicable~~  
27          ~~to the rehearing and commences from the date of the court order~~  
28          ~~directing a rehearing.~~

29          ~~(d) Confirmation of award. If an application to vacate the~~  
30          ~~award is denied and no application to modify or correct the~~

1 ~~award is pending, the court shall confirm the award.~~

2 ~~§ 7315. Modification or correction of award by court.~~

3 ~~(a) General rule. On application to the court made within~~  
4 ~~30 days after delivery of a copy of the award to the applicant,~~  
5 ~~the court shall modify or correct the award where:~~

6 ~~(1) there was an evident miscalculation of figures or an~~  
7 ~~evident mistake in the description of any person, thing or~~  
8 ~~property referred to in the award;~~

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

12 ~~(3) the award is deficient in a matter of form, not~~  
13 ~~affecting the merits of the controversy.~~

14 ~~(b) Confirmation of award. If an application to modify or~~  
15 ~~correct the award is granted, the court shall modify and correct~~  
16 ~~the award so as to effect its intent and shall confirm the award~~  
17 ~~as so modified and corrected. Otherwise, the court shall confirm~~  
18 ~~the award as made by the arbitrators.~~

19 ~~(c) Alternative applications. An application to modify or~~  
20 ~~correct an award may be joined in the alternative with an~~  
21 ~~application to vacate the award.~~

22 ~~§ 7316. Judgment or decree on award.~~

23 ~~Upon the granting of an order of court confirming, modifying~~  
24 ~~or correcting an award, a judgment or decree shall be entered in~~  
25 ~~conformity with the order. The judgment or decree may be~~  
26 ~~enforced as any other judgment or decree. Subject to general~~  
27 ~~rules, costs of any application to the court and of the~~  
28 ~~proceedings subsequent thereto, and disbursements may be imposed~~  
29 ~~by the court.~~

30 ~~§ 7317. Form and service of applications to court.~~

1 ~~Except as otherwise prescribed by general rules, an~~  
2 ~~application to the court under this subchapter shall be by~~  
3 ~~petition and shall be heard in the manner and upon the notice~~  
4 ~~provided or prescribed by law for the making and hearing of~~  
5 ~~petitions in civil matters. Unless the parties otherwise agree,~~  
6 ~~notice of an initial application for an order of court shall be~~  
7 ~~served in the manner provided or prescribed by law for the~~  
8 ~~service of a writ of summons in a civil action.~~

9 ~~§ 7318. Court and jurisdiction.~~

10 ~~The following words and phrases when used in this subchapter~~  
11 ~~shall have, unless the context clearly indicates otherwise, the~~  
12 ~~meanings given to them in this section:~~

13 ~~"Court." As used in this subchapter means any court of~~  
14 ~~competent jurisdiction of this Commonwealth.~~

15 ~~"Jurisdiction." The making of an agreement described in~~  
16 ~~section 7303 (relating to validity of agreement to arbitrate)~~  
17 ~~providing for arbitration in this Commonwealth confers~~  
18 ~~jurisdiction on the courts of this Commonwealth to enforce the~~  
19 ~~agreement under this subchapter and to enter judgment on an~~  
20 ~~award made thereunder.~~

21 ~~§ 7319. Venue of court proceedings.~~

22 ~~Except as otherwise prescribed by general rules:~~

23 ~~(1) An initial application to a court under this~~  
24 ~~subchapter shall be made to the court of the county in which~~  
25 ~~the agreement prescribes that the arbitration hearing shall~~  
26 ~~be held or, if the hearing has been held, in the county in~~  
27 ~~which the hearing was held.~~

28 ~~(2) If an application to a court cannot be made under~~  
29 ~~paragraph (1) the application shall be made to the court in~~  
30 ~~the county where the adverse party resides or has a place of~~

1 ~~business or, if he has no residence or place of business in~~  
2 ~~this Commonwealth, to the court of any county.~~

3 ~~(3) All subsequent applications to a court shall be made~~  
4 ~~to the court hearing the initial application unless that~~  
5 ~~court otherwise directs.~~

6 ~~§ 7320. Appeals from court orders.~~

7 ~~(a) General rule. An appeal may be taken from:~~

8 ~~(1) A court order denying an application to compel~~  
9 ~~arbitration made under section 7304 (relating to proceedings~~  
10 ~~to compel or stay arbitration).~~

11 ~~(2) A court order granting an application to stay~~  
12 ~~arbitration made under section 7304(b).~~

13 ~~(3) A court order confirming or denying confirmation of~~  
14 ~~an award.~~

15 ~~(4) A court order modifying or correcting an award.~~

16 ~~(5) A court order vacating an award without directing a~~  
17 ~~rehearing.~~

18 ~~(6) A final judgment or decree of a court entered~~  
19 ~~pursuant to the provisions of this subchapter.~~

20 ~~(b) Procedure. The appeal shall be taken in the manner,~~  
21 ~~within the time and to the same extent as an appeal from a final~~  
22 ~~order of court in a civil action.]~~

23 ~~Section 2. Chapter 73 of Title 42 is amended by adding a~~  
24 ~~subchapter to read:~~

25 SECTION 1. CHAPTER 73 OF TITLE 42 OF THE PENNSYLVANIA <--  
26 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBCHAPTER TO READ:

27 SUBCHAPTER A.1

28 REVISED STATUTORY ARBITRATION <--

29 Sec.

30 7321.1. Short title of subchapter.

1 7321.2. Definitions.  
2 7321.3. Notice.  
3 7321.4. When subchapter applies.  
4 7321.5. Effect of agreement to arbitrate; nonwaivable  
5 provisions.  
6 7321.6. Application for judicial relief.  
7 7321.7. Validity of agreement to arbitrate.  
8 7321.8. Motion to compel or stay arbitration.  
9 7321.9. Provisional remedies.  
10 7321.10. Initiation of arbitration.  
11 7321.11. Consolidation of separate arbitration proceedings.  
12 7321.12. Appointment of arbitrator; service as a neutral  
13 arbitrator.  
14 7321.13. Disclosure by arbitrator.  
15 7321.14. Action by majority.  
16 7321.15. Immunity of arbitrator; competency to testify; attorney  
17 fees and costs.  
18 7321.16. Arbitration process.  
19 7321.17. Representation by lawyer.  
20 7321.18. Witnesses; subpoenas; depositions; discovery.  
21 7321.19. Judicial enforcement of preaward ruling by arbitrator.  
22 7321.20. Award.  
23 7321.21. Change of award by arbitrator.  
24 7321.22. Remedies; fees and expenses of arbitration proceeding.  
25 7321.23. Confirmation of award.  
26 7321.24. Vacating award.  
27 7321.25. Modification or correction of award.  
28 7321.26. Judgment on award; attorney fees and litigation  
29 expenses.  
30 7321.27. Jurisdiction.

1 7321.28. Venue.

2 7321.29. Appeals.

3 7321.30. Uniformity of application and construction.

4 7321.31. Relationship to Electronic Signatures in Global and  
5 National Commerce Act.

6 § 7321.1. Short title of subchapter.

7 This subchapter shall be known and may be cited as the  
8 Statutory Arbitration Act.

9 § 7321.2. Definitions.

10 The following words and phrases when used in this subchapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Arbitration organization." Any association, agency, board,  
14 commission or other entity that is neutral and initiates,  
15 sponsors or administers an arbitration proceeding or is involved  
16 in the appointment of an arbitrator.

17 "Arbitrator." An individual appointed to render an award,  
18 alone or with others, in a controversy that is subject to an  
19 agreement to arbitrate.

20 "Court." A court of competent jurisdiction in this  
21 Commonwealth.

22 "Knowledge." Actual knowledge.

23 "Person." Any individual, corporation, business trust,  
24 estate, trust, partnership, limited liability company,  
25 association, joint venture; a government; a governmental  
26 subdivision, agency or instrumentality; a public corporation; or  
27 any other legal or commercial entity.

28 "Record." Information that is inscribed on a tangible medium  
29 or that is stored in an electronic or other medium and is  
30 retrievable in perceivable form.

1 § 7321.3. Notice.

2 (a) Giving notice.--Except as otherwise provided in this  
3 subchapter, a person gives notice to another person by taking  
4 action that is reasonably necessary to inform the other person  
5 in ordinary course, whether or not the other person acquires  
6 knowledge of the notice.

7 (b) Having notice.--A person has notice if the person has  
8 knowledge of the notice or has received notice.

9 (c) Receiving notice.--A person receives notice when it  
10 comes to the person's attention or the notice is delivered at:

11 (1) the person's place of residence or place of  
12 business; or

13 (2) another location held out by the person as a place  
14 of delivery of such communications.

15 § 7321.4. When subchapter applies.

16 (a) Subsequent agreements.--This subchapter governs an  
17 agreement to arbitrate made on or after the effective date of  
18 this subchapter unless the parties have expressly provided in  
19 writing to the contrary.

20 ~~(b) Prior agreements. Except as set forth in subsections~~ <--  
21 ~~(c) and (d), this subchapter governs an agreement to arbitrate~~  
22 ~~made before the effective date of this subchapter if all the~~  
23 ~~parties to the agreement or to the arbitration proceeding so~~  
24 ~~agree in a record.~~

25 ~~(c) Absolute date. On or after January 1, 2017, this~~

26 ~~(B) PRIOR AGREEMENTS.--FOR AN AGREEMENT TO ARBITRATE MADE~~ <--  
27 ~~BEFORE THE EFFECTIVE DATE OF THIS SUBCHAPTER, EXCEPT AS SET~~  
28 ~~FORTH IN SUBSECTIONS (C) AND (D):~~

29 ~~(1) IF ALL THE PARTIES TO THE AGREEMENT OR TO THE~~  
30 ~~ARBITRATION PROCEEDING AGREE IN A RECORD THAT THIS SUBCHAPTER~~

1 GOVERNS THE AGREEMENT, THIS SUBCHAPTER GOVERNS THE AGREEMENT.

2 (2) IF PARAGRAPH (1) DOES NOT APPLY, SUBCHAPTER A  
3 (RELATING TO STATUTORY ARBITRATION) GOVERNS THE AGREEMENT.

4 (C) ABSOLUTE DATE.--BEGINNING JANUARY 1, 2017:

5 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THIS  
6 subchapter governs an agreement to arbitrate whenever made  
7 unless the parties have expressly provided in writing to the  
8 contrary.

9 (2) THIS SUBCHAPTER DOES NOT GOVERN AN AGREEMENT TO <--  
10 ARBITRATE MADE BY THE COMMONWEALTH OR A COMMONWEALTH AGENCY  
11 PRIOR TO THE EFFECTIVE DATE OF THIS SUBCHAPTER UNLESS THE  
12 PARTIES HAVE EXPRESSLY PROVIDED IN WRITING TO THE CONTRARY.

13 (d) Collective bargaining agreements.--This subchapter shall  
14 apply to collective bargaining agreements to arbitrate  
15 controversies between employers and employees or their  
16 respective representatives only to the extent that the  
17 arbitration pursuant to this subchapter is consistent with any  
18 other statute regulating labor and management relations.  
19 § 7321.5. Effect of agreement to arbitrate; nonwaivable  
20 provisions.

21 (a) Waiver or variance.--Except as otherwise provided in  
22 subsections (b) and (c), a party to an agreement to arbitrate or  
23 to an arbitration proceeding may waive, or the parties may vary  
24 the effect of, the requirements of this subchapter to the extent  
25 permitted by law.

26 (b) Prior to controversy.--Before a controversy arises that  
27 is subject to an agreement to arbitrate, a party to the  
28 agreement may not do any of the following:

29 (1) Waive or agree to vary the effect of the  
30 requirements of any of the following:

1           (i) Section 7321.6(a) (relating to application for  
2 judicial relief).

3           (ii) Section 7321.7(a) (relating to validity of  
4 agreement to arbitrate).

5           (iii) Section 7321.9 (relating to provisional  
6 remedies).

7           (iv) Section 7321.18(a) or (b) (relating to  
8 witnesses; subpoenas; depositions; discovery).

9           (v) Section 7321.27 (relating to jurisdiction).

10          (vi) Section 7321.29 (relating to appeals).

11          (2) Agree to unreasonably restrict the right under  
12 section 7321.10 (relating to initiation of arbitration) to  
13 notice of the initiation of an arbitration proceeding.

14          (3) Agree to unreasonably restrict the right under  
15 section 7321.13 (relating to disclosure by arbitrator) to  
16 disclosure of any facts by a neutral arbitrator.

17          (4) Waive the right under section 7321.17 (relating to  
18 representation by lawyer) of a party to an agreement to  
19 arbitrate to be represented by a lawyer at any proceeding or  
20 hearing under this subchapter, but an employer and a labor  
21 organization may waive the right to representation by a  
22 lawyer in a labor arbitration.

23          (c) Absolute prohibition.--A party to an agreement to  
24 arbitrate or an arbitration proceeding may not waive, or the  
25 parties may not vary the effect of, the requirements of any of  
26 the following:

27           (1) This section.

28           (2) Section 7321.4(a) or (c) (relating to when  
29 subchapter applies).

30           (3) Section 7321.8 (relating to motion to compel or stay

1 arbitration).

2 (4) Section 7321.15 (relating to immunity of arbitrator;  
3 competency to testify; attorney fees and costs).

4 (5) Section 7321.19 (relating to judicial enforcement of  
5 preaward ruling by arbitrator).

6 (6) Section 7321.21(d) or (e) (relating to change of  
7 award by arbitrator).

8 (7) Section 7321.23 (relating to confirmation of award).

9 (8) Section 7321.24 (relating to vacating award).

10 (9) Section 7321.25 (relating to modification or  
11 correction of award).

12 (10) Section 7321.26(a) or (b) (relating to judgment on  
13 award; attorney fees and litigation expenses).

14 (11) Section 7321.30 (relating to uniformity of  
15 application and construction).

16 (12) Section 7321.31 (relating to relationship to  
17 Electronic Signatures in Global and National Commerce Act).

18 § 7321.6. Application for judicial relief.

19 (a) Procedure.--Except as otherwise provided in section  
20 7321.29 (relating to appeals), an application for judicial  
21 relief under this subchapter must be made by motion to the court  
22 and heard in the manner provided by law or rule of court for  
23 making and hearing motions.

24 (b) Service.--Unless a civil action involving the agreement  
25 to arbitrate is pending, notice of an initial motion to the  
26 court under this subchapter must be served in the manner  
27 provided by law for the service of a summons in a civil action.  
28 Otherwise, notice of the motion must be given in the manner  
29 provided by law or rule of court for serving motions in pending  
30 cases.

1 § 7321.7. Validity of agreement to arbitrate.

2 (a) General rule.--An agreement contained in a record to  
3 submit to arbitration any existing or subsequent controversy  
4 arising between the parties to the agreement is valid,  
5 enforceable, and irrevocable except upon a ground that exists at  
6 law or in equity for the revocation of a contract.

7 (b) Court decision.--The court shall decide whether an  
8 agreement to arbitrate exists or a controversy is subject to an  
9 agreement to arbitrate.

10 (c) Arbitrator decision.--An arbitrator shall decide whether  
11 a condition precedent to arbitrability has been fulfilled and  
12 whether a contract containing a valid agreement to arbitrate is  
13 enforceable.

14 (d) Challenge to arbitration.--If a party to a judicial  
15 proceeding challenges the existence of, or claims that a  
16 controversy is not subject to, an agreement to arbitrate, the  
17 arbitration proceeding may continue pending final resolution of  
18 the issue by the court, unless the court otherwise orders.

19 § 7321.8. Motion to compel or stay arbitration.

20 (a) Refusal to arbitrate under agreement.--On motion of a  
21 person showing an agreement to arbitrate and alleging another  
22 person's refusal to arbitrate pursuant to the agreement:

23 (1) if the refusing party does not appear or does not  
24 oppose the motion, the court shall order the parties to  
25 arbitrate; and

26 (2) if the refusing party opposes the motion, the court  
27 shall proceed summarily to decide the issue and order the  
28 parties to arbitrate unless it finds that there is no  
29 enforceable agreement to arbitrate.

30 (b) Agreement challenged.--On motion of a person alleging

1 that an arbitration proceeding has been initiated or threatened  
2 but that there is no agreement to arbitrate, the court shall  
3 proceed summarily to decide the issue. If the court finds that  
4 there is an enforceable agreement to arbitrate, it shall order  
5 the parties to arbitrate.

6 (c) Enforceable agreement required.--If the court finds that  
7 there is no enforceable agreement, it may not, pursuant to  
8 subsection (a) or (b), order the parties to arbitrate.

9 (d) Court refusal.--The court may not refuse to order  
10 arbitration because the claim subject to arbitration lacks merit  
11 or grounds for the claim have not been established.

12 (e) Appropriate court.--If a proceeding involving a claim  
13 referable to arbitration under an alleged agreement to arbitrate  
14 is pending in court, a motion under this section must be made in  
15 that court. Otherwise, a motion under this section may be made  
16 in any court as provided in section 7321.28 (relating to venue).

17 (f) Stay of claims alleged subject to arbitration.--If a  
18 party makes a motion to the court to order arbitration, the  
19 court on just terms shall stay a judicial proceeding that  
20 involves a claim alleged to be subject to the arbitration until  
21 the court renders a final decision under this section.

22 (g) Stay of claims subject to arbitration.--If the court  
23 orders arbitration, the court on just terms shall stay a  
24 judicial proceeding that involves a claim subject to the  
25 arbitration. If a claim subject to the arbitration is severable,  
26 the court may limit the stay to that claim.

27 § 7321.9. Provisional remedies.

28 (a) Court.--Before an arbitrator is appointed and is  
29 authorized and able to act, the court, upon motion of a party to  
30 an arbitration proceeding and for good cause shown, may enter an

1 order for provisional remedies to protect the effectiveness of  
2 the arbitration proceeding to the same extent and under the same  
3 conditions as if the controversy were the subject of a civil  
4 action.

5 (b) Arbitrator.--After an arbitrator is appointed and is  
6 authorized and able to act:

7 (1) the arbitrator may issue orders for provisional  
8 remedies, including interim awards, as the arbitrator finds  
9 necessary to protect the effectiveness of the arbitration  
10 proceeding and to promote the fair and expeditious resolution  
11 of the controversy, to the same extent and under the same  
12 conditions as if the controversy were the subject of a civil  
13 action; and

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

18 (c) Effect.--A party does not waive a right of arbitration  
19 by making a motion under subsection (a) or (b).

20 § 7321.10. Initiation of arbitration.

21 (a) Notice.--A person initiates an arbitration proceeding by  
22 giving notice in a record to the other parties to the agreement  
23 to arbitrate in the agreed manner between the parties or, in the  
24 absence of agreement, by certified or registered mail, return  
25 receipt requested and obtained, or by service as authorized for  
26 the commencement of a civil action. The notice must describe the  
27 nature of the controversy and the remedy sought.

28 (b) Lack of notice.--Unless a person objects for lack or  
29 insufficiency of notice under section 7321.16 (relating to  
30 arbitration process) not later than at the beginning of the

1 arbitration hearing, the person by appearing at the hearing  
2 waives any objection to lack of or insufficiency of notice.

3 § 7321.11. Consolidation of separate arbitration proceedings.

4 (a) Conditions.--Except as otherwise provided in subsection  
5 (c), upon motion of a party to an agreement to arbitrate or to  
6 an arbitration proceeding, the court may order consolidation of  
7 separate arbitration proceedings as to all or some of the claims  
8 if:

9 (1) there are separate agreements to arbitrate or  
10 separate arbitration proceedings between the same persons, or  
11 one of them is a party to a separate agreement to arbitrate  
12 or a separate arbitration proceeding with a third person;

13 (2) the claims subject to the agreements to arbitrate  
14 arise in substantial part from the same transaction or series  
15 of related transactions;

16 (3) the existence of a common issue of law or fact  
17 creates the possibility of conflicting decisions in the  
18 separate arbitration proceedings; and

19 (4) prejudice resulting from a failure to consolidate is  
20 not outweighed by the risk of undue delay or prejudice to the  
21 rights of or hardship to parties opposing consolidation.

22 (b) Partial consolidation.--The court may order  
23 consolidation of separate arbitration proceedings as to some  
24 claims and allow other claims to be resolved in separate  
25 arbitration proceedings.

26 (c) Agreement governs.--The court may not order  
27 consolidation of the claims of a party to an agreement to  
28 arbitrate if the agreement prohibits consolidation.

29 § 7321.12. Appointment of arbitrator; service as a neutral  
30 arbitrator.

1     (a) Appointment.--If the parties to an agreement to  
2 arbitrate agree on a method for appointing an arbitrator, that  
3 method must be followed, unless the method fails. If the parties  
4 have not agreed on a method, the agreed method fails or an  
5 arbitrator appointed fails or is unable to act and a successor  
6 has not been appointed, the court, on motion of a party to the  
7 arbitration proceeding, shall appoint the arbitrator. An  
8 arbitrator appointed by the court has all the powers of an  
9 arbitrator designated in the agreement to arbitrate or appointed  
10 pursuant to the agreed method.

11     (b) Neutral service.--An individual who has a known, direct  
12 and material interest in the outcome of the arbitration  
13 proceeding or a known, existing and substantial relationship  
14 with a party may not serve as an arbitrator required by an  
15 agreement to be neutral.

16     § 7321.13. Disclosure by arbitrator.

17     (a) Preappointment.--Before accepting appointment, an  
18 individual who is requested to serve as an arbitrator, after  
19 making a reasonable inquiry, shall disclose to all parties to  
20 the agreement to arbitrate and the arbitration proceeding and to  
21 any other arbitrators any known facts that a reasonable person  
22 would consider likely to affect the impartiality of the  
23 arbitrator in the arbitration proceeding, including:

24         (1) a financial or personal interest in the outcome of  
25 the arbitration proceeding; and

26         (2) an existing or past relationship with any of the  
27 parties to the agreement to arbitrate or the arbitration  
28 proceeding, their counsel or representatives, a witness or  
29 another arbitrator.

30     (b) Continuing.--An arbitrator has a continuing obligation

1 to disclose to all parties to the agreement to arbitrate and the  
2 arbitration proceeding and to other arbitrators facts that the  
3 arbitrator learns after accepting appointment that a reasonable  
4 person would consider likely to affect the impartiality of the  
5 arbitrator.

6 (c) Objection.--If an arbitrator discloses a fact required  
7 by subsection (a) or (b) to be disclosed and a party timely  
8 objects to the appointment or continued service of the  
9 arbitrator based upon the fact disclosed, the objection may be a  
10 ground under section 7321.24(a) (2) (relating to vacating award)  
11 for vacating an award made by the arbitrator.

12 (d) Nondisclosure.--If the arbitrator does not disclose a  
13 fact as required by subsection (a) or (b), upon timely objection  
14 by a party, the court under section 7321.24(a) (2) may vacate an  
15 award.

16 (e) Presumption of neutrality.--An arbitrator appointed as a  
17 neutral arbitrator who does not disclose a known, direct and  
18 material interest in the outcome of the arbitration proceeding  
19 or a known, existing and substantial relationship with a party  
20 is presumed to act with evident partiality under section  
21 7321.24(a) (2).

22 (f) Procedure to challenge arbitrator.--If the parties to an  
23 arbitration proceeding agree to the procedures of an arbitration  
24 organization or other procedures for challenges to arbitrators  
25 before an award is made, substantial compliance with those  
26 procedures is a condition precedent to a motion to vacate an  
27 award on that ground under section 7321.24(a) (2).

28 § 7321.14. Action by majority.

29 If there is more than one arbitrator, the powers of an  
30 arbitrator must be exercised by a majority of the arbitrators;

1 but all of them shall conduct the hearing under section  
2 7321.16(c) (relating to arbitration process).

3 § 7321.15. Immunity of arbitrator; competency to testify;  
4 attorney fees and costs.

5 (a) Immunity.--An arbitrator or an arbitration organization  
6 acting in that capacity is immune from civil liability to the  
7 same extent as a judge of a court of this Commonwealth acting in  
8 a judicial capacity.

9 (b) Other immunity.--The immunity afforded by this section  
10 supplements any immunity under other law.

11 (c) Failure to disclose.--The failure of an arbitrator to  
12 make a disclosure required by section 7321.13 (relating to  
13 disclosure by arbitrator) does not cause a loss of immunity  
14 under this section.

15 (d) Competency to testify.--In a judicial, administrative or  
16 similar proceeding, an arbitrator or representative of an  
17 arbitration organization is not competent to testify and may not  
18 be required to produce records as to any statement, conduct,  
19 decision or ruling occurring during the arbitration proceeding,  
20 to the same extent as a judge of a court of this Commonwealth  
21 acting in a judicial capacity. This subsection does not apply:

22 (1) to the extent necessary to determine the claim of an  
23 arbitrator, arbitration organization or representative of the  
24 arbitration organization against a party to the arbitration  
25 proceeding; or

26 (2) to a hearing on a motion to vacate an award under  
27 section 7321.24(a)(1) or (2) (relating to vacating award) if  
28 the movant establishes prima facie that a ground for vacating  
29 the award exists.

30 (e) Attorney fees and costs.--If a person commences a civil

1 action against an arbitrator, arbitration organization or  
2 representative of an arbitration organization arising from the  
3 services of the arbitrator, organization or representative or if  
4 a person seeks to compel an arbitrator or a representative of an  
5 arbitration organization to testify or produce records in  
6 violation of subsection (d) and the court decides that the  
7 arbitrator, arbitration organization or representative of an  
8 arbitration organization is immune from civil liability or that  
9 the arbitrator or representative of the organization is not  
10 competent to testify, the court shall award to the arbitrator,  
11 organization or representative reasonable attorney fees and  
12 other reasonable expenses of litigation.

13 § 7321.16. Arbitration process.

14 (a) Discretion of arbitrator.--An arbitrator may conduct an  
15 arbitration in a manner as the arbitrator considers appropriate  
16 for a fair and expeditious disposition of the proceeding. The  
17 authority conferred upon the arbitrator includes the power to  
18 hold conferences with the parties to the arbitration proceeding  
19 before the hearing and, among other matters, determine the  
20 admissibility, relevance, materiality and weight of any  
21 evidence.

22 (b) Summary disposition.--An arbitrator may decide a request  
23 for summary disposition of a claim or particular issue:

24 (1) if all interested parties agree; or

25 (2) upon request of one party to the arbitration  
26 proceeding if that party gives notice to all other parties to  
27 the proceeding and if the other parties have a reasonable  
28 opportunity to respond.

29 (c) Notice and hearing.--If an arbitrator orders a hearing,  
30 the arbitrator shall set a time and place and give notice of the

1 hearing not less than five days before the hearing begins.  
2 Unless a party to the arbitration proceeding makes an objection  
3 to lack or insufficiency of notice not later than the beginning  
4 of the hearing, the party's appearance at the hearing waives the  
5 objection. Upon request of a party to the arbitration proceeding  
6 and for good cause shown, or upon the arbitrator's own  
7 initiative, the arbitrator may adjourn the hearing as necessary  
8 but may not postpone the hearing to a time later than that fixed  
9 by the agreement to arbitrate for making the award unless the  
10 parties to the arbitration proceeding consent to a later date.  
11 The arbitrator may hear and decide the controversy upon the  
12 evidence produced although a party who was notified of the  
13 arbitration proceeding did not appear. The court, on request,  
14 may direct the arbitrator to conduct the hearing promptly and  
15 render a timely decision.

16 (d) Procedure.--At a hearing under subsection (c), a party  
17 to the arbitration proceeding has a right to be heard, to  
18 present evidence material to the controversy and to cross-  
19 examine witnesses appearing at the hearing.

20 (e) Replacement.--If an arbitrator ceases or is unable to  
21 act during the arbitration proceeding, a replacement arbitrator  
22 must be appointed in accordance with section 7321.12 (relating  
23 to appointment of arbitrator; service as a neutral arbitrator)  
24 to continue the proceeding and to resolve the controversy.

25 § 7321.17. Representation by lawyer.

26 A party to an arbitration proceeding may be represented by a  
27 lawyer.

28 § 7321.18. Witnesses; subpoenas; depositions; discovery.

29 (a) Subpoenas.--An arbitrator may issue a subpoena for the  
30 attendance of a witness and for the production of records and

1 other evidence at a hearing and may administer oaths. A subpoena  
2 must be served in the manner for service of subpoenas in a civil  
3 action and, upon motion to the court by a party to the  
4 arbitration proceeding or the arbitrator, may be enforced in the  
5 manner for enforcement of subpoenas in a civil action.

6 (b) Depositions.--In order to make the proceedings fair,  
7 expeditious and cost effective, upon request of a party to or a  
8 witness in an arbitration proceeding, an arbitrator may permit a  
9 deposition of a witness to be taken for use as evidence at the  
10 hearing, including a witness who cannot be subpoenaed for or is  
11 unable to attend a hearing. The arbitrator shall determine the  
12 conditions under which the deposition is taken.

13 (c) Discovery.--An arbitrator may permit discovery as the  
14 arbitrator decides is appropriate in the circumstances, taking  
15 into account the needs of the parties to the arbitration  
16 proceeding and other affected persons and the desirability of  
17 making the proceeding fair, expeditious and cost effective.

18 (d) Compliance with discovery.--If an arbitrator permits  
19 discovery under subsection (c), the arbitrator may order a party  
20 to the arbitration proceeding to comply with the arbitrator's  
21 discovery-related orders, issue subpoenas for the attendance of  
22 a witness and for the production of records and other evidence  
23 at a discovery proceeding and take action against a noncomplying  
24 party to the extent a court could if the controversy were the  
25 subject of a civil action in this Commonwealth.

26 (e) Protective orders.--An arbitrator may issue a protective  
27 order to prevent the disclosure of privileged information,  
28 confidential information, trade secrets and other information  
29 protected from disclosure to the extent a court could if the  
30 controversy were the subject of a civil action in this

1 Commonwealth.

2 (f) Compulsory laws.--All laws compelling a person under  
3 subpoena to testify and all fees for attending a judicial  
4 proceeding, a deposition or a discovery proceeding as a witness  
5 apply to an arbitration proceeding as if the controversy were  
6 the subject of a civil action in this Commonwealth.

7 (g) Enforcement.--The court may enforce a subpoena or  
8 discovery-related order for the attendance of a witness within  
9 this Commonwealth and for the production of records and other  
10 evidence issued by an arbitrator in connection with an  
11 arbitration proceeding in another state upon conditions  
12 determined by the court so as to make the arbitration proceeding  
13 fair, expeditious and cost effective. A subpoena or discovery-  
14 related order issued by an arbitrator in another state must be  
15 served in the manner provided by law for service of subpoenas in  
16 a civil action in this Commonwealth and, upon motion to the  
17 court by a party to the arbitration proceeding or the  
18 arbitrator, may be enforced in the manner provided by law for  
19 enforcement of subpoenas in a civil action in this Commonwealth.

20 § 7321.19. Judicial enforcement of preaward ruling by  
21 arbitrator.

22 If an arbitrator makes a preaward ruling in favor of a party  
23 to the arbitration proceeding, the party may request the  
24 arbitrator to incorporate the ruling into an award under section  
25 7321.20 (relating to award). A prevailing party may make a  
26 motion to the court for an expedited order to confirm the award  
27 under section 7321.23 (relating to confirmation of award), in  
28 which case the court shall summarily decide the motion. The  
29 court shall issue an order to confirm the award unless the court  
30 vacates, modifies or corrects the award under section 7321.24

1 (relating to vacating award) or 7321.25 (relating to  
2 modification or correction of award).

3 § 7321.20. Award.

4 (a) Record.--An arbitrator shall make a record of an award.  
5 The record must be signed or otherwise authenticated by a  
6 arbitrator who concurs with the award. The arbitrator or the  
7 arbitration organization shall give notice of the award,  
8 including a copy of the award, to each party to the arbitration  
9 proceeding.

10 (b) Time.--An award must be made within the time specified  
11 by the agreement to arbitrate or, if not specified in the  
12 agreement, within the time ordered by the court. The court may  
13 extend or the parties to the arbitration proceeding may agree in  
14 a record to extend the time. The court or the parties may do so  
15 within or after the time specified or ordered. A party waives an  
16 objection that an award was not timely made unless the party  
17 gives notice of the objection to the arbitrator before receiving  
18 notice of the award.

19 § 7321.21. Change of award by arbitrator.

20 (a) Motion.--On motion to an arbitrator by a party to an  
21 arbitration proceeding, the arbitrator may modify or correct an  
22 award:

23 (1) upon a ground stated in section 7321.25(a)(1) or (3)  
24 (relating to modification or correction of award);

25 (2) because the arbitrator has not made a final and  
26 definite award upon a claim submitted by the parties to the  
27 arbitration proceeding; or

28 (3) to clarify the award.

29 (b) Time for motion.--A motion under subsection (a) must be  
30 made and notice given to all parties within 20 days after the

1 movant receives notice of the award.

2 (c) Time for objection to motion.--A party to the  
3 arbitration proceeding must give notice of an objection to the  
4 motion within 10 days after receipt of the notice.

5 (d) Pending motion to court.--If a motion to the court is  
6 pending under section 7321.23 (relating to confirmation of  
7 award), 7321.24 (relating to vacating award) or 7321.25, the  
8 court may submit the claim to the arbitrator to consider whether  
9 to modify or correct the award:

10 (1) upon a ground stated in section 7321.25(a) (1) or  
11 (3);

12 (2) because the arbitrator has not made a final and  
13 definite award upon a claim submitted by the parties to the  
14 arbitration proceeding; or

15 (3) to clarify the award.

16 (e) Other provisions applicable.--An award modified or  
17 corrected pursuant to this section is subject to sections  
18 7321.20(a) (relating to award), 7321.23, 7321.24 and 7321.25.  
19 § 7321.22. Remedies; fees and expenses of arbitration  
20 proceeding.

21 (a) Punitive damages.--An arbitrator may award punitive  
22 damages or other exemplary relief if such an award is authorized  
23 by law in a civil action involving the same claim and the  
24 evidence produced at the hearing justifies the award under the  
25 legal standards otherwise applicable to the claim.

26 (b) Attorney fees and costs.--An arbitrator may award  
27 reasonable attorney fees and other reasonable expenses of  
28 arbitration if the award is authorized by law in a civil action  
29 involving the same claim or by the agreement of the parties to  
30 the arbitration proceeding.

1 (c) Additional remedies.--As to all remedies other than  
2 those authorized by subsections (a) and (b), an arbitrator may  
3 order remedies as the arbitrator considers just and appropriate  
4 under the circumstances of the arbitration proceeding. The fact  
5 that a remedy could not or would not be granted by the court is  
6 not a ground for refusing to confirm an award under section  
7 7321.23 (relating to confirmation of award) or for vacating an  
8 award under section 7321.24 (relating to vacating award).

9 (d) Arbitrator costs and fees.--An arbitrator's expenses and  
10 fees, together with other expenses, must be paid as provided in  
11 the award.

12 (e) Justification for punitive damages.--If an arbitrator  
13 awards punitive damages or other exemplary relief under  
14 subsection (a), the arbitrator shall specify in the award the  
15 basis in fact justifying and the basis in law authorizing the  
16 award and state separately the amount of the punitive damages or  
17 other exemplary relief.

18 § 7321.23. Confirmation of award.

19 After a party to an arbitration proceeding receives notice of  
20 an award, the party must make a motion to the court for an order  
21 confirming the award, at which time the court shall issue a  
22 confirming order unless the award is modified or corrected  
23 pursuant to section 7321.21 (relating to change of award by  
24 arbitrator) or 7321.25 (relating to modification or correction  
25 of award) or is vacated pursuant to section 7321.24 (relating to  
26 vacating award).

27 § 7321.24. Vacating award.

28 (a) Grounds.--Upon motion to the court by a party to an  
29 arbitration proceeding, the court shall vacate an award made in  
30 the arbitration proceeding if:

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

3           (2) there was:

4           (i) evident partiality by an arbitrator appointed as  
5 a neutral arbitrator;

6           (ii) corruption by an arbitrator; or

7           (iii) misconduct by an arbitrator prejudicing the  
8 rights of a party to the arbitration proceeding;

9           (3) an arbitrator refused to postpone the hearing upon  
10 showing of sufficient cause for postponement, refused to  
11 consider evidence material to the controversy or otherwise  
12 conducted the hearing contrary to section 7321.16 (relating  
13 to arbitration process), so as to prejudice substantially the  
14 rights of a party to the arbitration proceeding;

15           (4) an arbitrator exceeded the arbitrator's powers;

16           (5) there was no agreement to arbitrate, unless the  
17 person participated in the arbitration proceeding without  
18 raising the objection under section 7321.16(c) not later than  
19 the beginning of the arbitration hearing; or

20           (6) the arbitration was conducted without proper notice  
21 of the initiation of an arbitration as required in section  
22 7321.10 (relating to initiation of arbitration) so as to  
23 prejudice substantially the rights of a party to the  
24 arbitration proceeding.

25           (b) Time.--A motion under this section must be filed within  
26 30 days after the movant receives notice of the award pursuant  
27 to section 7321.20 (relating to award) or within 30 days after  
28 the movant receives notice of a modified or corrected award  
29 pursuant to section 7321.21 (relating to change of award by  
30 arbitrator), unless the movant alleges that the award was

1 procured by corruption, fraud or other undue means, in which  
2 case the motion must be made within 30 days after the ground is  
3 known or by the exercise of reasonable care would have been  
4 known by the movant.

5 (c) Rehearing.--If the court vacates an award on a ground  
6 other than that set forth in subsection (a)(5), it may order a  
7 rehearing. If the award is vacated on a ground stated in  
8 subsection (a)(1) or (2), the rehearing shall be before a new  
9 arbitrator. If the award is vacated on a ground stated in  
10 subsection (a)(3), (4) or (6), the rehearing may be before the  
11 arbitrator who made the award or the arbitrator's successor. The  
12 arbitrator shall render the decision in the rehearing within the  
13 same time as that provided in section 7321.20(b) for an award.

14 (d) Confirmation.--If the court denies a motion to vacate an  
15 award, it shall confirm the award unless a motion to modify or  
16 correct the award is pending.

17 § 7321.25. Modification or correction of award.

18 (a) Grounds.--Upon motion made within 90 days after the  
19 movant receives notice of the award pursuant to section 7321.20  
20 (relating to award) or within 90 days after the movant receives  
21 notice of a modified or corrected award pursuant to section  
22 7321.21 (relating to change of award by arbitrator), the court  
23 shall modify or correct the award if:

24 (1) there was an evident mathematical miscalculation or  
25 an evident mistake in the description of a person, thing or  
26 property referred to in the award;

27 (2) the arbitrator has made an award on a claim not  
28 submitted to the arbitrator and the award may be corrected  
29 without affecting the merits of the decision upon the claims  
30 submitted; or

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

3           (b) Court action.--If a motion made under subsection (a) is  
4           granted, the court shall modify or correct and confirm the award  
5           as modified or corrected. Otherwise, unless a motion to vacate  
6           is pending, the court shall confirm the award.

7           (c) Joinder.--A motion to modify or correct an award  
8           pursuant to this section may be joined with a motion to vacate  
9           the award under section 7321.24 (relating to vacating award).  
10          § 7321.26. Judgment on award; attorney fees and litigation  
11           expenses.

12          (a) Judgment.--Upon granting an order confirming, vacating  
13          without directing a rehearing, modifying or correcting an award,  
14          the court shall enter a judgment in conformity with the order.  
15          The judgment may be recorded, docketed and enforced as any other  
16          judgment in a civil action.

17          (b) Court costs.--A court may allow reasonable costs of the  
18          motion and subsequent judicial proceedings.

19          (c) Attorney fees and costs.--On application of a prevailing  
20          party to a contested judicial proceeding under section 7321.23  
21          (relating to confirmation of award), 7321.24 (relating to  
22          vacating award) or 7321.25 (relating to modification or  
23          correction of award), the court may add reasonable attorney fees  
24          and other reasonable expenses of litigation incurred in a  
25          judicial proceeding after the award is made to a judgment  
26          confirming, vacating without directing a rehearing, modifying or  
27          correcting an award.

28          § 7321.27. Jurisdiction.

29          (a) Enforcement.--A court having jurisdiction over the  
30          controversy and the parties may enforce an agreement to

1 arbitrate.

2 (b) Exclusivity.--An agreement to arbitrate providing for  
3 arbitration in this Commonwealth confers exclusive jurisdiction  
4 on the court to enter judgment on an award under this  
5 subchapter.

6 § 7321.28. Venue.

7 A motion pursuant to section 7321.6 (relating to application  
8 for judicial relief) must be made in the court of the county in  
9 which the agreement to arbitrate specifies the arbitration  
10 hearing is to be held or, if the hearing has been held, in the  
11 court of the county in which it was held. Otherwise, the motion  
12 may be made in the court of any county in which an adverse party  
13 resides or has a place of business or, if no adverse party has a  
14 residence or place of business in this Commonwealth, in the  
15 court of any county in this Commonwealth. All subsequent motions  
16 must be made in the court hearing the initial motion unless the  
17 court otherwise directs.

18 § 7321.29. Appeals.

19 (a) Appealable orders.--An appeal may be taken from:

- 20 (1) an order denying a motion to compel arbitration;  
21 (2) an order granting a motion to stay arbitration;  
22 (3) an order confirming or denying confirmation of an  
23 award;  
24 (4) an order modifying or correcting an award;  
25 (5) an order vacating an award without directing a  
26 rehearing; or  
27 (6) a final judgment entered pursuant to this  
28 subchapter.

29 (b) Procedure.--An appeal under this section must be taken  
30 as from an order or a judgment in a civil action and must be

1 taken within 30 days of the order or judgment.

2 § 7321.30. Uniformity of application and construction.

3 In applying and construing this subchapter, consideration  
4 shall be given to the need to promote uniformity of the law with  
5 respect to its subject matter among states that enact it.

6 § 7321.31. Relationship to Electronic Signatures in Global and  
7 National Commerce Act.

8 The provisions of this subchapter governing the legal effect,  
9 validity and enforceability of electronic records or electronic  
10 signatures and of contracts performed with the use of such  
11 records or signatures conform to the requirements of section 102  
12 of the Electronic Signatures in Global and National Commerce Act  
13 (Public Law 106-229, 15 U.S.C. § 7002).

14 Section 3 2. Sections 7341 and 7342 of Title 42 are amended <--  
15 to read:

16 § 7341. Common law arbitration.

17 The award of an arbitrator in a nonjudicial arbitration which  
18 is not subject to Subchapter ~~[A]~~ A.1 (relating to statutory <--  
19 arbitration) OR A.1 (RELATING TO REVISED STATUTORY ARBITRATION) <--  
20 or a similar statute regulating nonjudicial arbitration  
21 proceedings is binding and may not be vacated or modified unless  
22 it is clearly shown that a party was denied a hearing or that  
23 fraud, misconduct, corruption or other irregularity caused the  
24 rendition of an unjust, inequitable or unconscionable award.

25 § 7342. Procedure.

26 (a) General rule.--The following provisions of Subchapter  
27 [A] A.1 (relating to REVISED statutory arbitration) shall be <--  
28 applicable to arbitration conducted pursuant to this subchapter:

29 [Section 7303 (relating to validity of agreement to  
30 arbitrate)].

1 Section 7304 (relating to court proceedings to compel or stay  
2 arbitration).

3 Section 7305 (relating to appointment of arbitrators by  
4 court).

5 Section 7309 (relating to witnesses, subpoenas, oaths and  
6 depositions).

7 Section 7317 (relating to form and service of applications to  
8 court).

9 Section 7318 (relating to court and jurisdiction).

10 Section 7319 (relating to venue of court proceedings).

11 Section 7320 (relating to appeals from court orders), except  
12 subsection (a) (4).]

13 Section 7321.6 (relating to application for judicial relief).

14 Section 7321.7(a) (relating to validity of agreement to  
15 arbitrate).

16 Section 7321.8 (relating to motion to compel or stay  
17 arbitration).

18 Section 7321.12(a) (relating to appointment of arbitrator;  
19 service as a neutral arbitrator).

20 Section 7321.18 (relating to witnesses; subpoenas;  
21 depositions; discovery).

22 Section 7321.27 (relating to jurisdiction).

23 Section 7321.28 (relating to venue).

24 Section 7321.29 (relating to appeals), except subsection (a)  
25 (4).

26 (b) Confirmation and judgment.--On application of a party  
27 made more than 30 days after an award is made by an arbitrator  
28 under section 7341 (relating to common law arbitration), the  
29 court shall enter an order confirming the award and shall enter  
30 a judgment or decree in conformity with the order. [Section

1 7302(d)(2) (relating to special application) shall not be  
2 applicable to proceedings under this subchapter.]

3 Section ~~4~~ 3. This act shall not be construed to affect an <--  
4 action or proceeding commenced or right accrued before the  
5 effective date of this section.

6 ~~Section 5. Subject to 42 Pa.C.S. § 7321.4, an arbitration <--~~  
7 ~~agreement made before the effective date of this section shall~~  
8 ~~be governed by the former provisions of 42 Pa.C.S. Ch. 73 Subch.~~  
9 ~~A.~~

10 Section ~~6~~ 4. This act shall take effect January 1, 2016. <--