
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 34 Session of
2015

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

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,
JUNE 27, 2016

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, extensively revising
3 statutory arbitration; and making editorial changes.

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

6 Section 1. Chapter 73 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subchapter to read:

8 SUBCHAPTER A.1

9 REVISED STATUTORY ARBITRATION

10 Sec.

11 7321.1. Short title of subchapter.

12 7321.2. Definitions.

13 7321.3. Notice.

14 7321.4. When subchapter applies.

15 7321.5. Effect of agreement to arbitrate; nonwaivable
16 provisions.

17 7321.6. Application for judicial relief.

1 7321.7. Validity of agreement to arbitrate.
2 7321.8. Motion to compel or stay arbitration.
3 7321.9. Provisional remedies.
4 7321.10. Initiation of arbitration.
5 7321.11. Consolidation of separate arbitration proceedings.
6 7321.12. Appointment of arbitrator; service as a neutral
7 arbitrator.
8 7321.13. Disclosure by arbitrator.
9 7321.14. Action by majority.
10 7321.15. Immunity of arbitrator; competency to testify; attorney
11 fees and costs.
12 7321.16. Arbitration process.
13 7321.17. Representation by lawyer.
14 7321.18. Witnesses; subpoenas; depositions; discovery.
15 7321.19. Judicial enforcement of preaward ruling by arbitrator.
16 7321.20. Award.
17 7321.21. Change of award by arbitrator.
18 7321.22. Remedies; fees and expenses of arbitration proceeding.
19 7321.23. Confirmation of award.
20 7321.24. Vacating award.
21 7321.25. Modification or correction of award.
22 7321.26. Judgment on award; attorney fees and litigation
23 expenses.
24 7321.27. Jurisdiction.
25 7321.28. Venue.
26 7321.29. Appeals.
27 7321.30. Uniformity of application and construction.
28 7321.31. Relationship to Electronic Signatures in Global and
29 National Commerce Act.
30 § 7321.1. Short title of subchapter.

1 This subchapter shall be known and may be cited as the
2 Statutory Arbitration Act.

3 § 7321.2. Definitions.

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

7 "Arbitration organization." Any association, agency, board,
8 commission or other entity that is neutral and initiates,
9 sponsors or administers an arbitration proceeding or is involved
10 in the appointment of an arbitrator.

11 "Arbitrator." An individual appointed to render an award,
12 alone or with others, in a controversy that is subject to an
13 agreement to arbitrate.

14 "CONSUMER." AN INDIVIDUAL WHO INCURS AN OBLIGATION IN AN <--
15 AGREEMENT WITH A MERCHANT FOR PERSONAL, FAMILY OR HOUSEHOLD
16 PURPOSES.

17 "CONSUMER TRANSACTION." A TRANSACTION BETWEEN A CONSUMER
18 DOMICILED IN THIS COMMONWEALTH AND A MERCHANT, INCLUDING ALL
19 PERSONAL INJURY CLAIMS ARISING OUT OF SUCH A TRANSACTION.

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

22 "Knowledge." Actual knowledge.

23 "MERCHANT." A PERSON WHO IN THE ORDINARY COURSE OF BUSINESS <--
24 OFFERS OR SELLS GOODS OR SERVICES TO CONSUMERS OR HOLDS ITSELF
25 OUT AS HAVING KNOWLEDGE OR SKILL PECULIAR TO SUCH TRANSACTIONS,
26 INCLUDING A MANUFACTURER, SUPPLIER OR DISTRIBUTOR OF GOODS, OR A
27 SUPPLIER OF PERSONAL OR PROFESSIONAL SERVICES.

28 "Person." Any individual, corporation, business trust,
29 estate, trust, partnership, limited liability company,
30 association, joint venture; a government; a governmental

1 subdivision, agency or instrumentality; a public corporation; or
2 any other legal or commercial entity.

3 "Record." Information that is inscribed on a tangible medium
4 or that is stored in an electronic or other medium and is
5 retrievable in perceivable form.

6 § 7321.3. Notice.

7 (a) Giving notice.--Except as otherwise provided in this
8 subchapter, a person gives notice to another person by taking
9 action that is reasonably necessary to inform the other person
10 in ordinary course, whether or not the other person acquires
11 knowledge of the notice.

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

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

16 (1) the person's place of residence or place of
17 business; or

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

20 § 7321.4. When subchapter applies.

21 (a) Subsequent agreements.--This subchapter governs an
22 agreement to arbitrate made on or after the effective date of
23 this subchapter unless the parties have expressly provided in
24 writing to the contrary.

25 (b) Prior agreements.--For an agreement to arbitrate made
26 before the effective date of this subchapter, except as set
27 forth in subsections (c) and (d):

28 (1) If all the parties to the agreement or to the
29 arbitration proceeding agree in a record that this subchapter
30 governs the agreement, this subchapter governs the agreement.

1 (2) If paragraph (1) does not apply, Subchapter A
2 (relating to statutory arbitration) governs the agreement.

3 (c) Absolute date.--Beginning January 1, 2017 2018: <--

4 (1) Except as set forth in paragraph (2), this
5 subchapter governs an agreement to arbitrate whenever made
6 unless the parties have expressly provided in writing to the
7 contrary.

8 (2) This subchapter does not govern an agreement to
9 arbitrate made by the Commonwealth or a Commonwealth agency
10 prior to the effective date of this subchapter unless the
11 parties have expressly provided in writing to the contrary.

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

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

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

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

30 (i) Section 7321.6(a) (relating to application for

1 judicial relief).

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

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

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

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

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

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

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

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

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

26 (1) This section.

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

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

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

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

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

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

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

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

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

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

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

17 § 7321.6. Application for judicial relief.

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

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

30 § 7321.7. Validity of agreement to arbitrate.

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

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

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

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

18 (E) GROUNDS FOR VALIDITY AND ENFORCEABILITY.--IN DETERMINING <--
19 THE VALIDITY AND ENFORCEABILITY OF AN AGREEMENT TO ARBITRATE, A
20 COURT MAY CONSIDER ANY GROUNDS THAT EXIST AT LAW OR IN EQUITY
21 FOR THE REVOCATION OF A CONTRACT, REGARDLESS OF WHETHER ARISING
22 OUT OF FEDERAL OR STATE LAW OR AS A MATTER OF PUBLIC POLICY,
23 THAT ARE APPLICABLE TO OTHER CONTRACTS, INCLUDING FRAUD, DURESS,
24 COERCION, UNCONSCIONABILITY OR THE IMPOSITION BY A CONTRACT OF
25 ADHESION OF ANY REQUIREMENT THAT UNREASONABLY FAVORS THE PARTY
26 THAT IMPOSED THE PROVISION, PROVIDED THAT DOING SO IS NOT
27 PROHIBITED BY THE FEDERAL ARBITRATION ACT (9 U.S.C. § 1 ET
28 SEQ.), OR OTHER FEDERAL LAW.

29 § 7321.8. Motion to compel or stay arbitration.

30 (a) Refusal to arbitrate under agreement.--On motion of a

1 person showing an agreement to arbitrate and alleging another
2 person's refusal to arbitrate pursuant to the agreement:

3 (1) if the refusing party does not appear or does not
4 oppose the motion, the court shall order the parties to
5 arbitrate; and

6 (2) if the refusing party opposes the motion, the court
7 shall proceed summarily to decide the issue and order the
8 parties to arbitrate unless it finds that there is no
9 enforceable agreement to arbitrate.

10 (b) Agreement challenged.--On motion of a person alleging
11 that an arbitration proceeding has been initiated or threatened
12 but that there is no agreement to arbitrate, the court shall
13 ~~proceed summarily to decide the issue.~~ DECIDE THE ISSUE IF THERE <--
14 IS AN EXPRESS AND UNEQUIVOCAL AGREEMENT TO ARBITRATE. IF THERE
15 IS DOUBT WHETHER AN AGREEMENT TO ARBITRATE EXISTS, UPON PROPER
16 AND TIMELY DEMAND, THE QUESTION SHALL BE SUBMITTED TO A JURY. If
17 the court OR JURY finds that there is an enforceable agreement <--
18 to arbitrate, ~~it~~ THE COURT shall order the parties to arbitrate. <--

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

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

25 (e) Appropriate court.--If a proceeding involving a claim
26 referable to arbitration under an alleged agreement to arbitrate
27 is pending in court, a motion under this section must be made in
28 that court. Otherwise, a motion under this section may be made
29 in any court as provided in section 7321.28 (relating to venue).

30 (f) Stay of claims alleged subject to arbitration.--If a

1 party makes a motion to the court to order arbitration, the
2 court on just terms shall stay a judicial proceeding that
3 involves a claim alleged to be subject to the arbitration until
4 the court renders a final decision under this section.

5 (g) Stay of claims subject to arbitration.--If the court
6 orders arbitration, the court on just terms shall stay a
7 judicial proceeding that involves a claim subject to the
8 arbitration. If a claim subject to the arbitration is severable,
9 the court may limit the stay to that claim.

10 § 7321.9. Provisional remedies.

11 (a) Court.--Before an arbitrator is appointed and is
12 authorized and able to act, the court, upon motion of a party to
13 an arbitration proceeding and for good cause shown, may enter an
14 order for provisional remedies to protect the effectiveness of
15 the arbitration proceeding to the same extent and under the same
16 conditions as if the controversy were the subject of a civil
17 action.

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

20 (1) the arbitrator may issue orders for provisional
21 remedies, including interim awards, as the arbitrator finds
22 necessary to protect the effectiveness of the arbitration
23 proceeding and to promote the fair and expeditious resolution
24 of the controversy, to the same extent and under the same
25 conditions as if the controversy were the subject of a civil
26 action; and

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

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

3 § 7321.10. Initiation of arbitration.

4 (a) Notice.--A person initiates an arbitration proceeding by
5 giving notice in a record to the other parties to the agreement
6 to arbitrate in the agreed manner between the parties or, in the
7 absence of agreement, by certified or registered mail, return
8 receipt requested and obtained, or by service as authorized for
9 the commencement of a civil action. The notice must describe the
10 nature of the controversy and the remedy sought.

11 (b) Lack of notice.--Unless a person objects for lack or
12 insufficiency of notice under section 7321.16 (relating to
13 arbitration process) not later than at the beginning of the
14 arbitration hearing, the person by appearing at the hearing
15 waives any objection to lack of or insufficiency of notice.

16 § 7321.11. Consolidation of separate arbitration proceedings.

17 (a) Conditions.--Except as otherwise provided in subsection
18 (c), upon motion of a party to an agreement to arbitrate or to
19 an arbitration proceeding, the court may order consolidation of
20 separate arbitration proceedings as to all or some of the claims
21 if:

22 (1) there are separate agreements to arbitrate or
23 separate arbitration proceedings between the same persons, or
24 one of them is a party to a separate agreement to arbitrate
25 or a separate arbitration proceeding with a third person;

26 (2) the claims subject to the agreements to arbitrate
27 arise in substantial part from the same transaction or series
28 of related transactions;

29 (3) the existence of a common issue of law or fact
30 creates the possibility of conflicting decisions in the

1 separate arbitration proceedings; and

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

5 (b) Partial consolidation.--The court may order
6 consolidation of separate arbitration proceedings as to some
7 claims and allow other claims to be resolved in separate
8 arbitration proceedings.

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

12 § 7321.12. Appointment of arbitrator; service as a neutral
13 arbitrator.

14 (a) Appointment.--If the parties to an agreement to
15 arbitrate agree on a method for appointing an arbitrator, that
16 method must be followed, unless the method fails. If the parties
17 have not agreed on a method, the agreed method fails or an
18 arbitrator appointed fails or is unable to act and a successor
19 has not been appointed, the court, on motion of a party to the
20 arbitration proceeding, shall appoint the arbitrator. An
21 arbitrator appointed by the court has all the powers of an
22 arbitrator designated in the agreement to arbitrate or appointed
23 pursuant to the agreed method.

24 (b) Neutral service.--An individual who has a known, direct <--
25 and material interest in the outcome of the arbitration
26 proceeding or a known, existing and substantial relationship
27 with a party may not serve as an arbitrator required by an
28 agreement to be neutral. PURSUANT TO THE STANDARDS UNDER WHICH A <--
29 JUDGE WOULD BE REQUIRED TO DISQUALIFY HIMSELF OR HERSELF FROM
30 PARTICIPATION IN A PROCEEDING UNDER 207 PA. CODE RULE 2.11

1 (RELATING TO DISQUALIFICATION).

2 § 7321.13. Disclosure by arbitrator.

3 (a) Preappointment.--Before accepting appointment, an
4 individual who is requested to serve as an arbitrator, after
5 making a reasonable inquiry, shall disclose to all parties to
6 the agreement to arbitrate and the arbitration proceeding and to
7 any other arbitrators any known facts that a reasonable person
8 would consider likely to affect the impartiality of the
9 arbitrator in the arbitration proceeding, including:

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

12 (2) an existing or past relationship with any of the
13 parties to the agreement to arbitrate or the arbitration
14 proceeding, their counsel or representatives, a witness or
15 another arbitrator.

16 (b) Continuing.--An arbitrator has a continuing obligation
17 to disclose to all parties to the agreement to arbitrate and the
18 arbitration proceeding and to other arbitrators facts that the
19 arbitrator learns after accepting appointment that a reasonable
20 person would consider likely to affect the impartiality of the
21 arbitrator.

22 (c) Objection.--If an arbitrator discloses a fact required
23 by subsection (a) or (b) to be disclosed and a party timely
24 objects to the appointment or continued service of the
25 arbitrator based upon the fact disclosed, the objection may be a
26 ground under section 7321.24(a) (2) (relating to vacating award)
27 for vacating an award made by the arbitrator.

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

1 award.

2 (e) Presumption of neutrality.--An arbitrator appointed as a
3 neutral arbitrator who does not disclose a known, direct and
4 material interest in the outcome of the arbitration proceeding
5 or a known, existing and substantial relationship with a party
6 is presumed to act with evident partiality under section
7 7321.24(a) (2).

8 (f) Procedure to challenge arbitrator.--If the parties to an
9 arbitration proceeding agree to the procedures of an arbitration
10 organization or other procedures for challenges to arbitrators
11 before an award is made, substantial compliance with those
12 procedures is a condition precedent to a motion to vacate an
13 award on that ground under section 7321.24(a) (2).

14 § 7321.14. Action by majority.

15 If there is more than one arbitrator, the powers of an
16 arbitrator must be exercised by a majority of the arbitrators;
17 but all of them shall conduct the hearing under section
18 7321.16(c) (relating to arbitration process).

19 § 7321.15. Immunity of arbitrator; competency to testify;
20 attorney fees and costs.

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

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

27 (c) Failure to disclose.--The failure of an arbitrator to
28 make a disclosure required by section 7321.13 (relating to
29 disclosure by arbitrator) does not cause a loss of immunity
30 under this section.

1 (d) Competency to testify.--In a judicial, administrative or
2 similar proceeding, an arbitrator or representative of an
3 arbitration organization is not competent to testify and may not
4 be required to produce records as to any statement, conduct,
5 decision or ruling occurring during the arbitration proceeding,
6 to the same extent as a judge of a court of this Commonwealth
7 acting in a judicial capacity. This subsection does not apply:

8 (1) to the extent necessary to determine the claim of an
9 arbitrator, arbitration organization or representative of the
10 arbitration organization against a party to the arbitration
11 proceeding; or

12 (2) to a hearing on a motion to vacate an award under
13 section 7321.24(a)(1) or (2) (relating to vacating award) if
14 the movant establishes prima facie that a ground for vacating
15 the award exists.

16 (e) Attorney fees and costs.--If a person commences a civil
17 action against an arbitrator, arbitration organization or
18 representative of an arbitration organization arising from the
19 services of the arbitrator, organization or representative or if
20 a person seeks to compel an arbitrator or a representative of an
21 arbitration organization to testify or produce records in
22 violation of subsection (d) and the court ~~decides that~~ UPON <--
23 DECIDING WHETHER the arbitrator, arbitration organization or
24 representative of an arbitration organization is immune from
25 civil liability or ~~that~~ WHETHER the arbitrator or representative <--
26 of the organization is ~~not~~ competent to testify, the court shall <--
27 MAY award to the PREVAILING PARTY, INCLUDING THE arbitrator, <--
28 organization or representative, reasonable attorney fees and <--
29 other reasonable expenses of litigation.

30 § 7321.16. Arbitration process.

1 (a) Discretion of arbitrator.--An arbitrator may conduct an
2 arbitration in a manner ~~as the arbitrator considers~~ appropriate <--
3 for a fair and expeditious disposition of the proceeding. The
4 authority conferred upon the arbitrator includes the power to
5 hold conferences with the parties to the arbitration proceeding
6 before the hearing and, among other matters, determine the
7 admissibility, relevance, materiality and weight of any
8 evidence.

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

11 (1) if all interested parties agree; or

12 (2) upon request of one party to the arbitration
13 proceeding if that party gives notice to all other parties to
14 the proceeding and if the other parties have a reasonable
15 opportunity to respond.

16 (c) Notice and hearing.--If an arbitrator orders a hearing,
17 the arbitrator shall set a time and place and give notice of the
18 hearing not less than five days before the hearing begins.
19 Unless a party to the arbitration proceeding makes an objection
20 to lack or insufficiency of notice not later than the beginning
21 of the hearing, the party's appearance at the hearing waives the
22 objection. Upon request of a party to the arbitration proceeding
23 and for good cause shown, or upon the arbitrator's own
24 initiative, the arbitrator may adjourn the hearing as necessary
25 but may not postpone the hearing to a time later than that fixed
26 by the agreement to arbitrate for making the award unless the
27 parties to the arbitration proceeding consent to a later date.
28 The arbitrator may hear and decide the controversy upon the
29 evidence produced although a party who was notified of the
30 arbitration proceeding did not appear. The court, on request,

1 may direct the arbitrator to conduct the hearing promptly and
2 render a timely decision.

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

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

12 (F) LOCATION FOR ARBITRATION HEARING FOR CONSUMER <--
13 TRANSACTIONS.--A HEARING CONDUCTED PURSUANT TO AN ARBITRATION
14 AGREEMENT APPLICABLE TO A CONSUMER TRANSACTION SHALL BE HELD AT
15 A LOCATION REASONABLY CONVENIENT TO THE CONSUMER.

16 § 7321.17. Representation by lawyer.

17 A party to an arbitration proceeding may be represented by a
18 lawyer.

19 § 7321.18. Witnesses; subpoenas; depositions; discovery.

20 (a) Subpoenas.--An arbitrator may issue a subpoena for the
21 attendance of a witness and for the production of records and
22 other evidence at a hearing and may administer oaths. A subpoena
23 must be served in the manner for service of subpoenas in a civil
24 action and, upon motion to the court by a party to the
25 arbitration proceeding or the arbitrator, may be enforced in the
26 manner for enforcement of subpoenas in a civil action.

27 (b) Depositions.--In order to make the proceedings fair,
28 expeditious and cost effective, upon request of a party to or a
29 witness in an arbitration proceeding, an arbitrator may permit a
30 deposition of a witness to be taken for use as evidence at the

1 hearing, including a witness who cannot be subpoenaed for or is
2 unable to attend a hearing. The arbitrator shall determine the
3 conditions under which the deposition is taken.

4 (c) Discovery.--An arbitrator may permit discovery as the
5 arbitrator decides is appropriate in the circumstances, taking
6 into account the needs of the parties to the arbitration
7 proceeding and other affected persons and the desirability of
8 making the proceeding fair, expeditious and cost effective.

9 (d) Compliance with discovery.--If an arbitrator permits
10 discovery under subsection (c), the arbitrator may order a party
11 to the arbitration proceeding to comply with the arbitrator's
12 discovery-related orders, issue subpoenas for the attendance of
13 a witness and for the production of records and other evidence
14 at a discovery proceeding and take action against a noncomplying
15 party to the extent a court could if the controversy were the
16 subject of a civil action in this Commonwealth.

17 (e) Protective orders.--An arbitrator may issue a protective
18 order to prevent the disclosure of privileged information,
19 confidential information, trade secrets and other information
20 protected from disclosure to the extent a court could if the
21 controversy were the subject of a civil action in this
22 Commonwealth.

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

28 (g) Enforcement.--The court may enforce a subpoena or
29 discovery-related order for the attendance of a witness within
30 this Commonwealth and for the production of records and other

1 evidence issued by an arbitrator in connection with an
2 arbitration proceeding in another state upon conditions
3 determined by the court so as to make the arbitration proceeding
4 fair, expeditious and cost effective. A subpoena or discovery-
5 related order issued by an arbitrator in another state must be
6 served in the manner provided by law for service of subpoenas in
7 a civil action in this Commonwealth and, upon motion to the
8 court by a party to the arbitration proceeding or the
9 arbitrator, may be enforced in the manner provided by law for
10 enforcement of subpoenas in a civil action in this Commonwealth.
11 § 7321.19. Judicial enforcement of preaward ruling by
12 arbitrator.

13 If an arbitrator makes a preaward ruling in favor of a party
14 to the arbitration proceeding, the party may request the
15 arbitrator to incorporate the ruling into an award under section
16 7321.20 (relating to award). A prevailing party may make a
17 motion to the court for an expedited order to confirm the award
18 under section 7321.23 (relating to confirmation of award), in
19 which case the court shall summarily decide the motion. The
20 court shall issue an order to confirm the award unless the court
21 vacates, modifies or corrects the award under section 7321.24
22 (relating to vacating award) or 7321.25 (relating to
23 modification or correction of award).

24 § 7321.20. Award.

25 (a) Record.--An arbitrator shall make a record of an award.
26 The record must be signed or otherwise authenticated by a
27 arbitrator who concurs with the award. The arbitrator or the
28 arbitration organization shall give notice of the award,
29 including a copy of the award, to each party to the arbitration
30 proceeding.

1 (b) Time.--An award must be made within the time specified
2 by the agreement to arbitrate or, if not specified in the
3 agreement, within the time ordered by the court. The court may
4 extend or the parties to the arbitration proceeding may agree in
5 a record to extend the time. The court or the parties may do so
6 within or after the time specified or ordered. A party waives an
7 objection that an award was not timely made unless the party
8 gives notice of the objection to the arbitrator before receiving
9 notice of the award.

10 § 7321.21. Change of award by arbitrator.

11 (a) Motion.--On motion to an arbitrator by a party to an
12 arbitration proceeding, the arbitrator may modify or correct an
13 award:

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

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

19 (3) to clarify the award.

20 (b) Time for motion.--A motion under subsection (a) must be
21 made and notice given to all parties within 20 days after the
22 movant receives notice of the award.

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

26 (d) Pending motion to court.--If a motion to the court is
27 pending under section 7321.23 (relating to confirmation of
28 award), 7321.24 (relating to vacating award) or 7321.25, the
29 court may submit the claim to the arbitrator to consider whether
30 to modify or correct the award:

1 (1) upon a ground stated in section 7321.25(a)(1) or
2 (3);

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

6 (3) to clarify the award.

7 (e) Other provisions applicable.--An award modified or
8 corrected pursuant to this section is subject to sections
9 7321.20(a) (relating to award), 7321.23, 7321.24 and 7321.25.
10 § 7321.22. Remedies; fees and expenses of arbitration
11 proceeding.

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

17 (b) Attorney fees and costs.--An arbitrator may award
18 reasonable attorney fees and other reasonable expenses of
19 arbitration if the award is authorized by law in a civil action
20 involving the same claim ~~or~~, by the agreement of the parties to <--
21 the arbitration proceeding OR BY THE TERMS OF AN AGREEMENT <--
22 SUBJECT TO ARBITRATION.

23 (c) Additional remedies.--As to all remedies other than
24 those authorized by subsections (a) and (b), an arbitrator may
25 order remedies as the arbitrator considers just and appropriate
26 under the circumstances of the arbitration proceeding. The fact
27 that a remedy could not or would not be granted by the court is
28 not a ground for refusing to confirm an award under section
29 7321.23 (relating to confirmation of award) or for vacating an
30 award under section 7321.24 (relating to vacating award).

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

4 (e) Justification for punitive damages.--If an arbitrator
5 awards punitive damages or other exemplary relief under
6 subsection (a), the arbitrator shall specify in the award the
7 basis in fact justifying and the basis in law authorizing the
8 award and state separately the amount of the punitive damages or
9 other exemplary relief.

10 § 7321.23. Confirmation of award.

11 After a party to an arbitration proceeding receives notice of
12 an award, the party must make a motion to the court for an order
13 confirming the award, at which time the court shall issue a
14 confirming order unless the award is modified or corrected
15 pursuant to section 7321.21 (relating to change of award by
16 arbitrator) or 7321.25 (relating to modification or correction
17 of award) or is vacated pursuant to section 7321.24 (relating to
18 vacating award).

19 § 7321.24. Vacating award.

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

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

25 (2) there was:

26 (i) evident partiality by an arbitrator appointed as
27 a neutral arbitrator;

28 (ii) corruption by an arbitrator; or

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

1 (3) an arbitrator refused to postpone the hearing upon
2 showing of sufficient cause for postponement, refused to
3 consider evidence material to the controversy or otherwise
4 conducted the hearing contrary to section 7321.16 (relating
5 to arbitration process), so as to prejudice substantially the <--
6 rights of a party to the arbitration proceeding;

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

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

12 (6) the arbitration was conducted without proper notice
13 of the initiation of an arbitration as required in section
14 7321.10 (relating to initiation of arbitration) so as to
15 prejudice substantially the rights of a party to the
16 arbitration proceeding.

17 (b) Time.--A motion under this section must be filed within
18 30 days after the movant receives notice of the award pursuant
19 to section 7321.20 (relating to award) or within 30 days after
20 the movant receives notice of a modified or corrected award
21 pursuant to section 7321.21 (relating to change of award by
22 arbitrator), unless the movant alleges that the award was
23 procured by corruption, fraud or other undue means, in which
24 case the motion must be made within 30 days after the ground is
25 known or by the exercise of reasonable care would have been
26 known by the movant.

27 (c) Rehearing.--If the court vacates an award on a ground
28 other than that set forth in subsection (a) (5), it may order a
29 rehearing. If the award is vacated on a ground stated in
30 subsection (a) (1) or (2), the rehearing shall be before a new

1 arbitrator. If the award is vacated on a ground stated in
2 subsection (a) (3), (4) or (6), the rehearing may be before the
3 arbitrator who made the award or the arbitrator's successor. The
4 arbitrator shall render the decision in the rehearing within the
5 same time as that provided in section 7321.20(b) for an award.

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

9 § 7321.25. Modification or correction of award.

10 (a) Grounds.--Upon motion made within 90 days after the
11 movant receives notice of the award pursuant to section 7321.20
12 (relating to award) or within 90 days after the movant receives
13 notice of a modified or corrected award pursuant to section
14 7321.21 (relating to change of award by arbitrator), the court
15 shall modify or correct the award if:

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

19 (2) the arbitrator has made an award on a claim not
20 submitted to the arbitrator and the award may be corrected
21 without affecting the merits of the decision upon the claims
22 submitted; or

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

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

29 (c) Joinder.--A motion to modify or correct an award
30 pursuant to this section may be joined with a motion to vacate

1 the award under section 7321.24 (relating to vacating award).
2 § 7321.26. Judgment on award; attorney fees and litigation
3 expenses.

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

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

11 (c) Attorney fees and costs.--On application of a prevailing
12 party to a contested judicial proceeding under section 7321.23
13 (relating to confirmation of award), 7321.24 (relating to
14 vacating award) or 7321.25 (relating to modification or
15 correction of award), the court may add reasonable attorney fees
16 and other reasonable expenses of litigation incurred in a
17 judicial proceeding after the award is made to a judgment
18 confirming, vacating without directing a rehearing, modifying or
19 correcting an award. IF ATTORNEY FEES AND OTHER EXPENSES ARE <--
20 AUTHORIZED BY LAW TO BE ADDED TO AN AWARD IN A CIVIL ACTION
21 INVOLVING THE SAME CLAIM AS THE ARBITRATION AWARD.

22 § 7321.27. Jurisdiction.

23 (a) Enforcement.--A court having jurisdiction over the
24 controversy and the parties may enforce an agreement to
25 arbitrate.

26 (b) Exclusivity.--An agreement to arbitrate providing for
27 arbitration in this Commonwealth confers exclusive jurisdiction
28 on the court to enter judgment on an award under this
29 subchapter.

30 § 7321.28. Venue.

1 A motion pursuant to section 7321.6 (relating to application
2 for judicial relief) must be made in the court of the county in
3 which the agreement to arbitrate OR SECTION 7321.16(F) (RELATING <--
4 TO ARBITRATION PROCESS) specifies the arbitration hearing is to
5 be held or, if the hearing has been held, in the court of the
6 county in which it was held. Otherwise, the motion may be made
7 in the court of any county in which an adverse party resides or <--
8 has a place of business or, if no adverse party has a residence
9 or place of business in this Commonwealth, in the court of any <--
10 THE county in this Commonwealth AS PROVIDED BY THE PENNSYLVANIA <--
11 RULES OF CIVIL PROCEDURE. All subsequent motions must be made in
12 the court hearing the initial motion unless the court otherwise
13 directs.

14 § 7321.29. Appeals.

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

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

25 (b) Procedure.--An appeal under this section must be taken
26 as from an order or a judgment in a civil action and must be
27 taken within 30 days of the order or judgment.

28 § 7321.30. Uniformity of application and construction.

29 (A) GENERAL RULE.--In applying and construing this <--
30 subchapter, consideration shall be given to the need to promote

1 uniformity of the law with respect to its subject matter among
2 states that enact it.

3 (B) RIGHT TO TRIAL BY JURY.--EXCEPT AS PROVIDED BY AN <--
4 AGREEMENT TO ARBITRATE, NOTHING IN THIS SUBCHAPTER IS INTENDED
5 TO REQUIRE A PARTY TO WAIVE THE RIGHT TO TRIAL BY JURY TO THE
6 EXTENT PROVIDED BY THE UNITED STATES CONSTITUTION AND THE
7 CONSTITUTION OF PENNSYLVANIA.

8 (C) SEVERABILITY.--IF ANY PROVISION OF THIS SUBCHAPTER OR
9 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD
10 INVALID, THE REMAINDER OF THIS SUBCHAPTER AND THE APPLICATION OF
11 SUCH PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES SHALL NOT BE
12 AFFECTED.

13 § 7321.31. Relationship to Electronic Signatures in Global and
14 National Commerce Act.

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

21 Section 2. Sections 7341 and 7342 of Title 42 are amended to
22 read:

23 § 7341. Common law arbitration.

24 The award of an arbitrator in a nonjudicial arbitration which
25 is not subject to Subchapter A (relating to statutory
26 arbitration) or A.1 (relating to revised statutory arbitration)
27 or a similar statute regulating nonjudicial arbitration
28 proceedings is binding and may not be vacated or modified unless
29 it is clearly shown that a party was denied a hearing or that
30 fraud, misconduct, corruption or other irregularity caused the

1 rendition of an unjust, inequitable or unconscionable award.

2 § 7342. Procedure.

3 (a) General rule.--The following provisions of Subchapter
4 [A] A.1 (relating to revised statutory arbitration) shall be
5 applicable to arbitration conducted pursuant to this subchapter:

6 [Section 7303 (relating to validity of agreement to
7 arbitrate).

8 Section 7304 (relating to court proceedings to compel or stay
9 arbitration).

10 Section 7305 (relating to appointment of arbitrators by
11 court).

12 Section 7309 (relating to witnesses, subpoenas, oaths and
13 depositions).

14 Section 7317 (relating to form and service of applications to
15 court).

16 Section 7318 (relating to court and jurisdiction).

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

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

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

21 Section 7321.7(a) (relating to validity of agreement to
22 arbitrate).

23 Section 7321.8 (relating to motion to compel or stay
24 arbitration).

25 Section 7321.12(a) (relating to appointment of arbitrator;
26 service as a neutral arbitrator).

27 Section 7321.18 (relating to witnesses; subpoenas;
28 depositions; discovery).

29 Section 7321.27 (relating to jurisdiction).

30 Section 7321.28 (relating to venue).

1 Section 7321.29 (relating to appeals), except subsection (a)
2 (4).

3 (b) Confirmation and judgment.--On application of a party
4 made more than 30 days after an award is made by an arbitrator
5 under section 7341 (relating to common law arbitration), the
6 court shall enter an order confirming the award and shall enter
7 a judgment or decree in conformity with the order. [Section
8 7302(d)(2) (relating to special application) shall not be
9 applicable to proceedings under this subchapter.]

10 Section 3. This act shall not be construed to affect an
11 action or proceeding commenced or right accrued before the
12 effective date of this section.

13 Section 4. This act shall take effect January 1, ~~2016~~ 2017. <--