

AMENDMENTS TO HOUSE BILL NO. 1644

Sponsor: SENATOR GREENLEAF

Printer's No. 2199

1 Amend Bill, page 1, line 2, by inserting after "Statutes,"
2 in civil actions and proceedings, extensively revising
3 statutory arbitration and

4 Amend Bill, page 1, line 3, by inserting after "process"
5 ; and making editorial changes

6 Amend Bill, page 1, lines 6 and 7, by striking out all of
7 said lines and inserting

8 Section 1. The General Assembly finds and declares that the
9 Unified Judicial System will benefit from:

- 10 (1) extensive revision of statutory arbitration; and
11 (2) establishment of a collaborative law process.

12 Section 1.1. Chapter 73 of Title 42 of the Pennsylvania
13 Consolidated Statutes is amended by adding a subchapter to read:

14 SUBCHAPTER A.1

15 REVISED STATUTORY ARBITRATION

16 Sec.

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18 7321.2. Definitions.

19 7321.3. Notice.

20 7321.4. When subchapter applies.

21 7321.5. Effect of agreement to arbitrate; nonwaivable
22 provisions.

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7321.30. Uniformity of application and construction.
7321.31. Relationship to Electronic Signatures in Global and
National Commerce Act.
§ 7321.1. Short title of subchapter.
This subchapter shall be known and may be cited as the
Revised Statutory Arbitration Act.
§ 7321.2. Definitions.
The following words and phrases when used in this subchapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:
"Arbitration organization." Any association, agency, board,
commission or other entity that is neutral and initiates,
sponsors or administers an arbitration proceeding or is involved
in the appointment of an arbitrator.
"Arbitrator." An individual appointed to render an award,
alone or with others, in a controversy that is subject to an
agreement to arbitrate.
"Consumer." An individual who incurs an obligation in an
agreement with a merchant for personal, family or household
purposes.
"Consumer transaction." A transaction between a consumer
domiciled in this Commonwealth and a merchant, including all
personal injury claims arising out of such a transaction.
"Court." A court of competent jurisdiction in this
Commonwealth.
"Knowledge." Actual knowledge.
"Merchant." A person in the ordinary course of business that
offers or sells goods or services to consumers or holds itself
out as having knowledge or skill peculiar to such transactions,
including a manufacturer, supplier or distributor of goods, or a
supplier of personal or professional services.
"Person." Any individual, corporation, business trust,
estate, trust, partnership, limited liability company,
association, joint venture; a government; a governmental
subdivision, agency or instrumentality; a public corporation; or
any other legal or commercial entity.
"Record." Information that is inscribed on a tangible medium

1 or that is stored in an electronic or other medium and is
2 retrievable in perceivable form.

3 § 7321.3. Notice.

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

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

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

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

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

16 § 7321.4. When subchapter applies.

17 (a) Subsequent agreements.--This subchapter governs an
18 agreement to arbitrate made on or after the effective date of
19 this subchapter.

20 (b) Prior agreements.--For an agreement to arbitrate made
21 before the effective date of this subchapter, except as set
22 forth in subsection (c):

23 (1) If all the parties to the agreement or to the
24 arbitration proceeding agree in a record that this subchapter
25 governs the agreement, this subchapter governs the agreement.

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

28 (c) Collective bargaining agreements.--This subchapter shall
29 apply to collective bargaining agreements to arbitrate
30 controversies between employers and employees or their
31 respective representatives only to the extent that the
32 arbitration under this subchapter is consistent with any other
33 statute regulating labor and management relations.

34 § 7321.5. Effect of agreement to arbitrate; nonwaivable
35 provisions.

36 (a) Waiver or variance.--Except as otherwise provided in
37 subsections (b) and (c), a party to an agreement to arbitrate or
38 to an arbitration proceeding may waive, or the parties may vary
39 the effect of, the requirements of this subchapter to the extent
40 permitted by law.

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

44 (1) Waive or agree to vary the effect of the
45 requirements of any of the following:

46 (i) Section 7321.6(a) (relating to application for
47 judicial relief).

48 (ii) Section 7321.7(a) (relating to validity of
49 agreement to arbitrate).

50 (iii) Section 7321.9 (relating to provisional
51 remedies).

1 (iv) Section 7321.18(a) or (b) (relating to
2 witnesses; subpoenas; depositions; discovery).
3 (v) Section 7321.27 (relating to jurisdiction).
4 (vi) Section 7321.29 (relating to appeals).
5 (2) Agree to unreasonably restrict the right under
6 section 7321.10 (relating to initiation of arbitration) to
7 notice of the initiation of an arbitration proceeding.
8 (3) Agree to unreasonably restrict the right under
9 section 7321.13 (relating to disclosure by arbitrator) to
10 disclosure of any facts by a neutral arbitrator.
11 (4) Waive the right under section 7321.17 (relating to
12 representation by attorney) of a party to an agreement to
13 arbitrate to be represented by an attorney at any proceeding
14 or hearing under this subchapter, but an employer and a labor
15 organization may waive the right to representation by an
16 attorney in a labor arbitration.
17 (c) Absolute prohibition.--A party to an agreement to
18 arbitrate or an arbitration proceeding may not waive, or the
19 parties may not vary the effect of, the requirements of any of
20 the following:
21 (1) This section.
22 (2) Section 7321.4(a) (relating to when subchapter
23 applies).
24 (3) Section 7321.8 (relating to motion to compel or stay
25 arbitration).
26 (4) Section 7321.15 (relating to immunity of arbitrator;
27 competency to testify; attorney fees and costs).
28 (5) Section 7321.19 (relating to judicial enforcement of
29 preaward ruling by arbitrator).
30 (6) Section 7321.21(d) or (e) (relating to change of
31 award by arbitrator).
32 (7) Section 7321.23 (relating to confirmation of award).
33 (8) Section 7321.24 (relating to vacating award).
34 (9) Section 7321.25 (relating to modification or
35 correction of award).
36 (10) Section 7321.26(a) or (b) (relating to judgment on
37 award; attorney fees and litigation expenses).
38 (11) Section 7321.30 (relating to uniformity of
39 application and construction).
40 (12) Section 7321.31 (relating to relationship to
41 Electronic Signatures in Global and National Commerce Act).
42 § 7321.6. Application for judicial relief.
43 (a) Procedure.--Except as otherwise provided in section
44 7321.29 (relating to appeals), an application for judicial
45 relief under this subchapter must be made by motion to the court
46 and heard in the manner provided by law or rule of court for
47 making and hearing motions.
48 (b) Service.--Unless a civil action involving the agreement
49 to arbitrate is pending, notice of an initial motion to the
50 court under this subchapter must be served in the manner
51 provided by law for the service of a summons in a civil action.

1 Otherwise, notice of the motion must be given in the manner
2 provided by law or rule of court for serving motions in pending
3 cases.

4 § 7321.7. Validity of agreement to arbitrate.

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

10 (b) Court decision.--The court shall decide whether an
11 agreement to arbitrate exists or a controversy is subject to an
12 agreement to arbitrate.

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

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

22 (e) Grounds for validity and enforceability.--

23 (1) Subject to paragraph (2), in determining the
24 validity and enforceability of an agreement to arbitrate, a
25 court may consider any grounds that exist at law or in equity
26 for the revocation of a contract, regardless of whether
27 arising out of Federal or State law or as a matter of public
28 policy, that are applicable to other contracts, including
29 fraud, duress, coercion, unconscionability or the imposition
30 by a contract of adhesion of any requirement that
31 unreasonably favors the party that imposed the provision.

32 (2) Paragraph (1) shall not apply in any manner
33 prohibited by 9 U.S.C. (relating to arbitration) or other
34 Federal law.

35 § 7321.8. Motion to compel or stay arbitration.

36 (a) Refusal to arbitrate under agreement.--On motion of a
37 person showing an agreement to arbitrate and alleging another
38 person's refusal to arbitrate under the agreement:

39 (1) if the refusing party does not appear or does not
40 oppose the motion, the court shall order the parties to
41 arbitrate; and

42 (2) if the refusing party opposes the motion, the court
43 shall proceed summarily to decide the issue and order the
44 parties to arbitrate unless it finds that there is no
45 enforceable agreement to arbitrate.

46 (b) Agreement challenged.--On motion of a person alleging
47 that an arbitration proceeding has been initiated or threatened
48 but that there is no agreement to arbitrate, the court shall
49 proceed summarily to decide the issue. If the court finds that
50 there is an enforceable agreement to arbitrate, the court shall
51 order the parties to arbitrate.

1 (c) Enforceable agreement required.--If the court finds that
2 there is no enforceable agreement, the court may not, under
3 subsection (a) or (b), order the parties to arbitrate.

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

7 (e) Appropriate court.--If a proceeding involving a claim
8 referable to arbitration under an alleged agreement to arbitrate
9 is pending in court, a motion under this section must be made in
10 that court. Otherwise, a motion under this section may be made
11 in any court as provided in section 7321.28 (relating to venue).

12 (f) Stay of judicial proceedings.--An action or proceeding
13 allegedly involving an issue subject to arbitration shall be
14 stayed if a court order to proceed with arbitration has been
15 made or a motion for such an order has been made under this
16 section. If the issue allegedly subject to arbitration is
17 severable, the stay of the court action or proceeding may be
18 made with respect to the severable issue only. If a motion for
19 an order to proceed with arbitration is made in the action or
20 proceeding and is granted, the court order to proceed with
21 arbitration shall include a stay of the action or proceeding.

22 § 7321.9. Provisional remedies.

23 (a) Court.--Before an arbitrator is appointed and is
24 authorized and able to act, the court, upon motion of a party to
25 an arbitration proceeding and for good cause shown, may enter an
26 order for provisional remedies to protect the effectiveness of
27 the arbitration proceeding to the same extent and under the same
28 conditions as if the controversy were the subject of a civil
29 action.

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

32 (1) the arbitrator may issue orders for provisional
33 remedies, including interim awards, as the arbitrator finds
34 necessary to protect the effectiveness of the arbitration
35 proceeding and to promote the fair and expeditious resolution
36 of the controversy, to the same extent and under the same
37 conditions as if the controversy were the subject of a civil
38 action; and

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

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

45 § 7321.10. Initiation of arbitration.

46 (a) Notice.--A person initiates an arbitration proceeding by
47 giving notice in a record to the other parties to the agreement
48 to arbitrate in the agreed manner between the parties or, in the
49 absence of agreement, by certified or registered mail, return
50 receipt requested and obtained, or by service as authorized for
51 the commencement of a civil action. The notice must describe the

1 nature of the controversy and the remedy sought.

2 (b) Lack of notice.--Unless a person objects for lack or
3 insufficiency of notice under section 7321.16 (relating to
4 arbitration process) not later than at the beginning of the
5 arbitration hearing, the person by appearing at the hearing
6 waives any objection to lack of or insufficiency of notice.

7 § 7321.11. Consolidation of separate arbitration proceedings.

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

13 (1) there are separate agreements to arbitrate or
14 separate arbitration proceedings between the same persons, or
15 one of them is a party to a separate agreement to arbitrate
16 or a separate arbitration proceeding with a third person;

17 (2) the claims subject to the agreements to arbitrate
18 arise in substantial part from the same transaction or series
19 of related transactions;

20 (3) the existence of a common issue of law or fact
21 creates the possibility of conflicting decisions in the
22 separate arbitration proceedings; and

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

26 (b) Partial consolidation.--The court may order
27 consolidation of separate arbitration proceedings as to some
28 claims and allow other claims to be resolved in separate
29 arbitration proceedings.

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

33 § 7321.12. Appointment of arbitrator; service as a neutral
34 arbitrator.

35 (a) Appointment.--If the parties to an agreement to
36 arbitrate agree on a method for appointing an arbitrator, that
37 method must be followed unless the method fails. If the parties
38 have not agreed on a method, the agreed method fails or an
39 arbitrator appointed fails or is unable to act and a successor
40 has not been appointed, the court, on motion of a party to the
41 arbitration proceeding, shall appoint the arbitrator. An
42 arbitrator appointed by the court has all the powers of an
43 arbitrator designated in the agreement to arbitrate or appointed
44 under the agreed method.

45 (b) Neutral service.--An individual may not serve as an
46 arbitrator required by an agreement to be neutral under the
47 standards under which a judge would be required to disqualify
48 himself or herself from participation in a proceeding under 207
49 Pa. Code Ch. 33 Canon 2 Rule 2.11 (relating to
50 disqualification).

51 § 7321.13. Disclosure by arbitrator.

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

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

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

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

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

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

30 (e) Presumption of neutrality.--An arbitrator appointed as a
31 neutral arbitrator who does not disclose a known, direct and
32 material interest in the outcome of the arbitration proceeding
33 or a known, existing and substantial relationship with a party
34 is presumed to act with evident partiality under section
35 7321.24(a)(2).

36 (f) Procedure to challenge arbitrator.--If the parties to an
37 arbitration proceeding agree to the procedures of an arbitration
38 organization or other procedures for challenges to arbitrators
39 before an award is made, substantial compliance with those
40 procedures is a condition precedent to a motion to vacate an
41 award on that ground under section 7321.24(a)(2).

42 § 7321.14. Action by majority.

43 If there is more than one arbitrator, the powers of an
44 arbitrator must be exercised by a majority of the arbitrators
45 but all of them shall conduct the hearing under section
46 7321.16(c) (relating to arbitration process).

47 § 7321.15. Immunity of arbitrator; competency to testify;
48 attorney fees and costs.

49 (a) Immunity.--An arbitrator or an arbitration organization
50 acting in that capacity is immune from civil liability to the
51 same extent as a judge of a court of this Commonwealth acting in

1 a judicial capacity.

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

4 (c) Failure to disclose.--The failure of an arbitrator to
5 make a disclosure required by section 7321.13 (relating to
6 disclosure by arbitrator) does not cause a loss of immunity
7 under this section.

8 (d) Competency to testify.--In a judicial, administrative or
9 similar proceeding, an arbitrator or representative of an
10 arbitration organization is not competent to testify and may not
11 be required to produce records as to any statement, conduct,
12 decision or ruling occurring during the arbitration proceeding,
13 to the same extent as a judge of a court of this Commonwealth
14 acting in a judicial capacity. This subsection does not apply:

15 (1) to the extent necessary to determine the claim of an
16 arbitrator, arbitration organization or representative of the
17 arbitration organization against a party to the arbitration
18 proceeding; or

19 (2) to a hearing on a motion to vacate an award under
20 section 7321.24(a)(1) or (2) (relating to vacating award) if
21 the movant establishes prima facie that a ground for vacating
22 the award exists.

23 (e) Attorney fees and costs.--If a person commences a civil
24 action against an arbitrator, arbitration organization or
25 representative of an arbitration organization arising from the
26 services of the arbitrator, organization or representative, or
27 if a person seeks to compel an arbitrator or a representative of
28 an arbitration organization to testify or produce records in
29 violation of subsection (d) and the court upon deciding whether
30 the arbitrator, arbitration organization or representative of an
31 arbitration organization is immune from civil liability or
32 whether the arbitrator or representative of the organization is
33 competent to testify, the court may award to the prevailing
34 party, including the arbitrator, organization or representative,
35 reasonable attorney fees and other reasonable expenses of
36 litigation.

37 § 7321.16. Arbitration process.

38 (a) Discretion of arbitrator.--An arbitrator may conduct an
39 arbitration in a manner appropriate for a fair and expeditious
40 disposition of the proceeding. The authority conferred upon the
41 arbitrator includes the power to hold conferences with the
42 parties to the arbitration proceeding before the hearing and,
43 among other matters, determine the admissibility, relevance,
44 materiality and weight of any evidence.

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

47 (1) if all interested parties agree; or

48 (2) upon request of one party to the arbitration
49 proceeding if that party gives notice to all other parties to
50 the proceeding and if the other parties have a reasonable
51 opportunity to respond.

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

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

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

27 (f) Location for arbitration hearing for consumer
28 transactions.--A hearing conducted under an arbitration
29 agreement applicable to a consumer transaction shall be held at
30 a location reasonably convenient to the consumer.

31 § 7321.17. Representation by attorney.

32 A party to an arbitration proceeding may be represented by an
33 attorney.

34 § 7321.18. Witnesses; subpoenas; depositions; discovery.

35 (a) Subpoenas.--An arbitrator may issue a subpoena for the
36 attendance of a witness and for the production of records and
37 other evidence at a hearing and may administer oaths. A subpoena
38 must be served in the manner for service of subpoenas in a civil
39 action and, upon motion to the court by a party to the
40 arbitration proceeding or the arbitrator, may be enforced in the
41 manner for enforcement of subpoenas in a civil action.

42 (b) Depositions.--In order to make the proceedings fair,
43 expeditious and cost effective, upon request of a party to or a
44 witness in an arbitration proceeding, an arbitrator may permit a
45 deposition of a witness to be taken for use as evidence at the
46 hearing, including a witness who cannot be subpoenaed for or is
47 unable to attend a hearing. The arbitrator shall determine the
48 conditions under which the deposition is taken.

49 (c) Discovery.--An arbitrator may permit discovery as the
50 arbitrator decides is appropriate in the circumstances, taking
51 into account the needs of the parties to the arbitration

1 proceeding and other affected persons and the desirability of
2 making the proceeding fair, expeditious and cost effective.

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

11 (e) Protective orders.--An arbitrator may issue a protective
12 order to prevent the disclosure of privileged information,
13 confidential information, trade secrets and other information
14 protected from disclosure to the extent a court could if the
15 controversy were the subject of a civil action in this
16 Commonwealth.

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

22 (g) Enforcement.--The court may enforce a subpoena or
23 discovery-related order for the attendance of a witness within
24 this Commonwealth and for the production of records and other
25 evidence issued by an arbitrator in connection with an
26 arbitration proceeding in another state upon conditions
27 determined by the court so as to make the arbitration proceeding
28 fair, expeditious and cost effective. A subpoena or discovery-
29 related order issued by an arbitrator in another state must be
30 served in the manner provided by law for service of subpoenas in
31 a civil action in this Commonwealth and, upon motion to the
32 court by a party to the arbitration proceeding or the
33 arbitrator, may be enforced in the manner provided by law for
34 enforcement of subpoenas in a civil action in this Commonwealth.
35 § 7321.19. Judicial enforcement of preaward ruling by
36 arbitrator.

37 If an arbitrator makes a preaward ruling in favor of a party
38 to the arbitration proceeding, the party may request the
39 arbitrator to incorporate the ruling into an award under section
40 7321.20 (relating to award). A prevailing party may make a
41 motion to the court for an expedited order to confirm the award
42 under section 7321.23 (relating to confirmation of award), in
43 which case the court shall summarily decide the motion. The
44 court shall issue an order to confirm the award unless the court
45 vacates, modifies or corrects the award under section 7321.24
46 (relating to vacating award) or 7321.25 (relating to
47 modification or correction of award).
48 § 7321.20. Award.

49 (a) Record.--An arbitrator shall make a record of an award.
50 The record must be signed or otherwise authenticated by an
51 arbitrator who concurs with the award. The arbitrator or the

1 arbitration organization shall give notice of the award,
2 including a copy of the award, to each party to the arbitration
3 proceeding.

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

13 § 7321.21. Change of award by arbitrator.

14 (a) Motion.--On motion to an arbitrator by a party to an
15 arbitration proceeding, the arbitrator may modify or correct an
16 award:

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

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

22 (3) to clarify the award.

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

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

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

34 (1) upon a ground stated in section 7321.25(a)(1) or
35 (3);

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

39 (3) to clarify the award.

40 (e) Other provisions applicable.--An award modified or
41 corrected under this section is subject to sections 7321.20(a)
42 (relating to award), 7321.23, 7321.24 and 7321.25.

43 § 7321.22. Remedies; fees and expenses of arbitration
44 proceeding.

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

50 (b) Attorney fees and costs.--An arbitrator may award
51 reasonable attorney fees and other reasonable expenses of

1 arbitration if the award is authorized by law in a civil action
2 involving the same claim, by the agreement of the parties to the
3 arbitration proceeding or by the terms of an agreement subject
4 to arbitration.

5 (c) Additional remedies.--As to all remedies other than
6 those authorized by subsections (a) and (b), an arbitrator may
7 order remedies as the arbitrator considers just and appropriate
8 under the circumstances of the arbitration proceeding. The fact
9 that a remedy could not or would not be granted by the court is
10 not a ground for refusing to confirm an award under section
11 7321.23 (relating to confirmation of award) or for vacating an
12 award under section 7321.24 (relating to vacating award).

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

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

22 § 7321.23. Confirmation of award.

23 After a party to an arbitration proceeding receives notice of
24 an award, the party must make a motion to the court for an order
25 confirming the award. The court shall then issue a confirming
26 order unless the award is modified or corrected under section
27 7321.21 (relating to change of award by arbitrator) or 7321.25
28 (relating to modification or correction of award) or is vacated
29 under section 7321.24 (relating to vacating award).

30 § 7321.24. Vacating award.

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

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

36 (2) there was:

37 (i) evident partiality by an arbitrator appointed as
38 a neutral arbitrator;

39 (ii) corruption by an arbitrator; or

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

42 (3) an arbitrator refused to postpone the hearing upon
43 showing of sufficient cause for postponement, refused to
44 consider evidence material to the controversy or otherwise
45 conducted the hearing contrary to section 7321.16 (relating
46 to arbitration process), so as to prejudice the rights of a
47 party to the arbitration proceeding;

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

49 (5) there was no agreement to arbitrate, unless the
50 person participated in the arbitration proceeding without
51 raising the objection under section 7321.16(c) not later than

1 the beginning of the arbitration hearing; or

2 (6) the arbitration was conducted without proper notice
3 of the initiation of an arbitration as required in section
4 7321.10 (relating to initiation of arbitration) so as to
5 prejudice substantially the rights of a party to the
6 arbitration proceeding.

7 (b) Time.--A motion under this section must be filed within
8 30 days after the movant receives notice of the award under
9 section 7321.20 (relating to award) or within 30 days after the
10 movant receives notice of a modified or corrected award under
11 section 7321.21 (relating to change of award by arbitrator),
12 unless the movant alleges that the award was procured by
13 corruption, fraud or other undue means, in which case the motion
14 must be made within 30 days after the ground is known or by the
15 exercise of reasonable care would have been known by the movant.

16 (c) Rehearing.--If the court vacates an award on a ground
17 other than that set forth in subsection (a)(5), it may order a
18 rehearing. If the award is vacated on a ground stated in
19 subsection (a)(1) or (2), the rehearing shall be before a new
20 arbitrator. If the award is vacated on a ground stated in
21 subsection (a)(3), (4) or (6), the rehearing may be before the
22 arbitrator who made the award or the arbitrator's successor. The
23 arbitrator shall render the decision in the rehearing within the
24 same time as that provided in section 7321.20(b) for an award.

25 (d) Confirmation.--If the court denies a motion to vacate an
26 award, the court shall confirm the award unless a motion to
27 modify or correct the award is pending.

28 § 7321.25. Modification or correction of award.

29 (a) Grounds.--Upon motion made within 90 days after the
30 movant receives notice of the award under section 7321.20
31 (relating to award) or within 90 days after the movant receives
32 notice of a modified or corrected award under section 7321.21
33 (relating to change of award by arbitrator), the court shall
34 modify or correct the award if:

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

38 (2) the arbitrator has made an award on a claim not
39 submitted to the arbitrator and the award may be corrected
40 without affecting the merits of the decision upon the claims
41 submitted; or

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

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

48 (c) Joinder.--A motion to modify or correct an award under
49 this section may be joined with a motion to vacate the award
50 under section 7321.24 (relating to vacating award).

51 § 7321.26. Judgment on award; attorney fees and litigation

1 expenses.

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

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

9 (c) Attorney fees and costs.--On application of a prevailing
10 party to a contested judicial proceeding under section 7321.23
11 (relating to confirmation of award), 7321.24 (relating to
12 vacating award) or 7321.25 (relating to modification or
13 correction of award), the court may add reasonable attorney fees
14 and other reasonable expenses of litigation incurred in a
15 judicial proceeding after the award is made to a judgment
16 confirming, vacating without directing a rehearing, modifying or
17 correcting an award if attorney fees and other expenses are
18 authorized by law to be added to an award in a civil action
19 involving the same claim as the arbitration award.

20 § 7321.27. Jurisdiction.

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

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

28 § 7321.28. Venue.

29 A motion under section 7321.6 (relating to application for
30 judicial relief) must be made in the court of the county in
31 which the agreement to arbitrate or section 7321.16(f) (relating
32 to arbitration process) specifies the arbitration hearing is to
33 be held or, if the hearing has been held, in the court of the
34 county in which the hearing was held. Otherwise, the motion may
35 be made in the court of the county in this Commonwealth as
36 provided by the Pennsylvania Rules of Civil Procedure. All
37 subsequent motions must be made in the court hearing the initial
38 motion unless the court otherwise directs.

39 § 7321.29. Appeals.

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

41 (1) an order denying a motion to compel arbitration;

42 (2) an order granting a motion to stay arbitration;

43 (3) an order confirming or denying confirmation of an
44 award;

45 (4) an order modifying or correcting an award;

46 (5) an order vacating an award without directing a
47 rehearing; or

48 (6) a final judgment entered under this subchapter.

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

1 § 7321.30. Uniformity of application and construction.

2 (a) General rule.--In applying and construing this
3 subchapter, consideration shall be given to the need to promote
4 uniformity of the law with respect to the subject matter among
5 states that enact it.

6 (b) Right to trial by jury.--Except as provided by an
7 agreement to arbitrate, nothing in this subchapter is intended
8 to require a party to waive the right to trial by jury to the
9 extent provided by the Constitution of the United States and the
10 Constitution of Pennsylvania.

11 (c) Severability.--If any provision of this subchapter or
12 the application thereof to any person or circumstance is held
13 invalid, the remainder of this subchapter and the application of
14 such provisions to other persons or circumstances shall not be
15 affected.

16 § 7321.31. Relationship to Electronic Signatures in Global and
17 National Commerce Act.

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

24 Section 2. Sections 7341 and 7342 of Title 42 are amended to
25 read:

26 § 7341. Common law arbitration.

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

35 § 7342. Procedure.

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

39 [Section 7303 (relating to validity of agreement to
40 arbitrate).

41 Section 7304 (relating to court proceedings to compel or
42 stay arbitration).

43 Section 7305 (relating to appointment of arbitrators by
44 court).

45 Section 7309 (relating to witnesses, subpoenas, oaths and
46 depositions).

47 Section 7317 (relating to form and service of
48 applications to court).

49 Section 7318 (relating to court and jurisdiction).

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

51 Section 7320 (relating to appeals from court orders),

except subsection (a)(4).]

Section 7321.6 (relating to application for judicial relief).

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

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

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

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

Section 7321.27 (relating to jurisdiction).

Section 7321.28 (relating to venue).

Section 7321.29 (relating to appeals), except section 7321.29(a)(4).

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

Section 3. Title 42 is amended by adding a chapter to read:

Amend Bill, page 11, line 5, by striking out all of said line and inserting

Section 4. The following provisions shall not be construed to affect an action or proceeding commenced or right accrued before the effective date of this section:

(1) The addition of 42 Pa.C.S. Ch. 73 Subch. A.1.

(2) The amendment of 42 Pa.C.S. § 7341.

(3) The amendment of 42 Pa.C.S. § 7342.

Section 5. This act shall take effect as follows:

(1) This section shall take effect immediately.

(2) The addition of 42 Pa.C.S. Ch. 74 shall take effect in 60 days.

(3) The remainder of this act shall take effect July 1, 2019.