

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1644 Session of 2017

INTRODUCED BY KLUNK, CUTLER, MILLARD, PHILLIPS-HILL, WHEELAND, LONGIETTI, BAKER, SCHEMEL, SAYLOR, MAHER, STEPHENS, WATSON, ZIMMERMAN, KAUFFMAN, NESBIT, BRIGGS, MULLERY, KNOWLES, WARREN, JOZWIAK, TOOHIL, MILNE AND BARBIN, JUNE 30, 2017

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 20, 2018

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, IN CIVIL ACTIONS AND <--
3 PROCEEDINGS, EXTENSIVELY REVISING STATUTORY ARBITRATION AND
4 providing for collaborative law process; AND MAKING EDITORIAL <--
5 CHANGES.

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

8 ~~Section 1. Title 42 of the Pennsylvania Consolidated~~ <--
9 ~~Statutes is amended by adding a chapter to read:~~

10 SECTION 1. THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE <--
11 UNIFIED JUDICIAL SYSTEM WILL BENEFIT FROM:

- 12 (1) EXTENSIVE REVISION OF STATUTORY ARBITRATION; AND
13 (2) ESTABLISHMENT OF A COLLABORATIVE LAW PROCESS.

14 SECTION 1.1. CHAPTER 73 OF TITLE 42 OF THE PENNSYLVANIA
15 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBCHAPTER TO READ:

SUBCHAPTER A.1

REVISED STATUTORY ARBITRATION

18 SEC.

1 7321.1. SHORT TITLE OF SUBCHAPTER.  
2 7321.2. DEFINITIONS.  
3 7321.3. NOTICE.  
4 7321.4. WHEN SUBCHAPTER APPLIES.  
5 7321.5. EFFECT OF AGREEMENT TO ARBITRATE; NONWAIVABLE  
6 PROVISIONS.  
7 7321.6. APPLICATION FOR JUDICIAL RELIEF.  
8 7321.7. VALIDITY OF AGREEMENT TO ARBITRATE.  
9 7321.8. MOTION TO COMPEL OR STAY ARBITRATION.  
10 7321.9. PROVISIONAL REMEDIES.  
11 7321.10. INITIATION OF ARBITRATION.  
12 7321.11. CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS.  
13 7321.12. APPOINTMENT OF ARBITRATOR; SERVICE AS A NEUTRAL  
14 ARBITRATOR.  
15 7321.13. DISCLOSURE BY ARBITRATOR.  
16 7321.14. ACTION BY MAJORITY.  
17 7321.15. IMMUNITY OF ARBITRATOR; COMPETENCY TO TESTIFY; ATTORNEY  
18 FEEES AND COSTS.  
19 7321.16. ARBITRATION PROCESS.  
20 7321.17. REPRESENTATION BY ATTORNEY.  
21 7321.18. WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY.  
22 7321.19. JUDICIAL ENFORCEMENT OF PREAWARD RULING BY ARBITRATOR.  
23 7321.20. AWARD.  
24 7321.21. CHANGE OF AWARD BY ARBITRATOR.  
25 7321.22. REMEDIES; FEES AND EXPENSES OF ARBITRATION PROCEEDING.  
26 7321.23. CONFIRMATION OF AWARD.  
27 7321.24. VACATING AWARD.  
28 7321.25. MODIFICATION OR CORRECTION OF AWARD.  
29 7321.26. JUDGMENT ON AWARD; ATTORNEY FEES AND LITIGATION  
30 EXPENSES.

1 7321.27. JURISDICTION.

2 7321.28. VENUE.

3 7321.29. APPEALS.

4 7321.30. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

5 7321.31. RELATIONSHIP TO ELECTRONIC SIGNATURES IN GLOBAL AND  
6 NATIONAL COMMERCE ACT.

7 § 7321.1. SHORT TITLE OF SUBCHAPTER.

8 THIS SUBCHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE  
9 REVISED STATUTORY ARBITRATION ACT.

10 § 7321.2. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER  
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "ARBITRATION ORGANIZATION." ANY ASSOCIATION, AGENCY, BOARD,  
15 COMMISSION OR OTHER ENTITY THAT IS NEUTRAL AND INITIATES,  
16 SPONSORS OR ADMINISTERS AN ARBITRATION PROCEEDING OR IS INVOLVED  
17 IN THE APPOINTMENT OF AN ARBITRATOR.

18 "ARBITRATOR." AN INDIVIDUAL APPOINTED TO RENDER AN AWARD,  
19 ALONE OR WITH OTHERS, IN A CONTROVERSY THAT IS SUBJECT TO AN  
20 AGREEMENT TO ARBITRATE.

21 "CONSUMER." AN INDIVIDUAL WHO INCURS AN OBLIGATION IN AN  
22 AGREEMENT WITH A MERCHANT FOR PERSONAL, FAMILY OR HOUSEHOLD  
23 PURPOSES.

24 "CONSUMER TRANSACTION." A TRANSACTION BETWEEN A CONSUMER  
25 DOMICILED IN THIS COMMONWEALTH AND A MERCHANT, INCLUDING ALL  
26 PERSONAL INJURY CLAIMS ARISING OUT OF SUCH A TRANSACTION.

27 "COURT." A COURT OF COMPETENT JURISDICTION IN THIS  
28 COMMONWEALTH.

29 "KNOWLEDGE." ACTUAL KNOWLEDGE.

30 "MERCHANT." A PERSON IN THE ORDINARY COURSE OF BUSINESS THAT

1 OFFERS OR SELLS GOODS OR SERVICES TO CONSUMERS OR HOLDS ITSELF  
2 OUT AS HAVING KNOWLEDGE OR SKILL PECULIAR TO SUCH TRANSACTIONS,  
3 INCLUDING A MANUFACTURER, SUPPLIER OR DISTRIBUTOR OF GOODS, OR A  
4 SUPPLIER OF PERSONAL OR PROFESSIONAL SERVICES.

5 "PERSON." ANY INDIVIDUAL, CORPORATION, BUSINESS TRUST,  
6 ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,  
7 ASSOCIATION, JOINT VENTURE; A GOVERNMENT; A GOVERNMENTAL  
8 SUBDIVISION, AGENCY OR INSTRUMENTALITY; A PUBLIC CORPORATION; OR  
9 ANY OTHER LEGAL OR COMMERCIAL ENTITY.

10 "RECORD." INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM  
11 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS  
12 RETRIEVABLE IN PERCEIVABLE FORM.

13 § 7321.3. NOTICE.

14 (A) GIVING NOTICE.--EXCEPT AS OTHERWISE PROVIDED IN THIS  
15 SUBCHAPTER, A PERSON GIVES NOTICE TO ANOTHER PERSON BY TAKING  
16 ACTION THAT IS REASONABLY NECESSARY TO INFORM THE OTHER PERSON  
17 IN ORDINARY COURSE WHETHER OR NOT THE OTHER PERSON ACQUIRES  
18 KNOWLEDGE OF THE NOTICE.

19 (B) HAVING NOTICE.--A PERSON HAS NOTICE IF THE PERSON HAS  
20 KNOWLEDGE OF THE NOTICE OR HAS RECEIVED NOTICE.

21 (C) RECEIVING NOTICE.--A PERSON RECEIVES NOTICE WHEN IT  
22 COMES TO THE PERSON'S ATTENTION OR THE NOTICE IS DELIVERED AT:

23 (1) THE PERSON'S PLACE OF RESIDENCE OR BUSINESS; OR  
24 (2) ANOTHER LOCATION HELD OUT BY THE PERSON AS A PLACE  
25 OF DELIVERY OF SUCH COMMUNICATIONS.

26 § 7321.4. WHEN SUBCHAPTER APPLIES.

27 (A) SUBSEQUENT AGREEMENTS.--THIS SUBCHAPTER GOVERNS AN  
28 AGREEMENT TO ARBITRATE MADE ON OR AFTER THE EFFECTIVE DATE OF  
29 THIS SUBCHAPTER.

30 (B) PRIOR AGREEMENTS.--FOR AN AGREEMENT TO ARBITRATE MADE

1 BEFORE THE EFFECTIVE DATE OF THIS SUBCHAPTER, EXCEPT AS SET  
2 FORTH IN SUBSECTION (C):

3 (1) IF ALL THE PARTIES TO THE AGREEMENT OR TO THE  
4 ARBITRATION PROCEEDING AGREE IN A RECORD THAT THIS SUBCHAPTER  
5 GOVERNS THE AGREEMENT, THIS SUBCHAPTER GOVERNS THE AGREEMENT.

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

8 (C) COLLECTIVE BARGAINING AGREEMENTS.--THIS SUBCHAPTER SHALL  
9 APPLY TO COLLECTIVE BARGAINING AGREEMENTS TO ARBITRATE  
10 CONTROVERSIES BETWEEN EMPLOYERS AND EMPLOYEES OR THEIR  
11 RESPECTIVE REPRESENTATIVES ONLY TO THE EXTENT THAT THE  
12 ARBITRATION UNDER THIS SUBCHAPTER IS CONSISTENT WITH ANY OTHER  
13 STATUTE REGULATING LABOR AND MANAGEMENT RELATIONS.

14 § 7321.5. EFFECT OF AGREEMENT TO ARBITRATE; NONWAIVABLE  
15 PROVISIONS.

16 (A) WAIVER OR VARIANCE.--EXCEPT AS OTHERWISE PROVIDED IN  
17 SUBSECTIONS (B) AND (C), A PARTY TO AN AGREEMENT TO ARBITRATE OR  
18 TO AN ARBITRATION PROCEEDING MAY WAIVE, OR THE PARTIES MAY VARY  
19 THE EFFECT OF, THE REQUIREMENTS OF THIS SUBCHAPTER TO THE EXTENT  
20 PERMITTED BY LAW.

21 (B) PRIOR TO CONTROVERSY.--BEFORE A CONTROVERSY ARISES THAT  
22 IS SUBJECT TO AN AGREEMENT TO ARBITRATE, A PARTY TO THE  
23 AGREEMENT MAY NOT DO ANY OF THE FOLLOWING:

24 (1) WAIVE OR AGREE TO VARY THE EFFECT OF THE  
25 REQUIREMENTS OF ANY OF THE FOLLOWING:

26 (I) SECTION 7321.6 (A) (RELATING TO APPLICATION FOR  
27 JUDICIAL RELIEF).

28 (II) SECTION 7321.7 (A) (RELATING TO VALIDITY OF  
29 AGREEMENT TO ARBITRATE).

30 (III) SECTION 7321.9 (RELATING TO PROVISIONAL

1 REMEDIES).

2 (IV) SECTION 7321.18(A) OR (B) (RELATING TO  
3 WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY).

4 (V) SECTION 7321.27 (RELATING TO JURISDICTION).

5 (VI) SECTION 7321.29 (RELATING TO APPEALS).

6 (2) AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER  
7 SECTION 7321.10 (RELATING TO INITIATION OF ARBITRATION) TO  
8 NOTICE OF THE INITIATION OF AN ARBITRATION PROCEEDING.

9 (3) AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER  
10 SECTION 7321.13 (RELATING TO DISCLOSURE BY ARBITRATOR) TO  
11 DISCLOSURE OF ANY FACTS BY A NEUTRAL ARBITRATOR.

12 (4) WAIVE THE RIGHT UNDER SECTION 7321.17 (RELATING TO  
13 REPRESENTATION BY ATTORNEY) OF A PARTY TO AN AGREEMENT TO  
14 ARBITRATE TO BE REPRESENTED BY AN ATTORNEY AT ANY PROCEEDING  
15 OR HEARING UNDER THIS SUBCHAPTER, BUT AN EMPLOYER AND A LABOR  
16 ORGANIZATION MAY WAIVE THE RIGHT TO REPRESENTATION BY AN  
17 ATTORNEY IN A LABOR ARBITRATION.

18 (C) ABSOLUTE PROHIBITION.--A PARTY TO AN AGREEMENT TO  
19 ARBITRATE OR AN ARBITRATION PROCEEDING MAY NOT WAIVE, OR THE  
20 PARTIES MAY NOT VARY THE EFFECT OF, THE REQUIREMENTS OF ANY OF  
21 THE FOLLOWING:

22 (1) THIS SECTION.

23 (2) SECTION 7321.4(A) (RELATING TO WHEN SUBCHAPTER  
24 APPLIES).

25 (3) SECTION 7321.8 (RELATING TO MOTION TO COMPEL OR STAY  
26 ARBITRATION).

27 (4) SECTION 7321.15 (RELATING TO IMMUNITY OF ARBITRATOR;  
28 COMPETENCY TO TESTIFY; ATTORNEY FEES AND COSTS).

29 (5) SECTION 7321.19 (RELATING TO JUDICIAL ENFORCEMENT OF  
30 PREAWARD RULING BY ARBITRATOR).

1           (6) SECTION 7321.21(D) OR (E) (RELATING TO CHANGE OF  
2 AWARD BY ARBITRATOR).

3           (7) SECTION 7321.23 (RELATING TO CONFIRMATION OF AWARD).

4           (8) SECTION 7321.24 (RELATING TO VACATING AWARD).

5           (9) SECTION 7321.25 (RELATING TO MODIFICATION OR  
6 CORRECTION OF AWARD).

7           (10) SECTION 7321.26(A) OR (B) (RELATING TO JUDGMENT ON  
8 AWARD; ATTORNEY FEES AND LITIGATION EXPENSES).

9           (11) SECTION 7321.30 (RELATING TO UNIFORMITY OF  
10 APPLICATION AND CONSTRUCTION).

11           (12) SECTION 7321.31 (RELATING TO RELATIONSHIP TO  
12 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT).

13 § 7321.6. APPLICATION FOR JUDICIAL RELIEF.

14           (A) PROCEDURE.--EXCEPT AS OTHERWISE PROVIDED IN SECTION  
15 7321.29 (RELATING TO APPEALS), AN APPLICATION FOR JUDICIAL  
16 RELIEF UNDER THIS SUBCHAPTER MUST BE MADE BY MOTION TO THE COURT  
17 AND HEARD IN THE MANNER PROVIDED BY LAW OR RULE OF COURT FOR  
18 MAKING AND HEARING MOTIONS.

19           (B) SERVICE.--UNLESS A CIVIL ACTION INVOLVING THE AGREEMENT  
20 TO ARBITRATE IS PENDING, NOTICE OF AN INITIAL MOTION TO THE  
21 COURT UNDER THIS SUBCHAPTER MUST BE SERVED IN THE MANNER  
22 PROVIDED BY LAW FOR THE SERVICE OF A SUMMONS IN A CIVIL ACTION.  
23 OTHERWISE, NOTICE OF THE MOTION MUST BE GIVEN IN THE MANNER  
24 PROVIDED BY LAW OR RULE OF COURT FOR SERVING MOTIONS IN PENDING  
25 CASES.

26 § 7321.7. VALIDITY OF AGREEMENT TO ARBITRATE.

27           (A) GENERAL RULE.--AN AGREEMENT CONTAINED IN A RECORD TO  
28 SUBMIT TO ARBITRATION ANY EXISTING OR SUBSEQUENT CONTROVERSY  
29 ARISING BETWEEN THE PARTIES TO THE AGREEMENT IS VALID,  
30 ENFORCEABLE AND IRREVOCABLE EXCEPT UPON A GROUND THAT EXISTS AT

1 LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

2 (B) COURT DECISION.--THE COURT SHALL DECIDE WHETHER AN  
3 AGREEMENT TO ARBITRATE EXISTS OR A CONTROVERSY IS SUBJECT TO AN  
4 AGREEMENT TO ARBITRATE.

5 (C) ARBITRATOR DECISION.--AN ARBITRATOR SHALL DECIDE WHETHER  
6 A CONDITION PRECEDENT TO ARBITRABILITY HAS BEEN FULFILLED AND  
7 WHETHER A CONTRACT CONTAINING A VALID AGREEMENT TO ARBITRATE IS  
8 ENFORCEABLE.

9 (D) CHALLENGE TO ARBITRATION.--IF A PARTY TO A JUDICIAL  
10 PROCEEDING CHALLENGES THE EXISTENCE OF, OR CLAIMS THAT A  
11 CONTROVERSY IS NOT SUBJECT TO, AN AGREEMENT TO ARBITRATE, THE  
12 ARBITRATION PROCEEDING MAY CONTINUE PENDING FINAL RESOLUTION OF  
13 THE ISSUE BY THE COURT, UNLESS THE COURT OTHERWISE ORDERS.

14 (E) GROUNDS FOR VALIDITY AND ENFORCEABILITY.--

15 (1) SUBJECT TO PARAGRAPH (2), IN DETERMINING THE  
16 VALIDITY AND ENFORCEABILITY OF AN AGREEMENT TO ARBITRATE, A  
17 COURT MAY CONSIDER ANY GROUNDS THAT EXIST AT LAW OR IN EQUITY  
18 FOR THE REVOCATION OF A CONTRACT, REGARDLESS OF WHETHER  
19 ARISING OUT OF FEDERAL OR STATE LAW OR AS A MATTER OF PUBLIC  
20 POLICY, THAT ARE APPLICABLE TO OTHER CONTRACTS, INCLUDING  
21 FRAUD, DURESS, COERCION, UNCONSCIONABILITY OR THE IMPOSITION  
22 BY A CONTRACT OF ADHESION OF ANY REQUIREMENT THAT  
23 UNREASONABLY FAVORS THE PARTY THAT IMPOSED THE PROVISION.

24 (2) PARAGRAPH (1) SHALL NOT APPLY IN ANY MANNER  
25 PROHIBITED BY 9 U.S.C. (RELATING TO ARBITRATION) OR OTHER  
26 FEDERAL LAW.

27 § 7321.8. MOTION TO COMPEL OR STAY ARBITRATION.

28 (A) REFUSAL TO ARBITRATE UNDER AGREEMENT.--ON MOTION OF A  
29 PERSON SHOWING AN AGREEMENT TO ARBITRATE AND ALLEGING ANOTHER  
30 PERSON'S REFUSAL TO ARBITRATE UNDER THE AGREEMENT:



1           (1) IF THE REFUSING PARTY DOES NOT APPEAR OR DOES NOT  
2           OPPOSE THE MOTION, THE COURT SHALL ORDER THE PARTIES TO  
3           ARBITRATE; AND

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

8           (B) AGREEMENT CHALLENGED.--ON MOTION OF A PERSON ALLEGING  
9           THAT AN ARBITRATION PROCEEDING HAS BEEN INITIATED OR THREATENED  
10          BUT THAT THERE IS NO AGREEMENT TO ARBITRATE, THE COURT SHALL  
11          PROCEED SUMMARILY TO DECIDE THE ISSUE. IF THE COURT FINDS THAT  
12          THERE IS AN ENFORCEABLE AGREEMENT TO ARBITRATE, THE COURT SHALL  
13          ORDER THE PARTIES TO ARBITRATE.

14          (C) ENFORCEABLE AGREEMENT REQUIRED.--IF THE COURT FINDS THAT  
15          THERE IS NO ENFORCEABLE AGREEMENT, THE COURT MAY NOT, UNDER  
16          SUBSECTION (A) OR (B), ORDER THE PARTIES TO ARBITRATE.

17          (D) COURT REFUSAL.--THE COURT MAY NOT REFUSE TO ORDER  
18          ARBITRATION BECAUSE THE CLAIM SUBJECT TO ARBITRATION LACKS MERIT  
19          OR GROUNDS FOR THE CLAIM HAVE NOT BEEN ESTABLISHED.

20          (E) APPROPRIATE COURT.--IF A PROCEEDING INVOLVING A CLAIM  
21          REFERABLE TO ARBITRATION UNDER AN ALLEGED AGREEMENT TO ARBITRATE  
22          IS PENDING IN COURT, A MOTION UNDER THIS SECTION MUST BE MADE IN  
23          THAT COURT. OTHERWISE, A MOTION UNDER THIS SECTION MAY BE MADE  
24          IN ANY COURT AS PROVIDED IN SECTION 7321.28 (RELATING TO VENUE).

25          (F) STAY OF JUDICIAL PROCEEDINGS.--AN ACTION OR PROCEEDING  
26          ALLEGEDLY INVOLVING AN ISSUE SUBJECT TO ARBITRATION SHALL BE  
27          STAYED IF A COURT ORDER TO PROCEED WITH ARBITRATION HAS BEEN  
28          MADE OR A MOTION FOR SUCH AN ORDER HAS BEEN MADE UNDER THIS  
29          SECTION. IF THE ISSUE ALLEGEDLY SUBJECT TO ARBITRATION IS  
30          SEVERABLE, THE STAY OF THE COURT ACTION OR PROCEEDING MAY BE

1 MADE WITH RESPECT TO THE SEVERABLE ISSUE ONLY. IF A MOTION FOR  
2 AN ORDER TO PROCEED WITH ARBITRATION IS MADE IN THE ACTION OR  
3 PROCEEDING AND IS GRANTED, THE COURT ORDER TO PROCEED WITH  
4 ARBITRATION SHALL INCLUDE A STAY OF THE ACTION OR PROCEEDING.  
5 § 7321.9. PROVISIONAL REMEDIES.

6 (A) COURT.--BEFORE AN ARBITRATOR IS APPOINTED AND IS  
7 AUTHORIZED AND ABLE TO ACT, THE COURT, UPON MOTION OF A PARTY TO  
8 AN ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, MAY ENTER AN  
9 ORDER FOR PROVISIONAL REMEDIES TO PROTECT THE EFFECTIVENESS OF  
10 THE ARBITRATION PROCEEDING TO THE SAME EXTENT AND UNDER THE SAME  
11 CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL  
12 ACTION.

13 (B) ARBITRATOR.--AFTER AN ARBITRATOR IS APPOINTED AND IS  
14 AUTHORIZED AND ABLE TO ACT:

15 (1) THE ARBITRATOR MAY ISSUE ORDERS FOR PROVISIONAL  
16 REMEDIES, INCLUDING INTERIM AWARDS, AS THE ARBITRATOR FINDS  
17 NECESSARY TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION  
18 PROCEEDING AND TO PROMOTE THE FAIR AND EXPEDITIOUS RESOLUTION  
19 OF THE CONTROVERSY, TO THE SAME EXTENT AND UNDER THE SAME  
20 CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL  
21 ACTION; AND

22 (2) A PARTY TO AN ARBITRATION PROCEEDING MAY MOVE THE  
23 COURT FOR A PROVISIONAL REMEDY ONLY IF THE MATTER IS URGENT  
24 AND THE ARBITRATOR IS NOT ABLE TO ACT TIMELY OR THE  
25 ARBITRATOR CANNOT PROVIDE AN ADEQUATE REMEDY.

26 (C) EFFECT.--A PARTY DOES NOT WAIVE A RIGHT OF ARBITRATION  
27 BY MAKING A MOTION UNDER SUBSECTION (A) OR (B).

28 § 7321.10. INITIATION OF ARBITRATION.

29 (A) NOTICE.--A PERSON INITIATES AN ARBITRATION PROCEEDING BY  
30 GIVING NOTICE IN A RECORD TO THE OTHER PARTIES TO THE AGREEMENT

1 TO ARBITRATE IN THE AGREED MANNER BETWEEN THE PARTIES OR, IN THE  
2 ABSENCE OF AGREEMENT, BY CERTIFIED OR REGISTERED MAIL, RETURN  
3 RECEIPT REQUESTED AND OBTAINED, OR BY SERVICE AS AUTHORIZED FOR  
4 THE COMMENCEMENT OF A CIVIL ACTION. THE NOTICE MUST DESCRIBE THE  
5 NATURE OF THE CONTROVERSY AND THE REMEDY SOUGHT.

6 (B) LACK OF NOTICE.--UNLESS A PERSON OBJECTS FOR LACK OR  
7 INSUFFICIENCY OF NOTICE UNDER SECTION 7321.16 (RELATING TO  
8 ARBITRATION PROCESS) NOT LATER THAN AT THE BEGINNING OF THE  
9 ARBITRATION HEARING, THE PERSON BY APPEARING AT THE HEARING  
10 WAIVES ANY OBJECTION TO LACK OF OR INSUFFICIENCY OF NOTICE.

11 § 7321.11. CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS.

12 (A) CONDITIONS.--EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION  
13 (C), UPON MOTION OF A PARTY TO AN AGREEMENT TO ARBITRATE OR TO  
14 AN ARBITRATION PROCEEDING, THE COURT MAY ORDER CONSOLIDATION OF  
15 SEPARATE ARBITRATION PROCEEDINGS AS TO ALL OR SOME OF THE CLAIMS  
16 IF:

17 (1) THERE ARE SEPARATE AGREEMENTS TO ARBITRATE OR  
18 SEPARATE ARBITRATION PROCEEDINGS BETWEEN THE SAME PERSONS, OR  
19 ONE OF THEM IS A PARTY TO A SEPARATE AGREEMENT TO ARBITRATE  
20 OR A SEPARATE ARBITRATION PROCEEDING WITH A THIRD PERSON;

21 (2) THE CLAIMS SUBJECT TO THE AGREEMENTS TO ARBITRATE  
22 ARISE IN SUBSTANTIAL PART FROM THE SAME TRANSACTION OR SERIES  
23 OF RELATED TRANSACTIONS;

24 (3) THE EXISTENCE OF A COMMON ISSUE OF LAW OR FACT  
25 CREATES THE POSSIBILITY OF CONFLICTING DECISIONS IN THE  
26 SEPARATE ARBITRATION PROCEEDINGS; AND

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

30 (B) PARTIAL CONSOLIDATION.--THE COURT MAY ORDER

1 CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO SOME  
2 CLAIMS AND ALLOW OTHER CLAIMS TO BE RESOLVED IN SEPARATE  
3 ARBITRATION PROCEEDINGS.

4 (C) AGREEMENT GOVERNS.--THE COURT MAY NOT ORDER  
5 CONSOLIDATION OF THE CLAIMS OF A PARTY TO AN AGREEMENT TO  
6 ARBITRATE IF THE AGREEMENT PROHIBITS CONSOLIDATION.

7 § 7321.12. APPOINTMENT OF ARBITRATOR; SERVICE AS A NEUTRAL  
8 ARBITRATOR.

9 (A) APPOINTMENT.--IF THE PARTIES TO AN AGREEMENT TO  
10 ARBITRATE AGREE ON A METHOD FOR APPOINTING AN ARBITRATOR, THAT  
11 METHOD MUST BE FOLLOWED UNLESS THE METHOD FAILS. IF THE PARTIES  
12 HAVE NOT AGREED ON A METHOD, THE AGREED METHOD FAILS OR AN  
13 ARBITRATOR APPOINTED FAILS OR IS UNABLE TO ACT AND A SUCCESSOR  
14 HAS NOT BEEN APPOINTED, THE COURT, ON MOTION OF A PARTY TO THE  
15 ARBITRATION PROCEEDING, SHALL APPOINT THE ARBITRATOR. AN  
16 ARBITRATOR APPOINTED BY THE COURT HAS ALL THE POWERS OF AN  
17 ARBITRATOR DESIGNATED IN THE AGREEMENT TO ARBITRATE OR APPOINTED  
18 UNDER THE AGREED METHOD.

19 (B) NEUTRAL SERVICE.--AN INDIVIDUAL MAY NOT SERVE AS AN  
20 ARBITRATOR REQUIRED BY AN AGREEMENT TO BE NEUTRAL UNDER THE  
21 STANDARDS UNDER WHICH A JUDGE WOULD BE REQUIRED TO DISQUALIFY  
22 HIMSELF OR HERSELF FROM PARTICIPATION IN A PROCEEDING UNDER 207  
23 PA. CODE CH. 33 CANON 2 RULE 2.11 (RELATING TO  
24 DISQUALIFICATION).

25 § 7321.13. DISCLOSURE BY ARBITRATOR.

26 (A) PREAPPOINTMENT.--BEFORE ACCEPTING APPOINTMENT, AN  
27 INDIVIDUAL WHO IS REQUESTED TO SERVE AS AN ARBITRATOR, AFTER  
28 MAKING A REASONABLE INQUIRY, SHALL DISCLOSE TO ALL PARTIES TO  
29 THE AGREEMENT TO ARBITRATE AND THE ARBITRATION PROCEEDING AND TO  
30 ANY OTHER ARBITRATORS ANY KNOWN FACTS THAT A REASONABLE PERSON

1 WOULD CONSIDER LIKELY TO AFFECT THE IMPARTIALITY OF THE  
2 ARBITRATOR IN THE ARBITRATION PROCEEDING, INCLUDING:

3 (1) A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF  
4 THE ARBITRATION PROCEEDING; AND

5 (2) AN EXISTING OR PAST RELATIONSHIP WITH ANY OF THE  
6 PARTIES TO THE AGREEMENT TO ARBITRATE OR THE ARBITRATION  
7 PROCEEDING, THEIR COUNSEL OR REPRESENTATIVES, A WITNESS OR  
8 ANOTHER ARBITRATOR.

9 (B) CONTINUING.--AN ARBITRATOR HAS A CONTINUING OBLIGATION  
10 TO DISCLOSE TO ALL PARTIES TO THE AGREEMENT TO ARBITRATE AND THE  
11 ARBITRATION PROCEEDING AND TO OTHER ARBITRATORS FACTS THAT THE  
12 ARBITRATOR LEARNS AFTER ACCEPTING APPOINTMENT THAT A REASONABLE  
13 PERSON WOULD CONSIDER LIKELY TO AFFECT THE IMPARTIALITY OF THE  
14 ARBITRATOR.

15 (C) OBJECTION.--IF AN ARBITRATOR DISCLOSES A FACT REQUIRED  
16 BY SUBSECTION (A) OR (B) TO BE DISCLOSED AND A PARTY TIMELY  
17 OBJECTS TO THE APPOINTMENT OR CONTINUED SERVICE OF THE  
18 ARBITRATOR BASED UPON THE FACT DISCLOSED, THE OBJECTION MAY BE A  
19 GROUND UNDER SECTION 7321.24(A) (2) (RELATING TO VACATING AWARD)  
20 FOR VACATING AN AWARD MADE BY THE ARBITRATOR.

21 (D) NONDISCLOSURE.--IF THE ARBITRATOR DOES NOT DISCLOSE A  
22 FACT AS REQUIRED BY SUBSECTION (A) OR (B), UPON TIMELY OBJECTION  
23 BY A PARTY, THE COURT UNDER SECTION 7321.24(A) (2) MAY VACATE AN  
24 AWARD.

25 (E) PRESUMPTION OF NEUTRALITY.--AN ARBITRATOR APPOINTED AS A  
26 NEUTRAL ARBITRATOR WHO DOES NOT DISCLOSE A KNOWN, DIRECT AND  
27 MATERIAL INTEREST IN THE OUTCOME OF THE ARBITRATION PROCEEDING  
28 OR A KNOWN, EXISTING AND SUBSTANTIAL RELATIONSHIP WITH A PARTY  
29 IS PRESUMED TO ACT WITH EVIDENT PARTIALITY UNDER SECTION  
30 7321.24(A) (2).

1 (F) PROCEDURE TO CHALLENGE ARBITRATOR.--IF THE PARTIES TO AN  
2 ARBITRATION PROCEEDING AGREE TO THE PROCEDURES OF AN ARBITRATION  
3 ORGANIZATION OR OTHER PROCEDURES FOR CHALLENGES TO ARBITRATORS  
4 BEFORE AN AWARD IS MADE, SUBSTANTIAL COMPLIANCE WITH THOSE  
5 PROCEDURES IS A CONDITION PRECEDENT TO A MOTION TO VACATE AN  
6 AWARD ON THAT GROUND UNDER SECTION 7321.24(A) (2).  
7 § 7321.14. ACTION BY MAJORITY.

8 IF THERE IS MORE THAN ONE ARBITRATOR, THE POWERS OF AN  
9 ARBITRATOR MUST BE EXERCISED BY A MAJORITY OF THE ARBITRATORS  
10 BUT ALL OF THEM SHALL CONDUCT THE HEARING UNDER SECTION  
11 7321.16(C) (RELATING TO ARBITRATION PROCESS).

12 § 7321.15. IMMUNITY OF ARBITRATOR; COMPETENCY TO TESTIFY;  
13 ATTORNEY FEES AND COSTS.

14 (A) IMMUNITY.--AN ARBITRATOR OR AN ARBITRATION ORGANIZATION  
15 ACTING IN THAT CAPACITY IS IMMUNE FROM CIVIL LIABILITY TO THE  
16 SAME EXTENT AS A JUDGE OF A COURT OF THIS COMMONWEALTH ACTING IN  
17 A JUDICIAL CAPACITY.

18 (B) OTHER IMMUNITY.--THE IMMUNITY AFFORDED BY THIS SECTION  
19 SUPPLEMENTS ANY IMMUNITY UNDER OTHER LAW.

20 (C) FAILURE TO DISCLOSE.--THE FAILURE OF AN ARBITRATOR TO  
21 MAKE A DISCLOSURE REQUIRED BY SECTION 7321.13 (RELATING TO  
22 DISCLOSURE BY ARBITRATOR) DOES NOT CAUSE A LOSS OF IMMUNITY  
23 UNDER THIS SECTION.

24 (D) COMPETENCY TO TESTIFY.--IN A JUDICIAL, ADMINISTRATIVE OR  
25 SIMILAR PROCEEDING, AN ARBITRATOR OR REPRESENTATIVE OF AN  
26 ARBITRATION ORGANIZATION IS NOT COMPETENT TO TESTIFY AND MAY NOT  
27 BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT,  
28 DECISION OR RULING OCCURRING DURING THE ARBITRATION PROCEEDING,  
29 TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS COMMONWEALTH  
30 ACTING IN A JUDICIAL CAPACITY. THIS SUBSECTION DOES NOT APPLY:

1           (1) TO THE EXTENT NECESSARY TO DETERMINE THE CLAIM OF AN  
2 ARBITRATOR, ARBITRATION ORGANIZATION OR REPRESENTATIVE OF THE  
3 ARBITRATION ORGANIZATION AGAINST A PARTY TO THE ARBITRATION  
4 PROCEEDING; OR

5           (2) TO A HEARING ON A MOTION TO VACATE AN AWARD UNDER  
6 SECTION 7321.24(A) (1) OR (2) (RELATING TO VACATING AWARD) IF  
7 THE MOVANT ESTABLISHES PRIMA FACIE THAT A GROUND FOR VACATING  
8 THE AWARD EXISTS.

9           (E) ATTORNEY FEES AND COSTS.--IF A PERSON COMMENCES A CIVIL  
10 ACTION AGAINST AN ARBITRATOR, ARBITRATION ORGANIZATION OR  
11 REPRESENTATIVE OF AN ARBITRATION ORGANIZATION ARISING FROM THE  
12 SERVICES OF THE ARBITRATOR, ORGANIZATION OR REPRESENTATIVE, OR  
13 IF A PERSON SEEKS TO COMPEL AN ARBITRATOR OR A REPRESENTATIVE OF  
14 AN ARBITRATION ORGANIZATION TO TESTIFY OR PRODUCE RECORDS IN  
15 VIOLATION OF SUBSECTION (D) AND THE COURT UPON DECIDING WHETHER  
16 THE ARBITRATOR, ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN  
17 ARBITRATION ORGANIZATION IS IMMUNE FROM CIVIL LIABILITY OR  
18 WHETHER THE ARBITRATOR OR REPRESENTATIVE OF THE ORGANIZATION IS  
19 COMPETENT TO TESTIFY, THE COURT MAY AWARD TO THE PREVAILING  
20 PARTY, INCLUDING THE ARBITRATOR, ORGANIZATION OR REPRESENTATIVE,  
21 REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF  
22 LITIGATION.

23 § 7321.16. ARBITRATION PROCESS.

24           (A) DISCRETION OF ARBITRATOR.--AN ARBITRATOR MAY CONDUCT AN  
25 ARBITRATION IN A MANNER APPROPRIATE FOR A FAIR AND EXPEDITIOUS  
26 DISPOSITION OF THE PROCEEDING. THE AUTHORITY CONFERRED UPON THE  
27 ARBITRATOR INCLUDES THE POWER TO HOLD CONFERENCES WITH THE  
28 PARTIES TO THE ARBITRATION PROCEEDING BEFORE THE HEARING AND,  
29 AMONG OTHER MATTERS, DETERMINE THE ADMISSIBILITY, RELEVANCE,  
30 MATERIALITY AND WEIGHT OF ANY EVIDENCE.

1 (B) SUMMARY DISPOSITION.--AN ARBITRATOR MAY DECIDE A REQUEST  
2 FOR SUMMARY DISPOSITION OF A CLAIM OR PARTICULAR ISSUE:

3 (1) IF ALL INTERESTED PARTIES AGREE; OR

4 (2) UPON REQUEST OF ONE PARTY TO THE ARBITRATION  
5 PROCEEDING IF THAT PARTY GIVES NOTICE TO ALL OTHER PARTIES TO  
6 THE PROCEEDING AND IF THE OTHER PARTIES HAVE A REASONABLE  
7 OPPORTUNITY TO RESPOND.

8 (C) NOTICE AND HEARING.--IF AN ARBITRATOR ORDERS A HEARING,  
9 THE ARBITRATOR SHALL SET A TIME AND PLACE AND GIVE NOTICE OF THE  
10 HEARING NOT LESS THAN FIVE DAYS BEFORE THE HEARING BEGINS.

11 UNLESS A PARTY TO THE ARBITRATION PROCEEDING MAKES AN OBJECTION  
12 TO LACK OR INSUFFICIENCY OF NOTICE NOT LATER THAN THE BEGINNING  
13 OF THE HEARING, THE PARTY'S APPEARANCE AT THE HEARING WAIVES THE  
14 OBJECTION. UPON REQUEST OF A PARTY TO THE ARBITRATION PROCEEDING  
15 AND FOR GOOD CAUSE SHOWN, OR UPON THE ARBITRATOR'S OWN  
16 INITIATIVE, THE ARBITRATOR MAY ADJOURN THE HEARING AS NECESSARY  
17 BUT MAY NOT POSTPONE THE HEARING TO A TIME LATER THAN THAT FIXED  
18 BY THE AGREEMENT TO ARBITRATE FOR MAKING THE AWARD UNLESS THE  
19 PARTIES TO THE ARBITRATION PROCEEDING CONSENT TO A LATER DATE.

20 THE ARBITRATOR MAY HEAR AND DECIDE THE CONTROVERSY UPON THE  
21 EVIDENCE PRODUCED ALTHOUGH A PARTY WHO WAS NOTIFIED OF THE  
22 ARBITRATION PROCEEDING DID NOT APPEAR. THE COURT, ON REQUEST,  
23 MAY DIRECT THE ARBITRATOR TO CONDUCT THE HEARING PROMPTLY AND  
24 RENDER A TIMELY DECISION.

25 (D) PROCEDURE.--AT A HEARING UNDER SUBSECTION (C), A PARTY  
26 TO THE ARBITRATION PROCEEDING HAS A RIGHT TO BE HEARD, TO  
27 PRESENT EVIDENCE MATERIAL TO THE CONTROVERSY AND TO CROSS-  
28 EXAMINE WITNESSES APPEARING AT THE HEARING.

29 (E) REPLACEMENT.--IF AN ARBITRATOR CEASES OR IS UNABLE TO  
30 ACT DURING THE ARBITRATION PROCEEDING, A REPLACEMENT ARBITRATOR



1 MUST BE APPOINTED IN ACCORDANCE WITH SECTION 7321.12 (RELATING  
2 TO APPOINTMENT OF ARBITRATOR; SERVICE AS A NEUTRAL ARBITRATOR)  
3 TO CONTINUE THE PROCEEDING AND TO RESOLVE THE CONTROVERSY.

4 (F) LOCATION FOR ARBITRATION HEARING FOR CONSUMER  
5 TRANSACTIONS.--A HEARING CONDUCTED UNDER AN ARBITRATION  
6 AGREEMENT APPLICABLE TO A CONSUMER TRANSACTION SHALL BE HELD AT  
7 A LOCATION REASONABLY CONVENIENT TO THE CONSUMER.

8 § 7321.17. REPRESENTATION BY ATTORNEY.

9 A PARTY TO AN ARBITRATION PROCEEDING MAY BE REPRESENTED BY AN  
10 ATTORNEY.

11 § 7321.18. WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY.

12 (A) SUBPOENAS.--AN ARBITRATOR MAY ISSUE A SUBPOENA FOR THE  
13 ATTENDANCE OF A WITNESS AND FOR THE PRODUCTION OF RECORDS AND  
14 OTHER EVIDENCE AT A HEARING AND MAY ADMINISTER OATHS. A SUBPOENA  
15 MUST BE SERVED IN THE MANNER FOR SERVICE OF SUBPOENAS IN A CIVIL  
16 ACTION AND, UPON MOTION TO THE COURT BY A PARTY TO THE  
17 ARBITRATION PROCEEDING OR THE ARBITRATOR, MAY BE ENFORCED IN THE  
18 MANNER FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION.

19 (B) DEPOSITIONS.--IN ORDER TO MAKE THE PROCEEDINGS FAIR,  
20 EXPEDITIOUS AND COST EFFECTIVE, UPON REQUEST OF A PARTY TO OR A  
21 WITNESS IN AN ARBITRATION PROCEEDING, AN ARBITRATOR MAY PERMIT A  
22 DEPOSITION OF A WITNESS TO BE TAKEN FOR USE AS EVIDENCE AT THE  
23 HEARING, INCLUDING A WITNESS WHO CANNOT BE SUBPOENAED FOR OR IS  
24 UNABLE TO ATTEND A HEARING. THE ARBITRATOR SHALL DETERMINE THE  
25 CONDITIONS UNDER WHICH THE DEPOSITION IS TAKEN.

26 (C) DISCOVERY.--AN ARBITRATOR MAY PERMIT DISCOVERY AS THE  
27 ARBITRATOR DECIDES IS APPROPRIATE IN THE CIRCUMSTANCES, TAKING  
28 INTO ACCOUNT THE NEEDS OF THE PARTIES TO THE ARBITRATION  
29 PROCEEDING AND OTHER AFFECTED PERSONS AND THE DESIRABILITY OF  
30 MAKING THE PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE.

1 (D) COMPLIANCE WITH DISCOVERY.--IF AN ARBITRATOR PERMITS  
2 DISCOVERY UNDER SUBSECTION (C), THE ARBITRATOR MAY ORDER A PARTY  
3 TO THE ARBITRATION PROCEEDING TO COMPLY WITH THE ARBITRATOR'S  
4 DISCOVERY-RELATED ORDERS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF  
5 A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE  
6 AT A DISCOVERY PROCEEDING AND TAKE ACTION AGAINST A NONCOMPLYING  
7 PARTY TO THE EXTENT A COURT COULD IF THE CONTROVERSY WERE THE  
8 SUBJECT OF A CIVIL ACTION IN THIS COMMONWEALTH.

9 (E) PROTECTIVE ORDERS.--AN ARBITRATOR MAY ISSUE A PROTECTIVE  
10 ORDER TO PREVENT THE DISCLOSURE OF PRIVILEGED INFORMATION,  
11 CONFIDENTIAL INFORMATION, TRADE SECRETS AND OTHER INFORMATION  
12 PROTECTED FROM DISCLOSURE TO THE EXTENT A COURT COULD IF THE  
13 CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS  
14 COMMONWEALTH.

15 (F) COMPULSORY LAWS.--ALL LAWS COMPELLING A PERSON UNDER  
16 SUBPOENA TO TESTIFY AND ALL FEES FOR ATTENDING A JUDICIAL  
17 PROCEEDING, A DEPOSITION OR A DISCOVERY PROCEEDING AS A WITNESS  
18 APPLY TO AN ARBITRATION PROCEEDING AS IF THE CONTROVERSY WERE  
19 THE SUBJECT OF A CIVIL ACTION IN THIS COMMONWEALTH.

20 (G) ENFORCEMENT.--THE COURT MAY ENFORCE A SUBPOENA OR  
21 DISCOVERY-RELATED ORDER FOR THE ATTENDANCE OF A WITNESS WITHIN  
22 THIS COMMONWEALTH AND FOR THE PRODUCTION OF RECORDS AND OTHER  
23 EVIDENCE ISSUED BY AN ARBITRATOR IN CONNECTION WITH AN  
24 ARBITRATION PROCEEDING IN ANOTHER STATE UPON CONDITIONS  
25 DETERMINED BY THE COURT SO AS TO MAKE THE ARBITRATION PROCEEDING  
26 FAIR, EXPEDITIOUS AND COST EFFECTIVE. A SUBPOENA OR DISCOVERY-  
27 RELATED ORDER ISSUED BY AN ARBITRATOR IN ANOTHER STATE MUST BE  
28 SERVED IN THE MANNER PROVIDED BY LAW FOR SERVICE OF SUBPOENAS IN  
29 A CIVIL ACTION IN THIS COMMONWEALTH AND, UPON MOTION TO THE  
30 COURT BY A PARTY TO THE ARBITRATION PROCEEDING OR THE

1 ARBITRATOR, MAY BE ENFORCED IN THE MANNER PROVIDED BY LAW FOR  
2 ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION IN THIS COMMONWEALTH.  
3 § 7321.19. JUDICIAL ENFORCEMENT OF PREAWARD RULING BY  
4 ARBITRATOR.

5 IF AN ARBITRATOR MAKES A PREAWARD RULING IN FAVOR OF A PARTY  
6 TO THE ARBITRATION PROCEEDING, THE PARTY MAY REQUEST THE  
7 ARBITRATOR TO INCORPORATE THE RULING INTO AN AWARD UNDER SECTION  
8 7321.20 (RELATING TO AWARD). A PREVAILING PARTY MAY MAKE A  
9 MOTION TO THE COURT FOR AN EXPEDITED ORDER TO CONFIRM THE AWARD  
10 UNDER SECTION 7321.23 (RELATING TO CONFIRMATION OF AWARD), IN  
11 WHICH CASE THE COURT SHALL SUMMARILY DECIDE THE MOTION. THE  
12 COURT SHALL ISSUE AN ORDER TO CONFIRM THE AWARD UNLESS THE COURT  
13 VACATES, MODIFIES OR CORRECTS THE AWARD UNDER SECTION 7321.24  
14 (RELATING TO VACATING AWARD) OR 7321.25 (RELATING TO  
15 MODIFICATION OR CORRECTION OF AWARD).  
16 § 7321.20. AWARD.

17 (A) RECORD.--AN ARBITRATOR SHALL MAKE A RECORD OF AN AWARD.  
18 THE RECORD MUST BE SIGNED OR OTHERWISE AUTHENTICATED BY AN  
19 ARBITRATOR WHO CONCURS WITH THE AWARD. THE ARBITRATOR OR THE  
20 ARBITRATION ORGANIZATION SHALL GIVE NOTICE OF THE AWARD,  
21 INCLUDING A COPY OF THE AWARD, TO EACH PARTY TO THE ARBITRATION  
22 PROCEEDING.

23 (B) TIME.--AN AWARD MUST BE MADE WITHIN THE TIME SPECIFIED  
24 BY THE AGREEMENT TO ARBITRATE OR, IF NOT SPECIFIED IN THE  
25 AGREEMENT, WITHIN THE TIME ORDERED BY THE COURT. THE COURT MAY  
26 EXTEND OR THE PARTIES TO THE ARBITRATION PROCEEDING MAY AGREE IN  
27 A RECORD TO EXTEND THE TIME. THE COURT OR THE PARTIES MAY DO SO  
28 WITHIN OR AFTER THE TIME SPECIFIED OR ORDERED. A PARTY WAIVES AN  
29 OBJECTION THAT AN AWARD WAS NOT TIMELY MADE UNLESS THE PARTY  
30 GIVES NOTICE OF THE OBJECTION TO THE ARBITRATOR BEFORE RECEIVING

1 NOTICE OF THE AWARD.

2 § 7321.21. CHANGE OF AWARD BY ARBITRATOR.

3 (A) MOTION.--ON MOTION TO AN ARBITRATOR BY A PARTY TO AN  
4 ARBITRATION PROCEEDING, THE ARBITRATOR MAY MODIFY OR CORRECT AN  
5 AWARD:

6 (1) UPON A GROUND STATED IN SECTION 7321.25(A) (1) OR (3)  
7 (RELATING TO MODIFICATION OR CORRECTION OF AWARD);

8 (2) BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND  
9 DEFINITE AWARD UPON A CLAIM SUBMITTED BY THE PARTIES TO THE  
10 ARBITRATION PROCEEDING; OR

11 (3) TO CLARIFY THE AWARD.

12 (B) TIME FOR MOTION.--A MOTION UNDER SUBSECTION (A) MUST BE  
13 MADE AND NOTICE GIVEN TO ALL PARTIES WITHIN 20 DAYS AFTER THE  
14 MOVANT RECEIVES NOTICE OF THE AWARD.

15 (C) TIME FOR OBJECTION TO MOTION.--A PARTY TO THE  
16 ARBITRATION PROCEEDING MUST GIVE NOTICE OF AN OBJECTION TO THE  
17 MOTION WITHIN 10 DAYS AFTER RECEIPT OF THE NOTICE.

18 (D) PENDING MOTION TO COURT.--IF A MOTION TO THE COURT IS  
19 PENDING UNDER SECTION 7321.23 (RELATING TO CONFIRMATION OF  
20 AWARD), 7321.24 (RELATING TO VACATING AWARD) OR 7321.25, THE  
21 COURT MAY SUBMIT THE CLAIM TO THE ARBITRATOR TO CONSIDER WHETHER  
22 TO MODIFY OR CORRECT THE AWARD:

23 (1) UPON A GROUND STATED IN SECTION 7321.25(A) (1) OR  
24 (3);

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 (E) OTHER PROVISIONS APPLICABLE.--AN AWARD MODIFIED OR  
30 CORRECTED UNDER THIS SECTION IS SUBJECT TO SECTIONS 7321.20(A)

1 (RELATING TO AWARD), 7321.23, 7321.24 AND 7321.25.

2 § 7321.22. REMEDIES; FEES AND EXPENSES OF ARBITRATION

3 PROCEEDING.

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

9 (B) ATTORNEY FEES AND COSTS.--AN ARBITRATOR MAY AWARD  
10 REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF  
11 ARBITRATION IF THE AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION  
12 INVOLVING THE SAME CLAIM, BY THE AGREEMENT OF THE PARTIES TO THE  
13 ARBITRATION PROCEEDING OR BY THE TERMS OF AN AGREEMENT SUBJECT  
14 TO ARBITRATION.

15 (C) ADDITIONAL REMEDIES.--AS TO ALL REMEDIES OTHER THAN  
16 THOSE AUTHORIZED BY SUBSECTIONS (A) AND (B), AN ARBITRATOR MAY  
17 ORDER REMEDIES AS THE ARBITRATOR CONSIDERS JUST AND APPROPRIATE  
18 UNDER THE CIRCUMSTANCES OF THE ARBITRATION PROCEEDING. THE FACT  
19 THAT A REMEDY COULD NOT OR WOULD NOT BE GRANTED BY THE COURT IS  
20 NOT A GROUND FOR REFUSING TO CONFIRM AN AWARD UNDER SECTION  
21 7321.23 (RELATING TO CONFIRMATION OF AWARD) OR FOR VACATING AN  
22 AWARD UNDER SECTION 7321.24 (RELATING TO VACATING AWARD).

23 (D) ARBITRATOR COSTS AND FEES.--AN ARBITRATOR'S EXPENSES AND  
24 FEES, TOGETHER WITH OTHER EXPENSES, MUST BE PAID AS PROVIDED IN  
25 THE AWARD.

26 (E) JUSTIFICATION FOR PUNITIVE DAMAGES.--IF AN ARBITRATOR  
27 AWARDS PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF UNDER  
28 SUBSECTION (A), THE ARBITRATOR SHALL SPECIFY IN THE AWARD THE  
29 BASIS IN FACT JUSTIFYING AND THE BASIS IN LAW AUTHORIZING THE  
30 AWARD AND STATE SEPARATELY THE AMOUNT OF THE PUNITIVE DAMAGES OR

1 OTHER EXEMPLARY RELIEF.

2 § 7321.23. CONFIRMATION OF AWARD.

3 AFTER A PARTY TO AN ARBITRATION PROCEEDING RECEIVES NOTICE OF  
4 AN AWARD, THE PARTY MUST MAKE A MOTION TO THE COURT FOR AN ORDER  
5 CONFIRMING THE AWARD. THE COURT SHALL THEN ISSUE A CONFIRMING  
6 ORDER UNLESS THE AWARD IS MODIFIED OR CORRECTED UNDER SECTION  
7 7321.21 (RELATING TO CHANGE OF AWARD BY ARBITRATOR) OR 7321.25  
8 (RELATING TO MODIFICATION OR CORRECTION OF AWARD) OR IS VACATED  
9 UNDER SECTION 7321.24 (RELATING TO VACATING AWARD).

10 § 7321.24. VACATING AWARD.

11 (A) GROUNDS.--UPON MOTION TO THE COURT BY A PARTY TO AN  
12 ARBITRATION PROCEEDING, THE COURT SHALL VACATE AN AWARD MADE IN  
13 THE ARBITRATION PROCEEDING IF:

14 (1) THE AWARD WAS PROCURED BY CORRUPTION, FRAUD OR OTHER  
15 UNDUE MEANS;

16 (2) THERE WAS:

17 (I) EVIDENT PARTIALITY BY AN ARBITRATOR APPOINTED AS  
18 A NEUTRAL ARBITRATOR;

19 (II) CORRUPTION BY AN ARBITRATOR; OR

20 (III) MISCONDUCT BY AN ARBITRATOR PREJUDICING THE  
21 RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING;

22 (3) AN ARBITRATOR REFUSED TO POSTPONE THE HEARING UPON  
23 SHOWING OF SUFFICIENT CAUSE FOR POSTPONEMENT, REFUSED TO  
24 CONSIDER EVIDENCE MATERIAL TO THE CONTROVERSY OR OTHERWISE  
25 CONDUCTED THE HEARING CONTRARY TO SECTION 7321.16 (RELATING  
26 TO ARBITRATION PROCESS), SO AS TO PREJUDICE THE RIGHTS OF A  
27 PARTY TO THE ARBITRATION PROCEEDING;

28 (4) AN ARBITRATOR EXCEEDED THE ARBITRATOR'S POWERS;

29 (5) THERE WAS NO AGREEMENT TO ARBITRATE, UNLESS THE  
30 PERSON PARTICIPATED IN THE ARBITRATION PROCEEDING WITHOUT

1 RAISING THE OBJECTION UNDER SECTION 7321.16(C) NOT LATER THAN  
2 THE BEGINNING OF THE ARBITRATION HEARING; OR

3 (6) THE ARBITRATION WAS CONDUCTED WITHOUT PROPER NOTICE  
4 OF THE INITIATION OF AN ARBITRATION AS REQUIRED IN SECTION  
5 7321.10 (RELATING TO INITIATION OF ARBITRATION) SO AS TO  
6 PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE  
7 ARBITRATION PROCEEDING.

8 (B) TIME.--A MOTION UNDER THIS SECTION MUST BE FILED WITHIN  
9 30 DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD UNDER  
10 SECTION 7321.20 (RELATING TO AWARD) OR WITHIN 30 DAYS AFTER THE  
11 MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD UNDER  
12 SECTION 7321.21 (RELATING TO CHANGE OF AWARD BY ARBITRATOR),  
13 UNLESS THE MOVANT ALLEGES THAT THE AWARD WAS PROCURED BY  
14 CORRUPTION, FRAUD OR OTHER UNDUE MEANS, IN WHICH CASE THE MOTION  
15 MUST BE MADE WITHIN 30 DAYS AFTER THE GROUND IS KNOWN OR BY THE  
16 EXERCISE OF REASONABLE CARE WOULD HAVE BEEN KNOWN BY THE MOVANT.

17 (C) REHEARING.--IF THE COURT VACATES AN AWARD ON A GROUND  
18 OTHER THAN THAT SET FORTH IN SUBSECTION (A) (5), IT MAY ORDER A  
19 REHEARING. IF THE AWARD IS VACATED ON A GROUND STATED IN  
20 SUBSECTION (A) (1) OR (2), THE REHEARING SHALL BE BEFORE A NEW  
21 ARBITRATOR. IF THE AWARD IS VACATED ON A GROUND STATED IN  
22 SUBSECTION (A) (3), (4) OR (6), THE REHEARING MAY BE BEFORE THE  
23 ARBITRATOR WHO MADE THE AWARD OR THE ARBITRATOR'S SUCCESSOR. THE  
24 ARBITRATOR SHALL RENDER THE DECISION IN THE REHEARING WITHIN THE  
25 SAME TIME AS THAT PROVIDED IN SECTION 7321.20(B) FOR AN AWARD.

26 (D) CONFIRMATION.--IF THE COURT DENIES A MOTION TO VACATE AN  
27 AWARD, THE COURT SHALL CONFIRM THE AWARD UNLESS A MOTION TO  
28 MODIFY OR CORRECT THE AWARD IS PENDING.

29 § 7321.25. MODIFICATION OR CORRECTION OF AWARD.

30 (A) GROUNDS.--UPON MOTION MADE WITHIN 90 DAYS AFTER THE

1 MOVANT RECEIVES NOTICE OF THE AWARD UNDER SECTION 7321.20  
2 (RELATING TO AWARD) OR WITHIN 90 DAYS AFTER THE MOVANT RECEIVES  
3 NOTICE OF A MODIFIED OR CORRECTED AWARD UNDER SECTION 7321.21  
4 (RELATING TO CHANGE OF AWARD BY ARBITRATOR), THE COURT SHALL  
5 MODIFY OR CORRECT THE AWARD IF:

6 (1) THERE WAS AN EVIDENT MATHEMATICAL MISCALCULATION OR  
7 AN EVIDENT MISTAKE IN THE DESCRIPTION OF A PERSON, THING OR  
8 PROPERTY REFERRED TO IN THE AWARD;

9 (2) THE ARBITRATOR HAS MADE AN AWARD ON A CLAIM NOT  
10 SUBMITTED TO THE ARBITRATOR AND THE AWARD MAY BE CORRECTED  
11 WITHOUT AFFECTING THE MERITS OF THE DECISION UPON THE CLAIMS  
12 SUBMITTED; OR

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

15 (B) COURT ACTION.--IF A MOTION MADE UNDER SUBSECTION (A) IS  
16 GRANTED, THE COURT SHALL MODIFY OR CORRECT AND CONFIRM THE AWARD  
17 AS MODIFIED OR CORRECTED. OTHERWISE, UNLESS A MOTION TO VACATE  
18 IS PENDING, THE COURT SHALL CONFIRM THE AWARD.

19 (C) JOINDER.--A MOTION TO MODIFY OR CORRECT AN AWARD UNDER  
20 THIS SECTION MAY BE JOINED WITH A MOTION TO VACATE THE AWARD  
21 UNDER SECTION 7321.24 (RELATING TO VACATING AWARD).

22 § 7321.26. JUDGMENT ON AWARD; ATTORNEY FEES AND LITIGATION  
23 EXPENSES.

24 (A) JUDGMENT.--UPON GRANTING AN ORDER CONFIRMING, VACATING  
25 WITHOUT DIRECTING A REHEARING, MODIFYING OR CORRECTING AN AWARD,  
26 THE COURT SHALL ENTER A JUDGMENT IN CONFORMITY WITH THE ORDER.  
27 THE JUDGMENT MAY BE RECORDED, DOCKETED AND ENFORCED AS ANY OTHER  
28 JUDGMENT IN A CIVIL ACTION.

29 (B) COURT COSTS.--A COURT MAY ALLOW REASONABLE COSTS OF THE  
30 MOTION AND SUBSEQUENT JUDICIAL PROCEEDINGS.



1 (C) ATTORNEY FEES AND COSTS.--ON APPLICATION OF A PREVAILING  
2 PARTY TO A CONTESTED JUDICIAL PROCEEDING UNDER SECTION 7321.23  
3 (RELATING TO CONFIRMATION OF AWARD), 7321.24 (RELATING TO  
4 VACATING AWARD) OR 7321.25 (RELATING TO MODIFICATION OR  
5 CORRECTION OF AWARD), THE COURT MAY ADD REASONABLE ATTORNEY FEES  
6 AND OTHER REASONABLE EXPENSES OF LITIGATION INCURRED IN A  
7 JUDICIAL PROCEEDING AFTER THE AWARD IS MADE TO A JUDGMENT  
8 CONFIRMING, VACATING WITHOUT DIRECTING A REHEARING, MODIFYING OR  
9 CORRECTING AN AWARD IF ATTORNEY FEES AND OTHER EXPENSES ARE  
10 AUTHORIZED BY LAW TO BE ADDED TO AN AWARD IN A CIVIL ACTION  
11 INVOLVING THE SAME CLAIM AS THE ARBITRATION AWARD.  
12 § 7321.27. JURISDICTION.

13 (A) ENFORCEMENT.--A COURT HAVING JURISDICTION OVER THE  
14 CONTROVERSY AND THE PARTIES MAY ENFORCE AN AGREEMENT TO  
15 ARBITRATE.

16 (B) EXCLUSIVITY.--AN AGREEMENT TO ARBITRATE PROVIDING FOR  
17 ARBITRATION IN THIS COMMONWEALTH CONFERS EXCLUSIVE JURISDICTION  
18 ON THE COURT TO ENTER JUDGMENT ON AN AWARD UNDER THIS  
19 SUBCHAPTER.

20 § 7321.28. VENUE.

21 A MOTION UNDER SECTION 7321.6 (RELATING TO APPLICATION FOR  
22 JUDICIAL RELIEF) MUST BE MADE IN THE COURT OF THE COUNTY IN  
23 WHICH THE AGREEMENT TO ARBITRATE OR SECTION 7321.16(F) (RELATING  
24 TO ARBITRATION PROCESS) SPECIFIES THE ARBITRATION HEARING IS TO  
25 BE HELD OR, IF THE HEARING HAS BEEN HELD, IN THE COURT OF THE  
26 COUNTY IN WHICH THE HEARING WAS HELD. OTHERWISE, THE MOTION MAY  
27 BE MADE IN THE COURT OF THE COUNTY IN THIS COMMONWEALTH AS  
28 PROVIDED BY THE PENNSYLVANIA RULES OF CIVIL PROCEDURE. ALL  
29 SUBSEQUENT MOTIONS MUST BE MADE IN THE COURT HEARING THE INITIAL  
30 MOTION UNLESS THE COURT OTHERWISE DIRECTS.

1 § 7321.29. APPEALS.

2 (A) APPEALABLE ORDERS.--AN APPEAL MAY BE TAKEN FROM:

3 (1) AN ORDER DENYING A MOTION TO COMPEL ARBITRATION;

4 (2) AN ORDER GRANTING A MOTION TO STAY ARBITRATION;

5 (3) AN ORDER CONFIRMING OR DENYING CONFIRMATION OF AN  
6 AWARD;

7 (4) AN ORDER MODIFYING OR CORRECTING AN AWARD;

8 (5) AN ORDER VACATING AN AWARD WITHOUT DIRECTING A  
9 REHEARING; OR

10 (6) A FINAL JUDGMENT ENTERED UNDER THIS SUBCHAPTER.

11 (B) PROCEDURE.--AN APPEAL UNDER THIS SECTION MUST BE TAKEN  
12 AS FROM AN ORDER OR A JUDGMENT IN A CIVIL ACTION AND MUST BE  
13 TAKEN WITHIN 30 DAYS OF THE ORDER OR JUDGMENT.

14 § 7321.30. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

15 (A) GENERAL RULE.--IN APPLYING AND CONSTRUING THIS  
16 SUBCHAPTER, CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE  
17 UNIFORMITY OF THE LAW WITH RESPECT TO THE SUBJECT MATTER AMONG  
18 STATES THAT ENACT IT.

19 (B) RIGHT TO TRIAL BY JURY.--EXCEPT AS PROVIDED BY AN  
20 AGREEMENT TO ARBITRATE, NOTHING IN THIS SUBCHAPTER IS INTENDED  
21 TO REQUIRE A PARTY TO WAIVE THE RIGHT TO TRIAL BY JURY TO THE  
22 EXTENT PROVIDED BY THE CONSTITUTION OF THE UNITED STATES AND THE  
23 CONSTITUTION OF PENNSYLVANIA.

24 (C) SEVERABILITY.--IF ANY PROVISION OF THIS SUBCHAPTER OR  
25 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD  
26 INVALID, THE REMAINDER OF THIS SUBCHAPTER AND THE APPLICATION OF  
27 SUCH PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES SHALL NOT BE  
28 AFFECTED.

29 § 7321.31. RELATIONSHIP TO ELECTRONIC SIGNATURES IN GLOBAL AND  
30 NATIONAL COMMERCE ACT.

1 THE PROVISIONS OF THIS SUBCHAPTER GOVERNING THE LEGAL EFFECT,  
2 VALIDITY AND ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC  
3 SIGNATURES AND OF CONTRACTS PERFORMED WITH THE USE OF SUCH  
4 RECORDS OR SIGNATURES CONFORM TO THE REQUIREMENTS OF SECTION 102  
5 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT  
6 (PUBLIC LAW 106-229, 15 U.S.C. § 7002).

7 SECTION 2. SECTIONS 7341 AND 7342 OF TITLE 42 ARE AMENDED TO  
8 READ:

9 § 7341. COMMON LAW ARBITRATION.

10 THE AWARD OF AN ARBITRATOR IN A NONJUDICIAL ARBITRATION WHICH  
11 IS NOT SUBJECT TO SUBCHAPTER A (RELATING TO STATUTORY  
12 ARBITRATION), A.1 (RELATING TO REVISED STATUTORY ARBITRATION) OR  
13 A SIMILAR STATUTE REGULATING NONJUDICIAL ARBITRATION PROCEEDINGS  
14 IS BINDING AND MAY NOT BE VACATED OR MODIFIED UNLESS IT IS  
15 CLEARLY SHOWN THAT A PARTY WAS DENIED A HEARING OR THAT FRAUD,  
16 MISCONDUCT, CORRUPTION OR OTHER IRREGULARITY CAUSED THE  
17 RENDITION OF AN UNJUST, INEQUITABLE OR UNCONSCIONABLE AWARD.

18 § 7342. PROCEDURE.

19 (A) GENERAL RULE.--THE FOLLOWING PROVISIONS OF SUBCHAPTER  
20 [A] A.1 (RELATING TO REVISED STATUTORY ARBITRATION) SHALL BE  
21 APPLICABLE TO ARBITRATION CONDUCTED PURSUANT TO THIS SUBCHAPTER:

22 [SECTION 7303 (RELATING TO VALIDITY OF AGREEMENT TO  
23 ARBITRATE) .

24 SECTION 7304 (RELATING TO COURT PROCEEDINGS TO COMPEL OR  
25 STAY ARBITRATION) .

26 SECTION 7305 (RELATING TO APPOINTMENT OF ARBITRATORS BY  
27 COURT) .

28 SECTION 7309 (RELATING TO WITNESSES, SUBPOENAS, OATHS AND  
29 DEPOSITIONS) .

30 SECTION 7317 (RELATING TO FORM AND SERVICE OF

1 APPLICATIONS TO COURT) .

2 SECTION 7318 (RELATING TO COURT AND JURISDICTION) .

3 SECTION 7319 (RELATING TO VENUE OF COURT PROCEEDINGS) .

4 SECTION 7320 (RELATING TO APPEALS FROM COURT ORDERS) ,

5 EXCEPT SUBSECTION (A) (4) .]

6 SECTION 7321.6 (RELATING TO APPLICATION FOR JUDICIAL  
7 RELIEF) .

8 SECTION 7321.7(A) (RELATING TO VALIDITY OF AGREEMENT TO  
9 ARBITRATE) .

10 SECTION 7321.8 (RELATING TO MOTION TO COMPEL OR STAY  
11 ARBITRATION) .

12 SECTION 7321.12(A) (RELATING TO APPOINTMENT OF  
13 ARBITRATOR; SERVICE AS A NEUTRAL ARBITRATOR) .

14 SECTION 7321.18 (RELATING TO WITNESSES; SUBPOENAS;  
15 DEPOSITIONS; DISCOVERY) .

16 SECTION 7321.27 (RELATING TO JURISDICTION) .

17 SECTION 7321.28 (RELATING TO VENUE) .

18 SECTION 7321.29 (RELATING TO APPEALS) , EXCEPT SECTION  
19 7321.29(A) (4) .

20 (B) CONFIRMATION AND JUDGMENT.--ON APPLICATION OF A PARTY  
21 MADE MORE THAN 30 DAYS AFTER AN AWARD IS MADE BY AN ARBITRATOR  
22 UNDER SECTION 7341 (RELATING TO COMMON LAW ARBITRATION) , THE  
23 COURT SHALL ENTER AN ORDER CONFIRMING THE AWARD AND SHALL ENTER  
24 A JUDGMENT OR DECREE IN CONFORMITY WITH THE ORDER. [SECTION  
25 7302(D) (2) (RELATING TO SPECIAL APPLICATION) SHALL NOT BE  
26 APPLICABLE TO PROCEEDINGS UNDER THIS SUBCHAPTER.]

27 SECTION 3. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ:

28 CHAPTER 74

29 COLLABORATIVE LAW PROCESS

30 Sec.

- 1 7401. Short title and scope of chapter.  
2 7402. Definitions.  
3 7403. Beginning the collaborative law process.  
4 7404. Assessment and review.  
5 7405. Collaborative law participation agreement.  
6 7406. Concluding the collaborative law process.  
7 7407. Disqualification of collaborative attorney.  
8 7408. Disclosure of information.  
9 7409. Confidentiality.  
10 7410. Privilege.  
11 7411. Professional responsibility.

12 § 7401. Short title and scope of chapter.

13 (a) Short title.--This chapter shall be known and may be  
14 cited as the Collaborative Law Act.

15 (b) Scope.--This chapter shall apply to a collaborative law  
16 process between family members and arising from a participation  
17 agreement that meets the requirements of section 7405 (relating  
18 to collaborative law participation agreement).

19 § 7402. Definitions.

20 The following words and phrases when used in this chapter  
21 shall have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

23 "Collaborative communication." A statement or question that  
24 concerns the collaborative law process or a collaborative matter  
25 and that occurs after the parties sign a collaborative law  
26 participation agreement but before the collaborative law process  
27 is concluded. The term does not include a written settlement  
28 agreement that is signed by all parties to the agreement.

29 "Collaborative law process." A procedure to resolve a claim,  
30 transaction, dispute or issue without intervention by a

1 tribunal, in which procedure all parties sign a collaborative  
2 law participation agreement, all parties are represented by  
3 counsel and counsel is disqualified from representing the  
4 parties in a proceeding before a tribunal.

5 "Collaborative matter." A dispute, transaction, claim or  
6 issue for resolution that is described in a participation  
7 agreement concerning any of the following:

8 (1) Marriage, divorce and annulment.

9 (2) Property distribution, usage and ownership.

10 (3) Child custody, visitation and parenting time.

11 (4) Parentage.

12 (5) Alimony, alimony pendente lite, spousal support and  
13 child support.

14 (6) Prenuptial, marital and postnuptial agreements.

15 (7) Adoption.

16 (8) Termination of parental rights.

17 (9) A matter arising under 20 Pa.C.S. (relating to  
18 decedents, estates and fiduciaries).

19 (10) A matter arising under 15 Pa.C.S. Pt. II (relating  
20 to corporations).

21 "Family members." All of the following:

22 (1) Spouses and former spouses.

23 (2) Parents and children, including individuals acting  
24 in loco parentis.

25 (3) Individuals currently or formerly cohabiting.

26 (4) Other individuals related by consanguinity or  
27 affinity.

28 "Nonparty participant." A person other than a party or a  
29 party's attorney that participates in the collaborative law  
30 process. The term may include, but is not limited to, support

1 persons, mental health professionals, financial neutrals and  
2 potential parties.

3 "Party." A person that signs a collaborative law  
4 participation agreement and whose consent is necessary to  
5 resolve a collaborative matter.

6 "Person." An individual, corporation, business trust,  
7 estate, trust, partnership, limited liability company,  
8 association, joint venture, public corporation, government or  
9 governmental subdivision, agency or instrumentality or any other  
10 legal or commercial entity.

11 "Proceeding." A judicial, administrative, arbitral or other  
12 adjudicative process before a tribunal.

13 "Related matter." A matter involving the same parties,  
14 dispute, transaction, claim or issue as a collaborative matter.

15 "Tribunal." A court, arbitrator, administrative agency or  
16 other body acting in an adjudicative capacity that has  
17 jurisdiction to render a binding decision directly affecting a  
18 party's interests in a matter.

19 § 7403. Beginning the collaborative law process.

20 (a) Voluntariness.--Participation in a collaborative law  
21 process is voluntary and may not be compelled by a tribunal. A  
22 party may terminate the collaborative law process at any time  
23 with or without cause.

24 (b) Commencement.--A collaborative law process shall begin  
25 when the parties sign a collaborative law participation  
26 agreement. Parties to a proceeding pending before a tribunal may  
27 enter into a collaborative law process to resolve a matter  
28 related to the proceeding.

29 § 7404. Assessment and review.

30 (a) General assessment.--Before entering into a

1 collaborative law participation agreement, a prospective party  
2 shall:

3 (1) Assess factors the prospective party's attorney  
4 reasonably believes relate to whether the collaborative law  
5 process is appropriate for the matter and for the parties,  
6 including a prospective party or nonparty participant's  
7 history, if any, of violent or threatening behavior.

8 (2) Review information that the attorney reasonably  
9 believes is sufficient for the prospective party to make an  
10 informed decision about the material benefits and risks of a  
11 collaborative law process, as compared with other  
12 alternatives.

13 (b) Threatening or violent behavior.--

14 (1) Before a prospective party signs a collaborative law  
15 participation agreement, an attorney shall inquire whether  
16 the prospective party has a history of threatening or violent  
17 behavior toward any party or nonparty participant who will be  
18 part of the collaborative law process.

19 (2) If an attorney learns or reasonably believes, before  
20 commencing or at any point in the collaborative law process,  
21 that a party or prospective party has engaged in or has a  
22 history of threatening or violent behavior toward any other  
23 party or nonparty participant, the attorney may not begin or  
24 continue the collaborative law process unless the party or  
25 prospective party:

26 (i) Requests beginning or continuing the  
27 collaborative law process.

28 (ii) Indicates that the safety of all parties to the  
29 collaborative law process can be protected adequately  
30 during the collaborative law process.



1 (c) Private cause of action.--An attorney's failure to  
2 protect a party under this section shall not give rise to a  
3 private cause of action against the attorney.

4 § 7405. Collaborative law participation agreement.

5 (a) Requirements.--A collaborative law participation  
6 agreement must:

7 (1) Be in writing.

8 (2) Be signed by the parties.

9 (3) State the parties' intention to resolve a  
10 collaborative matter through a collaborative law process.

11 (4) Describe the nature and scope of the collaborative  
12 matter.

13 (5) Identify the attorney who represents each party in  
14 the collaborative law process.

15 (6) Include a statement that the representation of each  
16 attorney is limited to the collaborative law process and that  
17 the attorneys are disqualified from representing any party or  
18 nonparty participant in a proceeding related to a  
19 collaborative matter, consistent with this chapter.

20 (b) Optional provisions.--Parties may include in a  
21 collaborative law participation agreement additional provisions  
22 not inconsistent with this chapter or other applicable law,  
23 including, but not limited to:

24 (1) An agreement concerning confidentiality of  
25 collaborative communications.

26 (2) An agreement that part or all of the collaborative  
27 law process will not be privileged in a proceeding.

28 (3) The scope of voluntary disclosure.

29 (4) The role of nonparty participants.

30 (5) The retention and role of nonparty experts.

1           (6) The manner and duration of a collaborative law  
2 process under section 7403 (relating to beginning the  
3 collaborative law process) and 7406 (relating to concluding  
4 the collaborative law process).

5           (c) Nonconforming agreements.--This chapter shall apply to  
6 an agreement that does not meet the requirements of subsection  
7 (a) if:

8           (1) The agreement indicates an intent to enter into a  
9 collaborative law participation agreement.

10           (2) The agreement is signed by all parties.

11           (3) A tribunal determines that the parties intended to  
12 and reasonably believed that they were entering into a  
13 collaborative law agreement subject to the requirements of  
14 this chapter.

15 § 7406. Concluding the collaborative law process.

16           (a) General rule.--A collaborative law process shall be  
17 concluded by:

18           (1) Resolution of the collaborative matter, as evidenced  
19 by a signed record.

20           (2) Resolution of a part of the collaborative matter and  
21 agreement by all parties that the remaining parts of the  
22 collaborative matter will not be resolved in the  
23 collaborative law process, as evidenced by a signed record.

24           (3) Termination under subsection (b).

25           (4) A method specified in the collaborative law  
26 participation agreement.

27           (b) Termination.--A collaborative law process shall be  
28 terminated when:

29           (1) A party gives written notice to all parties that the  
30 collaborative law process is terminated.

1           (2) A party begins or resumes a pending proceeding  
2 before a tribunal related to a collaborative matter without  
3 the agreement of all parties.

4           (3) Except as provided in subsection (c), a party  
5 discharges the party's attorney or the attorney withdraws  
6 from further representation of a party. An attorney who is  
7 discharged or withdraws shall give prompt written notice to  
8 all parties and nonparty participants.

9           (c) Continuation.--Notwithstanding the discharge or  
10 withdrawal of a collaborative attorney, a collaborative law  
11 process shall continue if, not later than 30 days after the date  
12 that the notice under subsection (b)(3) is sent, the  
13 unrepresented party engages a successor attorney and the  
14 participation agreement is amended to identify the successor  
15 attorney.

16 § 7407. Disqualification of collaborative attorney.

17           (a) Rule.--

18           (1) Except as provided in subsection (b), an attorney  
19 who represents a party in a collaborative law process and any  
20 law firm or government agency with which the attorney is  
21 associated shall be disqualified from representing any party  
22 or nonparty participant in a proceeding related to the  
23 collaborative matter.

24           (2) Requesting the approval of a settlement agreement by  
25 a tribunal shall be considered part of the collaborative law  
26 process and not a related proceeding.

27           (b) Exception.--Disqualification under subsection (a) shall  
28 not operate to prevent a collaborative attorney from seeking or  
29 defending an emergency order to protect the health, safety or  
30 welfare of a party or a family member.

1 § 7408. Disclosure of information.

2 During the collaborative law process, parties shall provide  
3 timely, full, candid and informal disclosure of information  
4 related to the collaborative matter without formal discovery,  
5 and shall update promptly previously disclosed information that  
6 has materially changed.

7 § 7409. Confidentiality.

8 A collaborative law communication shall be confidential to  
9 the extent provided by the laws of this Commonwealth or as  
10 specified in the collaborative law participation agreement.

11 § 7410. Privilege.

12 (a) General rule.--Except as otherwise provided in this  
13 section, a collaborative communication is privileged, may not be  
14 compelled through discovery and shall not be admissible as  
15 evidence in an action or proceeding. Evidence that is otherwise  
16 admissible and subject to discovery shall not become  
17 inadmissible or protected from discovery solely because of its  
18 disclosure or use in a collaborative law process.

19 (b) Waiver.--

20 (1) A party may waive a privilege belonging to the party  
21 only if all parties waive the privilege and, in the case of a  
22 communication by a nonparty participant, only if the nonparty  
23 participant and all parties waive the privilege.

24 (2) If a party discloses a privileged collaborative  
25 communication that prejudices another party, the disclosing  
26 party waives the right to assert a privilege under this  
27 section to the extent necessary for the party prejudiced to  
28 respond to the disclosure or representation.

29 (c) Nonapplicability.--Privilege under subsection (a) shall  
30 not apply to:

1       (1) A communication that is not subject to the privilege  
2 by agreement of the parties according to the terms of a  
3 participation agreement.

4       (2) A communication that is made during a session of a  
5 collaborative law process that is open, or required by law to  
6 be open, to the public.

7       (3) A communication sought, obtained or used to:

8           (i) threaten or plan to inflict bodily injury,  
9 commit or attempt to commit a crime; or

10          (ii) conceal ongoing criminal activity.

11       (d) Exceptions.--The following exceptions apply to the  
12 privilege under subsection (a):

13       (1) A communication sought or offered to prove or  
14 disprove facts relating to a claim or complaint of  
15 professional misconduct or malpractice or a fee dispute.

16       (2) A communication sought or offered to prove facts  
17 relating to the abuse, neglect, abandonment or exploitation  
18 of a child or abuse of an adult.

19       (3) A communication sought or offered in a criminal  
20 proceeding or in an action to enforce, void, set aside or  
21 modify a settlement agreement where a tribunal or court of  
22 competent jurisdiction finds that the evidence is not  
23 otherwise available and the need for the evidence  
24 substantially outweighs the interest in protecting the  
25 privilege.

26       (e) Limitation.--

27       (1) If a collaborative communication is subject to an  
28 exception under subsection (d), only the part of the  
29 collaborative communication necessary for the application of  
30 the exception may be disclosed or admitted.

1           (2) Disclosure or admission of evidence under subsection  
2           (d) does not make the evidence or any other collaborative  
3           communication discoverable or admissible for any other  
4           purpose.

5           (f) Construction.--This section shall not be construed to  
6           affect the scope of another applicable privilege under State law  
7           or rule of court.

8           § 7411. Professional responsibility.

9           This chapter shall not affect the professional responsibility  
10           obligations and standards applicable to an attorney or other  
11           person professionally licensed or certified under State law.

12           ~~Section 2. This act shall take effect in 60 days.~~                   <--

13           SECTION 4. THE FOLLOWING PROVISIONS SHALL NOT BE CONSTRUED           <--  
14           TO AFFECT AN ACTION OR PROCEEDING COMMENCED OR RIGHT ACCRUED  
15           BEFORE THE EFFECTIVE DATE OF THIS SECTION:

16           (1) THE ADDITION OF 42 PA.C.S. CH. 73 SUBCH. A.1.

17           (2) THE AMENDMENT OF 42 PA.C.S. § 7341.

18           (3) THE AMENDMENT OF 42 PA.C.S. § 7342.

19           SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

20           (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

21           (2) THE ADDITION OF 42 PA.C.S. CH. 74 SHALL TAKE EFFECT  
22           IN 60 DAYS.

23           (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JULY 1,  
24           2019.