
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 781 Session of
2017

INTRODUCED BY NESBIT AND JAMES, MARCH 9, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 9, 2017

AN ACT

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

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

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

8 SUBCHAPTER A.1

9 REVISED STATUTORY ARBITRATION

10 Sec.

11 7321.1. Short title of subchapter.

12 7321.2. Definitions.

13 7321.3. Notice.

14 7321.4. When subchapter applies.

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

17 7321.6. Application for judicial relief.

18 7321.7. Validity of agreement to arbitrate.

19 7321.8. Motion to compel or stay arbitration.

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

1 § 7321.2. Definitions.

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

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

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

12 "Consumer." An individual who incurs an obligation in an
13 agreement with a merchant for personal, family or household
14 purposes.

15 "Consumer transaction." A transaction between a consumer
16 domiciled in this Commonwealth and a merchant, including all
17 personal injury claims arising out of such a transaction.

18 "Court." A court of competent jurisdiction in this
19 Commonwealth.

20 "Knowledge." Actual knowledge.

21 "Merchant." A person in the ordinary course of business that
22 offers or sells goods or services to consumers or holds itself
23 out as having knowledge or skill peculiar to such transactions,
24 including a manufacturer, supplier or distributor of goods, or a
25 supplier of personal or professional services.

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

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

4 § 7321.3. Notice.

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

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

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

- 14 (1) the person's place of residence or business; or
15 (2) another location held out by the person as a place
16 of delivery of such communications.

17 § 7321.4. When subchapter applies.

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

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

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

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

30 (c) Absolute date.--Beginning January 1, 2018:

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

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

9 (d) Collective bargaining agreements.--This subchapter shall
10 apply to collective bargaining agreements to arbitrate
11 controversies between employers and employees or their
12 respective representatives only to the extent that the
13 arbitration under this subchapter is consistent with any other
14 statute regulating labor and management relations.

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

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

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

25 (1) Waive or agree to vary the effect of the
26 requirements of any of the following:

27 (i) Section 7321.6(a) (relating to application for
28 judicial relief).

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

1 (iii) Section 7321.9 (relating to provisional
2 remedies).

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

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

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

7 (2) Agree to unreasonably restrict the right under
8 section 7321.10 (relating to initiation of arbitration) to
9 notice of the initiation of an arbitration proceeding.

10 (3) Agree to unreasonably restrict the right under
11 section 7321.13 (relating to disclosure by arbitrator) to
12 disclosure of any facts by a neutral arbitrator.

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

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

23 (1) This section.

24 (2) Section 7321.4(a) or (c) (relating to when
25 subchapter applies).

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

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

30 (5) Section 7321.19 (relating to judicial enforcement of

1 preaward ruling by arbitrator).

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

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

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

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

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

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

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

14 § 7321.6. Application for judicial relief.

15 (a) Procedure.--Except as otherwise provided in section
16 7321.29 (relating to appeals), an application for judicial
17 relief under this subchapter must be made by motion to the court
18 and heard in the manner provided by law or rule of court for
19 making and hearing motions.

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

27 § 7321.7. Validity of agreement to arbitrate.

28 (a) General rule.--An agreement contained in a record to
29 submit to arbitration any existing or subsequent controversy
30 arising between the parties to the agreement is valid,

1 enforceable and irrevocable except upon a ground that exists at
2 law or in equity for the revocation of a contract.

3 (b) Court decision.--The court shall decide whether an
4 agreement to arbitrate exists or a controversy is subject to an
5 agreement to arbitrate.

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

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

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

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

25 (2) Paragraph (1) shall apply if consideration is not
26 prohibited by the Federal Arbitration Act (9 U.S.C. § 1 et
27 seq.) or other Federal law.

28 § 7321.8. Motion to compel or stay arbitration.

29 (a) Refusal to arbitrate under agreement.--On motion of a
30 person showing an agreement to arbitrate and alleging another

1 person's refusal to arbitrate under the agreement:

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

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

9 (b) Agreement challenged.--On motion of a person alleging
10 that an arbitration proceeding has been initiated or threatened
11 but that there is no agreement to arbitrate, the court shall
12 decide the issue if there is an express and unequivocal
13 agreement to arbitrate. If there is doubt whether an agreement
14 to arbitrate exists upon proper and timely demand, the question
15 shall be submitted to a jury. If the court or jury finds that
16 there is an enforceable agreement to arbitrate, the court shall
17 order the parties to arbitrate.

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

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

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

29 (f) Stay of claims alleged subject to arbitration.--If a
30 party makes a motion to the court to order arbitration, the

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

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

9 § 7321.9. Provisional remedies.

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

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

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

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

30 (c) Effect.--A party does not waive a right of arbitration

1 by making a motion under subsection (a) or (b).

2 § 7321.10. Initiation of arbitration.

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

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

15 § 7321.11. Consolidation of separate arbitration proceedings.

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

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

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

28 (3) the existence of a common issue of law or fact
29 creates the possibility of conflicting decisions in the
30 separate arbitration proceedings; and

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

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

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

11 § 7321.12. Appointment of arbitrator; service as a neutral
12 arbitrator.

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

23 (b) Neutral service.--An individual may not serve as an
24 arbitrator required by an agreement to be neutral under the
25 standards under which a judge would be required to disqualify
26 himself or herself from participation in a proceeding under 207
27 Pa. Code Rule 2.11 (relating to disqualification).

28 § 7321.13. Disclosure by arbitrator.

29 (a) Preappointment.--Before accepting appointment, an
30 individual who is requested to serve as an arbitrator, after

1 making a reasonable inquiry, shall disclose to all parties to
2 the agreement to arbitrate and the arbitration proceeding and to
3 any other arbitrators any known facts that a reasonable person
4 would consider likely to affect the impartiality of the
5 arbitrator in the arbitration proceeding, including:

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

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

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

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

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

28 (e) Presumption of neutrality.--An arbitrator appointed as a
29 neutral arbitrator who does not disclose a known, direct and
30 material interest in the outcome of the arbitration proceeding

1 or a known, existing and substantial relationship with a party
2 is presumed to act with evident partiality under section
3 7321.24(a) (2).

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

10 § 7321.14. Action by majority.

11 If there is more than one arbitrator, the powers of an
12 arbitrator must be exercised by a majority of the arbitrators
13 but all of them shall conduct the hearing under section
14 7321.16(c) (relating to arbitration process).

15 § 7321.15. Immunity of arbitrator; competency to testify;
16 attorney fees and costs.

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

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

23 (c) Failure to disclose.--The failure of an arbitrator to
24 make a disclosure required by section 7321.13 (relating to
25 disclosure by arbitrator) does not cause a loss of immunity
26 under this section.

27 (d) Competency to testify.--In a judicial, administrative or
28 similar proceeding, an arbitrator or representative of an
29 arbitration organization is not competent to testify and may not
30 be required to produce records as to any statement, conduct,

1 decision or ruling occurring during the arbitration proceeding,
2 to the same extent as a judge of a court of this Commonwealth
3 acting in a judicial capacity. This subsection does not apply:

4 (1) to the extent necessary to determine the claim of an
5 arbitrator, arbitration organization or representative of the
6 arbitration organization against a party to the arbitration
7 proceeding; or

8 (2) to a hearing on a motion to vacate an award under
9 section 7321.24(a) (1) or (2) (relating to vacating award) if
10 the movant establishes prima facie that a ground for vacating
11 the award exists.

12 (e) Attorney fees and costs.--If a person commences a civil
13 action against an arbitrator, arbitration organization or
14 representative of an arbitration organization arising from the
15 services of the arbitrator, organization or representative, or
16 if a person seeks to compel an arbitrator or a representative of
17 an arbitration organization to testify or produce records in
18 violation of subsection (d) and the court upon deciding whether
19 the arbitrator, arbitration organization or representative of an
20 arbitration organization is immune from civil liability or
21 whether the arbitrator or representative of the organization is
22 competent to testify, the court may award to the prevailing
23 party, including the arbitrator, organization or representative,
24 reasonable attorney fees and other reasonable expenses of
25 litigation.

26 § 7321.16. Arbitration process.

27 (a) Discretion of arbitrator.--An arbitrator may conduct an
28 arbitration in a manner appropriate for a fair and expeditious
29 disposition of the proceeding. The authority conferred upon the
30 arbitrator includes the power to hold conferences with the

1 parties to the arbitration proceeding before the hearing and,
2 among other matters, determine the admissibility, relevance,
3 materiality and weight of any evidence.

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

6 (1) if all interested parties agree; or

7 (2) upon request of one party to the arbitration
8 proceeding if that party gives notice to all other parties to
9 the proceeding and if the other parties have a reasonable
10 opportunity to respond.

11 (c) Notice and hearing.--If an arbitrator orders a hearing,
12 the arbitrator shall set a time and place and give notice of the
13 hearing not less than five days before the hearing begins.

14 Unless a party to the arbitration proceeding makes an objection
15 to lack or insufficiency of notice not later than the beginning
16 of the hearing, the party's appearance at the hearing waives the
17 objection. Upon request of a party to the arbitration proceeding
18 and for good cause shown, or upon the arbitrator's own

19 initiative, the arbitrator may adjourn the hearing as necessary
20 but may not postpone the hearing to a time later than that fixed
21 by the agreement to arbitrate for making the award unless the
22 parties to the arbitration proceeding consent to a later date.

23 The arbitrator may hear and decide the controversy upon the
24 evidence produced although a party who was notified of the
25 arbitration proceeding did not appear. The court, on request,
26 may direct the arbitrator to conduct the hearing promptly and
27 render a timely decision.

28 (d) Procedure.--At a hearing under subsection (c), a party
29 to the arbitration proceeding has a right to be heard, to
30 present evidence material to the controversy and to cross-

1 examine witnesses appearing at the hearing.

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

7 (f) Location for arbitration hearing for consumer
8 transactions.--A hearing conducted under an arbitration
9 agreement applicable to a consumer transaction shall be held at
10 a location reasonably convenient to the consumer.

11 § 7321.17. Representation by attorney.

12 A party to an arbitration proceeding may be represented by an
13 attorney.

14 § 7321.18. Witnesses; subpoenas; depositions; discovery.

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

22 (b) Depositions.--In order to make the proceedings fair,
23 expeditious and cost effective, upon request of a party to or a
24 witness in an arbitration proceeding, an arbitrator may permit a
25 deposition of a witness to be taken for use as evidence at the
26 hearing, including a witness who cannot be subpoenaed for or is
27 unable to attend a hearing. The arbitrator shall determine the
28 conditions under which the deposition is taken.

29 (c) Discovery.--An arbitrator may permit discovery as the
30 arbitrator decides is appropriate in the circumstances, taking

1 into account the needs of the parties to the arbitration
2 proceeding and other affected persons and the desirability of
3 making the proceeding fair, expeditious and cost effective.

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

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

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

23 (g) Enforcement.--The court may enforce a subpoena or
24 discovery-related order for the attendance of a witness within
25 this Commonwealth and for the production of records and other
26 evidence issued by an arbitrator in connection with an
27 arbitration proceeding in another state upon conditions
28 determined by the court so as to make the arbitration proceeding
29 fair, expeditious and cost effective. A subpoena or discovery-
30 related order issued by an arbitrator in another state must be

1 served in the manner provided by law for service of subpoenas in
2 a civil action in this Commonwealth and, upon motion to the
3 court by a party to the arbitration proceeding or the
4 arbitrator, may be enforced in the manner provided by law for
5 enforcement of subpoenas in a civil action in this Commonwealth.
6 § 7321.19. Judicial enforcement of preaward ruling by
7 arbitrator.

8 If an arbitrator makes a preaward ruling in favor of a party
9 to the arbitration proceeding, the party may request the
10 arbitrator to incorporate the ruling into an award under section
11 7321.20 (relating to award). A prevailing party may make a
12 motion to the court for an expedited order to confirm the award
13 under section 7321.23 (relating to confirmation of award), in
14 which case the court shall summarily decide the motion. The
15 court shall issue an order to confirm the award unless the court
16 vacates, modifies or corrects the award under section 7321.24
17 (relating to vacating award) or 7321.25 (relating to
18 modification or correction of award).

19 § 7321.20. Award.

20 (a) Record.--An arbitrator shall make a record of an award.
21 The record must be signed or otherwise authenticated by an
22 arbitrator who concurs with the award. The arbitrator or the
23 arbitration organization shall give notice of the award,
24 including a copy of the award, to each party to the arbitration
25 proceeding.

26 (b) Time.--An award must be made within the time specified
27 by the agreement to arbitrate or, if not specified in the
28 agreement, within the time ordered by the court. The court may
29 extend or the parties to the arbitration proceeding may agree in
30 a record to extend the time. The court or the parties may do so

1 within or after the time specified or ordered. A party waives an
2 objection that an award was not timely made unless the party
3 gives notice of the objection to the arbitrator before receiving
4 notice of the award.

5 § 7321.21. Change of award by arbitrator.

6 (a) Motion.--On motion to an arbitrator by a party to an
7 arbitration proceeding, the arbitrator may modify or correct an
8 award:

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

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

14 (3) to clarify the award.

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

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

21 (d) Pending motion to court.--If a motion to the court is
22 pending under section 7321.23 (relating to confirmation of
23 award), 7321.24 (relating to vacating award) or 7321.25, the
24 court may submit the claim to the arbitrator to consider whether
25 to modify or correct the award:

26 (1) upon a ground stated in section 7321.25(a)(1) or
27 (3);

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

1 (3) to clarify the award.

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

5 § 7321.22. Remedies; fees and expenses of arbitration
6 proceeding.

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

12 (b) Attorney fees and costs.--An arbitrator may award
13 reasonable attorney fees and other reasonable expenses of
14 arbitration if the award is authorized by law in a civil action
15 involving the same claim, by the agreement of the parties to the
16 arbitration proceeding or by the terms of an agreement subject
17 to arbitration.

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

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

29 (e) Justification for punitive damages.--If an arbitrator
30 awards punitive damages or other exemplary relief under

1 subsection (a), the arbitrator shall specify in the award the
2 basis in fact justifying and the basis in law authorizing the
3 award and state separately the amount of the punitive damages or
4 other exemplary relief.

5 § 7321.23. Confirmation of award.

6 After a party to an arbitration proceeding receives notice of
7 an award, the party must make a motion to the court for an order
8 confirming the award. The court shall then issue a confirming
9 order unless the award is modified or corrected under section
10 7321.21 (relating to change of award by arbitrator) or 7321.25
11 (relating to modification or correction of award) or is vacated
12 under section 7321.24 (relating to vacating award).

13 § 7321.24. Vacating award.

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

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

19 (2) there was:

20 (i) evident partiality by an arbitrator appointed as
21 a neutral arbitrator;

22 (ii) corruption by an arbitrator; or

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

25 (3) an arbitrator refused to postpone the hearing upon
26 showing of sufficient cause for postponement, refused to
27 consider evidence material to the controversy or otherwise
28 conducted the hearing contrary to section 7321.16 (relating
29 to arbitration process), so as to prejudice the rights of a
30 party to the arbitration proceeding;

1 (4) an arbitrator exceeded the arbitrator's powers;
2 (5) there was no agreement to arbitrate, unless the
3 person participated in the arbitration proceeding without
4 raising the objection under section 7321.16(c) not later than
5 the beginning of the arbitration hearing; or
6 (6) the arbitration was conducted without proper notice
7 of the initiation of an arbitration as required in section
8 7321.10 (relating to initiation of arbitration) so as to
9 prejudice substantially the rights of a party to the
10 arbitration proceeding.

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

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

29 (d) Confirmation.--If the court denies a motion to vacate an
30 award, the court shall confirm the award unless a motion to

1 modify or correct the award is pending.

2 § 7321.25. Modification or correction of award.

3 (a) Grounds.--Upon motion made within 90 days after the
4 movant receives notice of the award under section 7321.20
5 (relating to award) or within 90 days after the movant receives
6 notice of a modified or corrected award under section 7321.21
7 (relating to change of award by arbitrator), the court shall
8 modify or correct the award if:

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

12 (2) the arbitrator has made an award on a claim not
13 submitted to the arbitrator and the award may be corrected
14 without affecting the merits of the decision upon the claims
15 submitted; or

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

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

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

25 § 7321.26. Judgment on award; attorney fees and litigation
26 expenses.

27 (a) Judgment.--Upon granting an order confirming, vacating
28 without directing a rehearing, modifying or correcting an award,
29 the court shall enter a judgment in conformity with the order.
30 The judgment may be recorded, docketed and enforced as any other

1 judgment in a civil action.

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

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

15 § 7321.27. Jurisdiction.

16 (a) Enforcement.--A court having jurisdiction over the
17 controversy and the parties may enforce an agreement to
18 arbitrate.

19 (b) Exclusivity.--An agreement to arbitrate providing for
20 arbitration in this Commonwealth confers exclusive jurisdiction
21 on the court to enter judgment on an award under this
22 subchapter.

23 § 7321.28. Venue.

24 A motion under section 7321.6 (relating to application for
25 judicial relief) must be made in the court of the county in
26 which the agreement to arbitrate or section 7321.16(f) (relating
27 to arbitration process) specifies the arbitration hearing is to
28 be held or, if the hearing has been held, in the court of the
29 county in which the hearing was held. Otherwise, the motion may
30 be made in the court of the county in this Commonwealth as

1 provided by the Pennsylvania Rules of Civil Procedure. All
2 subsequent motions must be made in the court hearing the initial
3 motion unless the court otherwise directs.

4 § 7321.29. Appeals.

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

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

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

8 (3) an order confirming or denying confirmation of an
9 award;

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

11 (5) an order vacating an award without directing a
12 rehearing; or

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

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

17 § 7321.30. Uniformity of application and construction.

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

22 (b) Right to trial by jury.--Except as provided by an
23 agreement to arbitrate, nothing in this subchapter is intended
24 to require a party to waive the right to trial by jury to the
25 extent provided by the Constitution of the United States and the
26 Constitution of Pennsylvania.

27 (c) Severability.--If any provision of this subchapter or
28 the application thereof to any person or circumstance is held
29 invalid, the remainder of this subchapter and the application of
30 such provisions to other persons or circumstances shall not be

1 affected.

2 § 7321.31. Relationship to Electronic Signatures in Global and
3 National Commerce Act.

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

10 Section 2. Sections 7341 and 7342 of Title 42 are amended to
11 read:

12 § 7341. Common law arbitration.

13 The award of an arbitrator in a nonjudicial arbitration which
14 is not subject to Subchapter A (relating to statutory
15 arbitration), A.1 (relating to revised statutory arbitration) or
16 a similar statute regulating nonjudicial arbitration proceedings
17 is binding and may not be vacated or modified unless it is
18 clearly shown that a party was denied a hearing or that fraud,
19 misconduct, corruption or other irregularity caused the
20 rendition of an unjust, inequitable or unconscionable award.

21 § 7342. Procedure.

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

25 [Section 7303 (relating to validity of agreement to
26 arbitrate)].

27 Section 7304 (relating to court proceedings to compel or stay
28 arbitration).

29 Section 7305 (relating to appointment of arbitrators by
30 court).

1 Section 7309 (relating to witnesses, subpoenas, oaths and
2 depositions).

3 Section 7317 (relating to form and service of applications to
4 court).

5 Section 7318 (relating to court and jurisdiction).

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

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

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

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

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

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

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

18 Section 7321.27 (relating to jurisdiction).

19 Section 7321.28 (relating to venue).

20 Section 7321.29 (relating to appeals), except section
21 7321.29(a) (4).

22 (b) Confirmation and judgment.--On application of a party
23 made more than 30 days after an award is made by an arbitrator
24 under section 7341 (relating to common law arbitration), the
25 court shall enter an order confirming the award and shall enter
26 a judgment or decree in conformity with the order. [Section
27 7302(d) (2) (relating to special application) shall not be
28 applicable to proceedings under this subchapter.]

29 Section 3. This act shall not be construed to affect an
30 action or proceeding commenced or right accrued before the

1 effective date of this section.

2 Section 4. This act shall take effect January 1, 2018.