

CHAPTER 95

AN ACT concerning arbitration procedures and supplementing Title 2A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.2A:23B-1 Definitions relative to arbitration after 2002.

1. Definitions. For the purposes of this act:

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

"Arbitrator" means an individual appointed either as a neutral arbitrator or as a party arbitrator to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

"Court" means the Superior Court of New Jersey.

"Court rules" means the Rules Governing the Courts of the State of New Jersey.

"Knowledge" means actual knowledge.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

C.2A:23B-2 Notice.

2. Notice.

a. Except as otherwise provided in this act, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

b. A person has notice if the person has knowledge of the notice or has received notice.

c. A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such a notice.

C.2A:23B-3 When act applies.

3. When Act Applies.

a. This act governs all agreements to arbitrate made on or after January 1, 2003 with the exception of an arbitration between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement.

b. This act governs an agreement to arbitrate made before January 1, 2003 if all the parties to the agreement or to the arbitration proceeding so agree in a record with the exception of an arbitration between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement.

c. On or after January 1, 2005, this act governs an agreement to arbitrate whenever made with the exception of an arbitration between an employer and a duly elected representative of employees under a collective bargaining agreement or collectively negotiated agreement.

d. This act shall not apply to agreements to arbitrate made before July 4, 1923.

C.2A:23B-4 Effect of agreement to arbitrate; nonwaivable provisions.

4. Effect of Agreement to Arbitrate; Nonwaivable Provisions.

a. Except as otherwise provided in subsections b. and c. of this section, a party to an agreement to arbitrate or to an arbitration proceeding may waive or, the parties may vary the effect of, the requirements of this act to the extent permitted by law.

b. Before a controversy that is subject to an agreement to arbitrate arises, a party to the agreement may not:

(1) waive or agree to vary the effect of the requirements of section 5a., 6a., 8, 17a., 17b., 26, or 28 of this act;

(2) agree to unreasonably restrict the right to notice of the initiation of an arbitration proceeding pursuant to section 9 of this act;

(3) agree to unreasonably restrict the right to disclosure of any facts by an arbitrator pursuant to section 12 of this act; or

(4) waive the right of a party to an agreement to arbitrate to be represented by a lawyer pursuant to section 16 of this act at any proceeding or hearing pursuant to this act.

c. A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or section 3a., 3c., 7, 14, 18, 20d., 20e., 22, 23, 24, 25a., 25b., 29, 30, 34 or 35. Provided however, that nothing in this act shall preclude the parties from expanding the scope of judicial review of an award by expressly providing for such expansion in a record.

C.2A:23B-5 Application for judicial relief.

5. Application for Judicial Relief.

a. Except as otherwise provided in section 28 of this act, an application for judicial relief pursuant to this act shall be made upon commencement of a summary action with the court and heard in the manner provided for in such matters by the applicable court rules.

b. Unless a civil action involving the agreement to arbitrate is pending, notice of commencement of a summary action pursuant to this act shall be served in the manner provided by the court rules for serving process in summary actions.

C.2A:23B-6 Validity of agreement to arbitrate.

6. Validity of Agreement to Arbitrate.

a. An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

b. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

c. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.

d. If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

C.2A:23B-7 Application to compel or stay arbitration.

7. Application to Compel or Stay Arbitration.

a. On filing a summary action with the court by a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

(1) if the refusing party does not appear or does not oppose the summary action, the court shall order the parties to arbitrate; and

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

b. On filing a summary action with the court by a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

c. If the court finds that there is no enforceable agreement, it may not, pursuant to subsection a. or b. of this section, order the parties to arbitrate.

d. The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

e. If a proceeding involving a claim referable to arbitration pursuant to an alleged agreement to arbitrate is pending in court, an application pursuant to this section shall be made in that court. Otherwise, an application pursuant to this section may be made in any court as provided in section 27 of this act.

f. If a party commences a summary action to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the

court renders a final decision pursuant to this section.

g. If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

C.2A:23B-8 Provisional remedies.

8. Provisional Remedies.

a. Before an arbitrator is appointed and is authorized and able to act, the court, in such summary action upon application of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and pursuant to the same conditions as if the controversy were the subject of a civil action.

b. After an arbitrator is appointed and is authorized and able to act:

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

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

c. A party does not waive a right of arbitration by making an application pursuant to subsection a. or b. of this section.

C.2A:23B-9 Initiation of arbitration.

9. Initiation of Arbitration.

a. A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the manner agreed between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

b. Unless a person objects for lack or insufficiency of notice pursuant to subsection c. of section 15 of this act not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to the lack or insufficiency of notice.

C.2A:23B-10 Consolidation of separate arbitration proceedings.

10. Consolidation of Separate Arbitration Proceedings.

a. Except as otherwise provided in subsection c. of this section, upon application of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

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

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

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

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

b. The court may order consolidation of separate arbitration proceedings as to some claims and allow other claims to be resolved in separate arbitration proceedings.

c. The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

C.2A:23B-11 Appointment of arbitrator; service as a neutral arbitrator.

11. Appointment of Arbitrator; Service as a Neutral Arbitrator.

a. If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method shall be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court, on application of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

b. An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral.

c. An individual who has a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party may not serve as a party arbitrator if such information has not been disclosed pursuant to section 12 of this act.

d. An individual appointed as a party arbitrator may be predisposed toward the appointing party. From and after the commencement of an arbitration, an arbitrator shall act in good faith and exercise the arbitrator's responsibilities in a manner consistent with the authority placed in the arbitrator by the courts of this State and this act.

C.2A:23B-12 Disclosure by arbitrator.

12. Disclosure by Arbitrator.

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

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

(2) an existing or past relationship with any of the parties to the agreement to arbitrate or the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

b. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

c. If an arbitrator discloses a fact required by subsection a. or b. of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, subject to the provisions of section 11d. of this act, the objection may be a ground pursuant to paragraph (2) of subsection a. of section 23 of this act for vacating an award made by the arbitrator.

d. If the arbitrator did not disclose a fact as required by subsection a. or b. of this section, upon timely objection by a party, the court pursuant to paragraph (2) of subsection a. of section 23 may vacate an award.

e. An individual appointed as an neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality pursuant to paragraph (2) of subsection a. of section 23 of this act.

f. An individual appointed as a party arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding is presumed to act with evident partiality pursuant to paragraph (2) of subsection a. of section 23 of this act.

g. If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a summary action to vacate an award on that ground pursuant to paragraph (2) of subsection a. of section 23 of this act.

h. Should an individual designated as an arbitrator make full disclosure as required by this section and a party fails to object within a reasonable time, the party receiving such information shall be held to have waived any right to object to the designation of the arbitrator on the

grounds so revealed.

C.2A:23B-13 Action by majority.

13. Action by Majority.

If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of them shall conduct the hearing pursuant to subsection c. of section 15 of this act.

C.2A:23B-14 Immunity of arbitrator; competency to testify; attorney's fees and costs.

14. Immunity of Arbitrator; Competency to Testify; Attorney's Fees and Costs.

a. An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this State acting in a judicial capacity.

b. The immunity afforded by this section supplements any immunity pursuant to other law.

c. The failure of an arbitrator to make a disclosure required by section 12 of this act does not cause any loss of immunity pursuant to this section.

d. In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of this State acting in a judicial capacity. This subsection does not apply:

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

(2) to a hearing in a summary action to vacate an award pursuant to paragraph (1) or (2) of subsection a. of section 23 of this act if the movant establishes prima facie that a ground for vacating the award exists.

e. If a person commences a civil action against an arbitrator, arbitration organization or representative of an arbitration organization arising from the services of the arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection d. of this section, and the court decides that the arbitrator, arbitration organization or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization or representative reasonable attorney's fees and other reasonable expenses of litigation.

C.2A:23B-15 Arbitration process.

15. Arbitration Process.

a. An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.

b. An arbitrator may decide a request for summary disposition of a claim or particular issue:

(1) if all interested parties agree; or

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

c. If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection due to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly

notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

d. At a hearing pursuant to subsection c. of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

e. an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed in accordance with section 11 of this act to continue the proceeding and to resolve the controversy.

C.2A:23B-16 Representation by lawyer.

16. Representation by Lawyer.

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

C.2A:23B-17 Witnesses; subpoenas; depositions; discovery.

17. Witnesses; Subpoenas; Depositions; Discovery.

a. An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action, and upon filing a summary action with the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in any civil action.

b. In order to make the proceedings fair, expeditious, and cost effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions pursuant to which the deposition is taken.

c. An arbitrator may permit such discovery as the arbitrator decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitration proceeding and other affected persons and the desirability of making the proceeding fair, expeditious, and cost effective.

d. If an arbitrator permits discovery pursuant to subsection c. of this section, the arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this State.

e. An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets, and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this State.

f. All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in this State.

g. The court may enforce a subpoena or discovery-related order for the attendance of a witness within this State and for the production of records and other evidence issued by an arbitrator in connection with an arbitration proceeding in another State upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious, and cost effective. A subpoena or discovery-related order issued by an arbitrator in another State shall be served in the manner provided by law for service of subpoenas in a civil action in this State and, upon filing a summary action with the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in any civil action in this State.

C.2A:23B-18 Judicial enforcement of preaward ruling by arbitrator.

18. Judicial Enforcement of Preaward Ruling by Arbitrator.

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award pursuant to section 19

of this act. A prevailing party may file a summary action with the court for an expedited order to confirm the award pursuant to section 22 of this act, in which case the court shall summarily decide the application. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award pursuant to section 23 or 24 of this act.

C.2A:23B-19 Award.

19. Award.

a. An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

b. An award shall be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may do so within or after the time specified or ordered. A party waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award.

C.2A:23B-20 Change of award by arbitration.

20. Change of Award by Arbitrator.

a. On application to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

- (1) upon a ground stated in paragraph (1) or (3) of subsection a. of section 24 of this act;
- (2) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (3) to clarify the award.

b. An application pursuant to subsection a. of this section shall be made and notice given to all parties within 20 days after the aggrieved party receives notice of the award.

c. A party to the arbitration proceeding shall give notice of any objection to the application within 10 days after receipt of the notice.

d. If a summary action with the court is pending pursuant to section 22, 23, or 24 of this act, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

- (1) upon a ground stated in paragraph (1) or (3) of subsection a. of section 24 of this act.
- (2) if the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
- (3) to clarify the award.

e. An award modified or corrected pursuant to this section is subject to sections 19a., 22, 23, and 24 of this act.

C.2A:23B-21 Remedies; fees and expenses of arbitration proceeding.

21. Remedies; Fees and Expenses of Arbitration Proceeding.

a. An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award in accordance with the legal standards otherwise applicable to the claim.

b. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

c. As to all remedies other than those authorized by subsections a. and b. of this section, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award pursuant to section 22 of this act or for vacating an award pursuant to section 23 of this act.

d. An arbitrator's expenses and fees, together with other expenses, shall be paid as provided

in the award.

e. If an arbitrator awards punitive damages or other exemplary relief pursuant to subsection a. of this section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief.

C.2A:23B-22 Confirmation of award.

22. Confirmation of Award.

After a party to an arbitration proceeding receives notice of an award, the party may file a summary action with the court for an order confirming the award, at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to section 20 or 24 of this act or is vacated pursuant to section 23 of this act.

C.2A:23B-23 Vacating award.

23. Vacating Award.

a. Upon the filing of a summary action with the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

- (1) the award was procured by corruption, fraud, or other undue means;
- (2) the court finds evident partiality by an arbitrator; corruption by an arbitrator; or misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;
- (3) an arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to section 15 of this act, so as to substantially prejudice the rights of a party to the arbitration proceeding;
- (4) an arbitrator exceeded the arbitrator's powers;
- (5) there was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection pursuant to subsection c. of section 15 of this act not later than the beginning of the arbitration hearing; or
- (6) the arbitration was conducted without proper notice of the initiation of an arbitration as required in section 9 of this act so as to substantially prejudice the rights of a party to the arbitration proceeding.

b. A summary action pursuant to this section shall be filed within 120 days after the aggrieved party receives notice of the award pursuant to section 19 of this act or within 120 days after the aggrieved party receives notice of a modified or corrected award pursuant to section 20 of this act, unless the aggrieved party alleges that the award was procured by corruption, fraud, or other undue means, in which case the summary action shall be commenced within 120 days after the ground is known or by the exercise of reasonable care would have been known by the aggrieved party.

c. If the court vacates an award on a ground other than that set forth in paragraph (5) of subsection a. of this section, it may order a rehearing. If the award is vacated on a ground stated in paragraph (1) or (2) of subsection a. of this section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in paragraph (3), (4), or (6) of subsection a. of this section, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in subsection b. of section 19 of this act for an award.

d. If the court denies an application to vacate an award, it shall confirm the award unless an application to modify or correct the award is pending.

C.2A:23B-24 Modification or correction of award.

24. Modification or Correction of Award.

a. Upon filing a summary action within 120 days after the party receives notice of the award pursuant to section 19 of this act or within 120 days after the party receives notice of a modified or corrected award pursuant to section 20 of this act, the court shall modify or correct the award if:

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

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

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

b. If an application made pursuant to subsection a. of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless an application to vacate is pending, the court shall confirm the award.

c. An application to modify or correct an award pursuant to this section may be joined with an application to vacate the award.

C.2A:23B-25 Judgment on award; attorney's fees and litigation expenses.

25. Judgment on Award; Attorney's Fees and Litigation Expenses.

a. Upon granting an order confirming, vacating without directing a rehearing, modifying, or correcting an award, the court shall enter a judgment in conformity with the arbitrator's award. The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

b. A court may allow reasonable costs of the summary action and subsequent judicial proceedings.

c. On application of a prevailing party to a contested judicial proceeding pursuant to section 22, 23, or 24 of this act, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, or substantially modifying or correcting an award.

C.2A:23B-26 Jurisdiction.

26. Jurisdiction.

a. A court of this State having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

b. An agreement to arbitrate providing for arbitration in this State confers exclusive jurisdiction on the court to enter judgment on an award pursuant to this act.

c. Wherever reference is made to any procedural matter stated in this act, the New Jersey Supreme Court rules governing summary actions, or such other rules as may be adopted by the Supreme Court of New Jersey shall apply.

C.2A:23B-24 Venue.

27. Venue.

A summary action pursuant to section 5 of this act shall be commenced in the court of the county that would have venue if the matter were subject to Superior Court rules in civil actions, or to a court in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held.

C.2A:23B-28 Appeals.

28. Appeals.

a. An appeal may be taken from:

- (1) an order denying a summary action to compel arbitration;
- (2) an order granting a summary action to stay arbitration;
- (3) an order confirming or denying confirmation of an award;
- (4) an order modifying or correcting an award;
- (5) an order vacating an award without directing a rehearing; or
- (6) a final judgment entered pursuant to this act.

b. An appeal pursuant to this section shall be taken as from an order or a judgment in a civil action.

C.2A:23B-29 Uniformity of application and construction.

29. Uniformity of Application and Construction.

In applying and construing this uniform act, consideration shall be given to the need to

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

C.2A:23B-30 Relationship to Electronic Signatures in Global and National Commerce Act.

30. Relationship to Electronic Signatures in Global and National Commerce Act.

The provisions of this act governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures conform to the requirements of the "Electronic Signatures in Global and National Commerce Act," 15 U.S.C.s.7002.

C.2A:23B-31 Prior action or proceeding.

31. Prior Action or Proceeding.

This act does not affect an action or proceeding commenced or right accrued before this act takes effect. Subject to section 3 of this act, an arbitration agreement made before the effective date of this act is governed by N.J.S.2A:24-1 et seq. and P.L.1987, c.54 (C.2A:23A-1 et seq.).

C.2A:23B-32 Statutes and procedures not affected.

32. Statutes and Procedures Not Affected.

This act shall not apply to the substance and procedure of "The New Jersey Alternative Procedure for Dispute Resolution Act," P.L.1987, c.54 (C.2A:23A-1 et seq.), nor shall this act apply to arbitrations governed by P.L.1987, c.329 (C.2A:23A-20 et seq.), P.L.1983, c.358 (C.39:6A-24 et seq.) or section 24 of P.L.1998, c.21 (C.39:6A-5.1);and, unless otherwise agreed by the parties, any other non-binding court annexed arbitration procedures authorized under court rules or where under existing statutes the application of N.J.S.2A:24-1 through 2A:24-11 is expressly excluded.

33. Section 11 of P.L.1987, c.54 (C.2A:23A-11) is amended to read as follows:

C.2A:23A-11 Hearing by umpire; witnesses; subpoena; factual, legal contentions.

11. a. When more than one umpire is agreed upon, all the umpires shall sit at the hearing of the case, unless by written consent, all parties agree to a lesser number.

b. The umpire conducting an alternative resolution proceeding may require the attendance of any person as a witness and the production of any book or written instrument. The fees for the attendance shall be those allowed witnesses in a civil action.

c. Subpoenas shall issue in the name of and be signed by the umpire, or if there is more than one umpire, by a majority of them, and shall be directed to the person therein named and served in the same manner as a subpoena to testify before a court of record. If a person subpoenaed to testify refuses or neglects to obey a subpoena, the Superior Court, upon application, may compel his attendance before the umpire or hold the person in contempt as if the person had failed to respond to a subpoena issued by the court.

d. In alternative resolution proceedings held under this act, parties shall not be bound by the statutory and common law rules of evidence, except as provided for conduct of contested cases under the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.); provided, however, that all statutes and common law rules relating to privilege shall remain in effect. In any case when no rule, procedure or practice applies to the offer of evidence or procedure to be adopted, the umpire shall proceed so that the informality of the proceedings is assured.

e. Each party to an alternative resolution proceeding shall submit to the umpire and his adversary a statement of the party's factual and legal position with respect to the issues to be resolved, at a date fixed by the umpire to permit proper preparation for all hearings. The submitted statement shall govern, control and limit the facts and legal issues to be determined in the alternative resolution proceeding. Amended or supplemental legal and factual statements may be filed as permitted by the umpire where the same will not unduly prejudice the other party to the proceeding.

f. In an alternative resolution proceeding when the umpire is of the opinion that evidence by impartial experts would be of assistance, the umpire may direct that expert evidence be obtained. The fees and expenses of expert witnesses shall be paid by the parties as directed by the umpire.

g. Unless otherwise provided by the agreement for alternative resolution:

(1) The umpire shall appoint a time and place for the hearing and cause notification to the parties by personal service or by certified mail, with return receipt requested, not less than five days before the hearing. Appearance at the hearing waives the notice requirement. The umpire may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award, unless the parties consent to a later date. The umpire may determine the controversy upon the evidence produced, notwithstanding the failure of a party duly notified to appear. The Superior Court, on application in any pending summary proceeding, may direct the umpire to proceed promptly with the hearing and determination of the controversy.

(2) The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(3) The hearing shall be conducted by all the umpires, but a majority may determine any question and render a final award. If, during the course of the hearing, an umpire for any reason ceases to act, the remaining umpires appointed to act may continue with the hearing and determination of the controversy.

C.2A:24-1.1 Applicability of N.J.S.2A:24-1 through N.J.S.2A:24-11 to collective bargaining agreements.

34. N.J.S.2A:24-1 through N.J.S.2A:24-11 shall only apply to an arbitration or dispute arising from a collective bargaining agreement or a collectively negotiated agreement.

35. Effective Date.

This act shall take effect on January 1, 2003

Approved June 23, 2003.