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H.288

Introduced by Representative LaLonde of South Burlington

Referred to Committee on

Date:

Subject: Court procedure; Revised Uniform Arbitration Act

Statement of purpose of bill as introduced: This bill proposes to adopt the
Revised Uniform Arbitration Act.

An act relating to the Revised Uniform Arbitration Act

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. chapter 192A is added to read:

CHAPTER 192A. REVISED UNIFORM ARBITRATION ACT

§ 5681a. DEFINITIONS

As used in this chapter:

(1) “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.

(2) “Arbitrator” means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

1 (3) “Court” means a court of competent jurisdiction in this State.

2 (4) “Knowledge” means actual knowledge.

3 (5) “Person” means an individual, corporation, business trust, estate,

4 trust, partnership, limited liability company, association, joint venture,

5 government; governmental subdivision, agency, or instrumentality; public

6 corporation; or any other legal or commercial entity.

7 (6) “Record” means information that is inscribed on a tangible medium

8 or that is stored in an electronic or other medium, and is retrievable in

9 perceivable form.

10 § 5681b. NOTICE

11 (a) Except as otherwise provided in this chapter, a person gives notice to

12 another person by taking action that is reasonably necessary to inform the other

13 person in ordinary course, whether or not the other person acquires knowledge

14 of the notice.

15 (b) A person has notice if the person has knowledge of the notice or has

16 received notice.

17 (c) A person receives notice when it comes to the person’s attention or the

18 notice is delivered at the person’s place of residence or place of business, or at

19 another location held out by the person as a place of delivery of such

20 communications.

1 § 5681c. APPLICABILITY

2 (a) This chapter governs an agreement to arbitrate made on or after July 1,
3 2015.

4 (b) This chapter governs an agreement to arbitrate made before July 1,
5 2015, if all the parties to the agreement or to the arbitration proceeding so
6 agree in a record.

7 (c) On or after January 1, 2016, this chapter governs an agreement to
8 arbitrate whenever made.

9 § 5681d. EFFECT OF AGREEMENT TO ARBITRATE; NONWAIVABLE
10 PROVISIONS

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

15 (b) Before a controversy arises that is subject to an agreement to arbitrate, a
16 party to the agreement may not:

17 (1) waive or agree to vary the effect of the requirements of sections
18 5681e(a), 5681f(a), 5681h, 5681q(a) or (b), 5681z, or 5681bb of this title;

19 (2) agree to unreasonably restrict the right under section 5681i of this
20 title to notice of the initiation of an arbitration proceeding;

1 (3) agree to unreasonably restrict the right under section 5681l of this
2 title to disclosure of any facts by a neutral arbitrator; or

3 (4) waive the right under section 5681p of this title of a party to an
4 agreement to arbitrate to be represented by a lawyer at any proceeding or
5 hearing under this chapter, but an employer and a labor organization may
6 wave the right to representation by a lawyer in a labor arbitration.

7 (c) A party to an agreement to arbitrate or arbitration proceeding may not
8 wave, or the parties may not vary the effect of, the requirements of this section
9 or sections 5681c(a) or (c), 5681g, 5681n, 5681r, 5681t(d) or (e), 5681v,
10 5681w, 5681x, 5681y(a) or (b), or 5681cc of this title.

11 § 5681e. APPLICATION FOR JUDICIAL RELIEF

12 (a) Except as otherwise provided in section 5681bb of this title, an
13 application for judicial relief under this chapter must be made by motion to the
14 court and heard in the manner provided by law or rule of court for making and
15 hearing motions.

16 (b) Unless a civil action involving the agreement to arbitrate is pending,
17 notice of an initial motion to the court under this chapter must be served in the
18 manner provided by law for the service of a summons in a civil action.
19 Otherwise, notice of the motion must be given in the manner provided by law
20 or rule of court for serving motions in pending cases.

1 § 5681f. VALIDITY OF AGREEMENT TO ARBITRATE

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

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

8 (c) An arbitrator shall decide whether a condition precedent to arbitration
9 has been fulfilled, and whether a contract containing a valid agreement to
10 arbitrate is enforceable.

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

15 § 5681g. MOTION TO COMPEL OR STAY ARBITRATION

16 (a) On motion of a person showing an agreement to arbitrate and alleging
17 another person's refusal to arbitrate pursuant to the agreement:

18 (1) if the refusing party does not appear or does not oppose the motion,
19 the Court shall order the parties to arbitrate; and

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

4 (b) On motion of a person alleging that an arbitration proceeding has been
5 initiated or threatened but there is no agreement to arbitrate, the court shall
6 proceed summarily to decide the issue. If the court finds there is an
7 enforceable agreement to arbitrate, it shall order the parties to arbitrate.

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

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

12 (e) If a proceeding involving a claim referable to arbitration under an
13 alleged agreement to arbitrate is pending in court, a motion under this section
14 must be made in that court. Otherwise, a motion under this section may be
15 made in any court as provided in section 5681aa of this title.

16 (f) If a party makes a motion to the court to order arbitration, the court on
17 just terms shall stay any judicial proceeding that involves a claim alleged to be
18 subject to the arbitration until the court renders a final decision under this
19 section.

20 (g) If the court orders arbitration, the court on just terms shall stay any
21 judicial proceeding that involves a claim subject to the arbitration. If a claim

1 subject to the arbitration is severable, the court may limit the stay to that claim.

2 § 5681h. PROVISIONAL REMEDIES

3 (a) Before an arbitrator is appointed and is authorized and able to act, the
4 court, upon motion of a party to an arbitration proceeding and for good cause
5 shown, may enter an order for provisional remedies to protect the effectiveness
6 of the arbitration proceeding to the same extent and under the same conditions
7 as if the controversy were the subject of a civil action.

8 (b) After an arbitrator is appointed and is authorized and able to act:

9 (1) The arbitrator may issue such orders for provisional remedies,
10 including interim awards, as the arbitrator finds necessary to protect the
11 effectiveness of the arbitration proceeding and to promote the fair and
12 expeditious resolution of the controversy, to the same extent and under the
13 same conditions as if the controversy were the subject of a civil action.

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

17 (c) A party does not waive a right of arbitration by making a motion under
18 subsection (a) or (b) of this section.

19 § 5681i. INITIATION OF ARBITRATION

20 (a) A person initiates an arbitration proceeding by giving notice in a record
21 to the other parties to the agreement to arbitrate in the agreed manner between

1 the parties or, in the absence of agreement, by certified or registered mail,
2 return receipt requested and obtained, or by service as authorized for the
3 commencement of a civil action. The notice must describe the nature of the
4 controversy and the remedy sought.

5 (b) Unless a person objects for lack or insufficiency of notice under
6 subsection 5681o(c) of this title not later than the beginning of the arbitration
7 hearing, the person, by appearing at the hearing, waives any objection to lack
8 of or insufficiency of notice.

9 § 5681j. CONSOLIDATION OF SEPARATE ARBITRATION

10 PROCEEDINGS

11 (a) Except as otherwise provided in subsection (c) of this section, upon
12 motion of a party to an agreement to arbitrate or to an arbitration proceeding,
13 the court may order consolidation of separate arbitration proceedings as to all
14 or some of the claims, if:

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

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

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

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

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

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

9 § 5681k. APPOINTMENT OF ARBITRATOR; SERVICE AS A NEUTRAL

10 ARBITRATOR

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

19 (b) An individual who has a known, direct, and material interest in the
20 outcome of the arbitration proceeding or a known, existing, and substantial
21 relationship with a party may not serve as an arbitrator required by an

1 agreement to be neutral.

2 § 56811. DISCLOSURE BY ARBITRATOR

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

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

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

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

18 (c) If an arbitrator discloses a fact required by subsection (a) or (b) of this
19 section to be disclosed, and a party timely objects to the appointment or
20 continued service of the arbitrator based upon the fact disclosed, the objection
21 may be a ground under subdivision 5681w(a)(2) of this title for vacating an

1 award made by the arbitrator.

2 (d) If the arbitrator did not disclose a fact as required by subsection (a) or
3 (b) of this section, upon timely objection by a party, the court under
4 subdivision 5681w(a)(2) of this title may vacate an award.

5 (e) An arbitrator appointed as a neutral arbitrator who does not disclose a
6 known, direct, and material interest in the outcome of the arbitration
7 proceeding or a known, existing, and substantial relationship with a party is
8 presumed to act with evident partiality under subdivision 5681w(a)(2) of this
9 title.

10 (f) If the parties to an arbitration proceeding agree to the procedures of an
11 arbitration organization or any other procedures for challenges to arbitrators
12 before an award is made, substantial compliance with those procedures is a
13 condition precedent to a motion to vacate an award on that ground under
14 subdivision 5681w(a)(2) of this title.

15 § 5681m. ACTION BY MAJORITY

16 If there is more than one arbitrator, the powers of an arbitrator must be
17 exercised by a majority of the arbitrators, but all of them shall conduct the
18 hearing under subsection 5681o(c) of this title.

19 § 5681n. IMMUNITY OF ARBITRATOR; COMPETENCY TO TESTIFY;

20 ATTORNEY'S FEES AND COSTS

21 (a) An arbitrator or an arbitration organization acting in that capacity is

1 immune from civil liability to the same extent as a judge of a court of this State
2 acting in a judicial capacity.

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

5 (c) The failure of an arbitrator to make a disclosure required by
6 section 5681l of this title does not cause any loss of immunity under this
7 section.

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

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

17 (2) to a hearing on a motion to vacate an award under subdivision
18 5681w(a)(1) or (2) of this title if the movant establishes prima facie evidence
19 that a ground for vacating the award exists.

20 (e) If a person commences a civil action against an arbitrator, arbitration
21 organization, or representative of an arbitration organization arising from the

1 services of the arbitrator, organization, or representative, or if a person seeks to
2 compel an arbitrator or a representative of an arbitration organization to testify
3 or produce records in violation of subsection (d) of this section, and the Court
4 decides that the arbitrator, arbitration organization, or representative of an
5 arbitration organization is immune from civil liability or that the arbitrator or
6 representative of the organization is not competent to testify, the Court shall
7 award to the arbitrator, organization, or representative reasonable attorney's
8 fees and other reasonable expenses of litigation.

9 § 5681o. ARBITRATION PROCESS

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

16 (b) An arbitrator may decide a request for summary disposition of a claim
17 or particular issue:

18 (1) if all interested parties agree; or

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

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

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

18 (e) If an arbitrator ceases or is unable to act during the arbitration
19 proceeding, a replacement arbitrator must be appointed in accordance with
20 section 5681k of this title to continue the proceeding and to resolve the
21 controversy.

1 § 5681p. REPRESENTATION BY ATTORNEY

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

3 § 5681q. WITNESSES; SUBPOENAS; DEPOSITIONS; DISCOVERY

4 (a) An arbitrator may issue a subpoena for the attendance of a witness and
5 for the production of records and other evidence at any hearing, and may
6 administer oaths. A subpoena must be served in the manner for service of
7 subpoenas in a civil action and, upon motion to the court by a party to the
8 arbitration proceeding or the arbitrator, enforced in the manner for enforcement
9 of subpoenas in a civil action.

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

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

20 (d) If an arbitrator permits discovery under subsection (c) of this section,
21 the arbitrator may order a party to the arbitration proceeding to comply with

1 the arbitrator's discovery-related orders, issue subpoenas for the attendance of
2 a witness and for the production of records and other evidence at a discovery
3 proceeding, and take action against a noncomplying party to the extent a court
4 could if the controversy were the subject of a civil action in this State.

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

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

13 (g) The court may enforce a subpoena or discovery-related order for the
14 attendance of a witness within this State and for the production of records and
15 other evidence issued by an arbitrator in connection with an arbitration
16 proceeding in another state upon conditions determined by the Court so as to
17 make the arbitration proceeding fair, expeditious, and cost-effective. A
18 subpoena or discovery-related order issued by an arbitrator in another state
19 must be served in the manner provided by law for service of subpoenas in a
20 civil action in this State and, upon motion to the court by a party to the

1 arbitration proceeding or the arbitrator, enforced in the manner provided by
2 law for enforcement of subpoenas in a civil action in this State.

3 § 5681r. JUDICIAL ENFORCEMENT OF PREAWARD RULING BY
4 ARBITRATOR

5 If an arbitrator makes a preaward ruling in favor of a party to the arbitration
6 proceeding, the party may request the arbitrator to incorporate the ruling into
7 an award under section 5681s of this title. A prevailing party may make a
8 motion to the Court for an expedited order to confirm the award under
9 section 5681v of this title, in which case the court shall summarily decide the
10 motion. The court shall issue an order to confirm the award unless the court
11 vacates, modifies, or corrects the award under section 5681w or 5681x of this
12 title.

13 § 5681s. AWARD

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

19 (b) An award must be made within the time specified by the agreement to
20 arbitrate or, if not specified therein, within the time ordered by the Court. The
21 Court may extend or the parties to the arbitration proceeding may agree in a

1 record to extend the time. The Court or the parties may do so within or after
2 the time specified or ordered. A party waives any objection that an award was
3 not timely made unless the party gives notice of the objection to the arbitrator
4 before receiving notice of the award.

5 § 5681t. CHANGE OF AWARD BY ARBITRATOR

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

8 (1) upon a ground stated in subdivision 5681x(a)(1) or (3) of this title;

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

11 (3) to clarify the award.

12 (b) A motion under subsection (a) of this section must be made and notice
13 given to all parties within 20 days after the movant receives notice of the
14 award.

15 (c) A party to the arbitration proceeding must give notice of any objection
16 to the motion within 10 days after receipt of the notice.

17 (d) If a motion to the Court is pending under section 5681v, 5681w, or
18 5681x of this title, the Court may submit the claim to the arbitrator to consider
19 whether to modify or correct the award:

20 (1) upon a ground stated in subdivision 5681x(a)(1) or (3) of this title;

21 (2) because the arbitrator has not made a final and definite award upon a

1 claim submitted by the parties to the arbitration proceeding; or

2 (3) to clarify the award.

3 (e) An award modified or corrected pursuant to this section is subject to
4 sections 5681s(a), 5681v, 5681w, and 5681x of this title.

5 § 5681u. REMEDIES; FEES AND EXPENSES OF ARBITRATION

6 PROCEEDING

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

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

15 (c) As to all remedies other than those authorized by subsections (a) and (b)
16 of this section, an arbitrator may order such remedies as the arbitrator
17 considers just and appropriate under the circumstances of the arbitration
18 proceeding. The fact that such a remedy could not or would not be granted by
19 the Court is not a ground for refusing to confirm an award under section 5681v
20 of this title, or for vacating an award under section 5681w of this title.

21 (d) An arbitrator's expenses and fees, together with other expenses, must

1 be paid as provided in the award.

2 (e) If an arbitrator awards punitive damages or other exemplary relief under
3 subsection (a) of this section, the arbitrator shall specify in the award the basis
4 in fact justifying and the basis in law authorizing the award, and state
5 separately the amount of the punitive damages or other exemplary relief.

6 § 5681v. CONFIRMATION OF AWARD

7 After a party to an arbitration proceeding receives notice of an award, the
8 party may make a motion to the Court for an order confirming the award, at
9 which time the Court shall issue a confirming order unless the award is
10 modified or corrected pursuant to section 5681t or 5681x of this title, or is
11 vacated pursuant to section 5681w of this title.

12 § 5681w. VACATING AWARD

13 (a) Upon motion to the Court by a party to an arbitration proceeding, the
14 Court shall vacate an award made in the arbitration proceeding if:

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

16 (2) there was:

17 (A) evident partiality by an arbitrator appointed as a neutral
18 arbitrator;

19 (B) corruption by an arbitrator; or

20 (C) misconduct by an arbitrator prejudicing the rights of a party to
21 the arbitration proceeding;

1 (3) an arbitrator refused to postpone the hearing upon showing of
2 sufficient cause for postponement, refused to consider evidence material to the
3 controversy, or otherwise conducted the hearing contrary to section 5681o of
4 this title, so as to prejudice substantially the rights of a party to the arbitration
5 proceeding;

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

7 (5) there was no agreement to arbitrate, unless the person participated in
8 the arbitration proceeding without raising the objection under subsection
9 5681o(c) of this title not later than the beginning of the arbitration hearing; or

10 (6) the arbitration was conducted without proper notice of the initiation
11 of an arbitration as required in section 5681i of this title so as to prejudice
12 substantially the rights of a party to the arbitration proceeding.

13 (b) A motion under this section must be filed within 90 days after the
14 movant receives notice of the award pursuant to section 5681s of this title, or
15 within 90 days after the movant receives notice of a modified or corrected
16 award pursuant to section 5681t of this title, unless the movant alleges that the
17 award was procured by corruption, fraud, or other undue means, in which case
18 the motion must be made within 90 days after the ground is known or, by the
19 exercise of reasonable care, would have been known by the movant.

20 (c) If the Court vacates an award on a ground other than that set forth in
21 subdivision (a)(5) of this section, it may order a rehearing. If the award is

1 vacated on a ground stated in subdivision (a)(1) or (2) of this section, the
2 rehearing must be before a new arbitrator. If the award is vacated on a ground
3 stated in subdivision (a)(3), (4), or (6) of this section, the rehearing may be
4 before the arbitrator who made the award or the arbitrator's successor. The
5 arbitrator must render the decision in the rehearing within the same time as that
6 provided for an award in subsection 5681s(b) of this title.

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

9 § 5681x. MODIFICATION OR CORRECTION OF AWARD

10 (a) Upon motion made within 90 days after the movant receives notice of
11 the award pursuant to section 5681s of this title, or within 90 days after the
12 movant receives notice of a modified or corrected award pursuant to section
13 5681t of this title, the Court shall modify or correct the award if:

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

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

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

1 (b) If a motion made under subsection (a) of this section is granted, the
2 Court shall modify or correct and confirm the award as modified or corrected.
3 Otherwise, unless a motion to vacate is pending, the Court shall confirm the
4 award.

5 (c) A motion to modify or correct an award pursuant to this section may be
6 joined with a motion to vacate the award.

7 § 5681y. JUDGMENT ON AWARD; ATTORNEY'S FEES AND
8 LITIGATION EXPENSES

9 (a) Upon granting an order confirming, vacating without directing a
10 rehearing, modifying, or correcting an award, the Court shall enter a judgment
11 in conformity therewith. The judgment may be recorded, docketed, and
12 enforced as any other judgment in a civil action.

13 (b) The Court may allow reasonable costs of the motion and subsequent
14 judicial proceedings.

15 (c) On application of a prevailing party to a contested judicial proceeding
16 under section 5581v, 5681w, or 5681x of this title, the Court may add
17 reasonable attorney's fees and other reasonable expenses of litigation incurred
18 in a judicial proceeding after the award is made to a judgment confirming,
19 vacating without directing a rehearing, modifying, or correcting an award.

20 § 5681z. JURISDICTION

21 (a) A court of this State having jurisdiction over the controversy and the

1 parties may enforce an agreement to arbitrate.

2 (b) An agreement to arbitrate providing for arbitration in this State confers
3 exclusive jurisdiction on the Court to enter judgment on an award under this
4 chapter.

5 § 5681aa. VENUE

6 A motion pursuant to section 5681e of this title shall be made in the Court
7 of the county in which the agreement to arbitrate specifies the arbitration
8 hearing is to be held, or if the hearing has been held, in the Court of the county
9 in which it was held. Otherwise, the motion may be made in the Court of any
10 county in which an adverse party resides or has a place of business or, if no
11 adverse party has a residence or place of business in this State, in the Court of
12 any county in this State. All subsequent motions must be made in the Court
13 hearing the initial motion unless the Court otherwise directs.

14 § 5681bb. APPEALS

15 (a) An appeal may be taken from:

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

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

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

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

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

21 (6) a final judgment entered pursuant to this chapter.

1 (b) An appeal under this section must be taken as from an order or a
2 judgment in a civil action.

3 § 5681cc. UNIFORMITY OF APPLICATION AND CONSTRUCTION

4 In applying and construing this uniform act, consideration must be given to
5 the need to promote uniformity of the law with respect to its subject matter
6 among states that enact it.

7 § 5681dd. SAVINGS CLAUSE

8 This chapter shall not affect an action or proceeding commenced or right
9 accrued before this chapter takes effect. Subject to section 5681c of this title,
10 an arbitration agreement made before the effective date of this chapter is
11 governed by 12 V.S.A. chapter 192.

12 Sec. 2. REPEAL

13 12 V.S.A. chapter 192 (Arbitration Act) is repealed.

14 Sec. 3. EFFECTIVE DATE

15 This act shall take effect on passage.