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States' Alternative Dispute Resolution Statutes
State of Alaska

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States' Alternative Dispute Resolution Statutes

STATE OF ALASKA

Both the Revised and the Uniform Arbitration Act are current law in the State of Alaska so both acts are included in this document.

Index

<i>Uniform Arbitration Act</i>	2
<i>Revised Uniform Arbitration Act</i>	7

Uniform Arbitration Act Title 9, Chapter 43, Article 1.

Current through legislation effective October of 2008

§ 09.43.010. Arbitration agreements valid; application of article

(a) A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable, and irrevocable, except upon grounds that exist at law or in equity for the revocation of a contract. However, AS 09.43.010 - 09.43.180 do not apply to a labor-management contract unless they are incorporated into the contract by reference or their application is provided for by statute.

(b) Notwithstanding (a) of this section, AS 09.43.010--09.43.180 do not apply to an agreement or a contract unless the agreement or contract is entered into before January 1, 2005 and is not otherwise subject to AS 09.43.300-- 09.43.595. A person may not waive the effective date of this subsection, and a waiver of the effective date of this subsection is void.

§ 09.43.020. Proceedings to compel or stay arbitration

(a) On application of a party showing an agreement described in AS 09.43.010, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue and if the agreement is found to exist shall order arbitration.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. The issue, when in substantial and bona fide dispute,

shall be immediately and summarily tried and the stay ordered if no agreement is found to exist. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue subject to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under (a) of this section, the application shall be made in that court. Otherwise the application may be made in any court of competent jurisdiction.

(d) An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for the order has been made under this section or, if the issue is severable, the stay may be with respect to the issue only.

(e) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or because a fault or ground for the claims sought to be arbitrated has not been shown.

§ 09.43.030. Appointment of arbitrators by court

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and a successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

§ 09.43.040. Majority action by arbitrators

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by AS 09.43.010 - 09.43.180.

§ 09.43.050. Hearing

Unless otherwise provided by the agreement,

(1) the arbitrators shall set a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing; appearance at the hearing waives the notice; the arbitrators 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 arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a properly notified party to appear;

(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 arbitrators but a majority may determine any question and render a final award; if, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals shall continue with the hearing and determination of the controversy.

§ 09.43.060. Representation by attorney

A party has the right to be represented by an attorney at a proceeding or hearing under AS 09.43.010 - 09.43.180. A waiver of the right before the proceeding or hearing is ineffective.

§ 09.43.070. Witnesses, subpoenas, depositions

(a) The arbitrators may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and have the power to administer oaths. Subpoenas shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the superior court.

§ 09.43.080. Award

(a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement or, if not so fixed, within the time the court orders on application of a party. The parties may extend the time in writing either before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the objection before the delivery of the award to that party.

§ 09.43.090. Modification of award by arbitrators

On application to the arbitrators by a party or, if an application to the court by a party is pending under AS 09.43.110 - 09.43.130 on submission to the arbitrators by the court under the conditions the court may order, the arbitrators may modify or correct the award upon the grounds stated in AS 09.43.130(a)(1) and (3), or for the purpose of clarifying the award. An application to the arbitrators by a party shall be made within 20 days after delivery of the award to the applicant. Written notice of the application shall be given promptly to the opposing party, stating that objections to the application must be served within 10 days from the notice. A modified or corrected award is subject to the provisions of AS 09.43.110 - 09.43.130.

§ 09.43.100. Fees and expenses of arbitration

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

§ 09.43.110. Confirmation of an award

Upon application of a party, the court shall confirm an award unless within the time limits imposed by AS 09.43.120 and 09.43.130 grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in AS 09.43.120 and 09.43.130.

§ 09.43.120. Vacating an award

(a) On application of a party, the court shall vacate an award if

- (1) the award was procured by fraud or other undue means;
- (2) there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of a party;
- (3) the arbitrators exceeded their powers;
- (4) the arbitrators refused to postpone the hearing upon sufficient cause being shown for postponement or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of AS 09.43.050, as to prejudice substantially the rights of a party; or
- (5) there was no arbitration agreement and the issue was not adversely determined in proceedings under AS 09.43.020 and the party did not participate in the arbitration hearing without raising the objection.

(b) The fact that the relief is such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

(c) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. However, if the application is predicated upon corruption, fraud, or other undue means by either the opposing party or an arbitrator, it shall be made within 90 days after the grounds are known or should have been known.

(d) In vacating the award on grounds other than those stated in (a)(5) of this section the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence of a provision in the agreement, by the court in accordance with AS 09.43.030, or, if the award is vacated on grounds set out in (a)(3) or (4) of this section, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with AS 09.43.030. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(e) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

§ 09.43.130. Modification or correction of award by court

(a) On application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award if

- (1) there was an evident miscalculation of figures or an evident mistake in the description of a person, thing or property referred to in the award;
- (2) the arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
- (3) the award is imperfect in a matter of form not affecting the merits of the controversy.

(b) If the application is granted, the court shall modify and correct the award to effect its intent and shall confirm the award as modified and corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

§ 09.43.140. Judgment or decree on award

Upon the granting of an order confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the award and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent to the application, and disbursements may be awarded by the court.

§ 09.43.150. Applications to court

An application to the court under AS 09.43.010 - 09.43.180 shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in an action.

§ 09.43.160. Appeals

(a) An appeal may be taken from

- (1) an order denying an application to compel arbitration made under AS 09.43.020;
- (2) an order granting an application to stay arbitration made under AS 09.43.020(b);
- (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 judgment or decree entered under the provisions of AS 09.43.010 - 09.43.180.

(b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

§ 09.43.170. Court, jurisdiction

In AS 09.43.010 - 09.43.180, the term "court" means the court with jurisdiction in this state. The making of an agreement described in AS 09.43.010 providing for arbitration in this state confers jurisdiction on the court to enforce the agreement under AS 09.43.010 - 09.43.180 and to enter judgment on an award under the agreement.

§ 09.43.180. Short title

AS 09.43.010 - 09.43.180 may be cited as the Uniform Arbitration Act.

Revised Uniform Arbitration Act
Title 9, Chapter 43, Article 3.

Current through legislation effective October 1, 2008

§ 09.43.300. Application

- (a) AS 09.43.300--09.43.595 govern an agreement to arbitrate made on or after January 1, 2005.
- (b) AS 09.43.300--09.43.595 govern an agreement to arbitrate made before January 1, 2005, if all the parties to the agreement or to the arbitration proceeding agree in a record that AS 09.43.300--09.43.595 govern the agreement.
- (c) Except as provided by (d) of this section, AS 09.43.300--09.43.595 do not apply to a labor-management contract unless they are incorporated into the contract or their application is provided for by contract.
- (d) AS 09.43.300--09.43.595 do not apply to a collective bargaining agreement subject to AS 23.40.070--23.40.260, except as provided by AS 23.40.070--23.40.260.
- (e) A person may not waive the effective date of a provision of AS 09.43.300-09.43.595, and a waiver of the effective date of a provision of AS 09.43.300-09.43.595 is void.

§ 09.43.310. Effect of agreement to arbitrate; nonwaivable provisions

- (a) Except as otherwise provided in (b) and (c) of this section, a party to an agreement to arbitrate or arbitration proceeding may waive, or the parties may vary the effect of, the requirements of AS 09.43.300--09.43.595 to the extent permitted by law.
- (b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not
 - (1) waive or agree to vary the effect of the requirements of AS 09.43.320, 09.43.330(a) or (b), 09.43.350, 09.43.440(a) or (b), 09.43.530, or 09.43.550;
 - (2) agree to unreasonably restrict the right under AS 09.43.360 to notice of the initiation of an arbitration proceeding;
 - (3) agree to unreasonably restrict the right under AS 09.43.390 to disclosure of any facts by a neutral arbitrator; or
 - (4) waive the right under AS 09.43.430 of a party to an agreement to arbitrate to be represented by an attorney at a proceeding or hearing under AS 09.43.300--09.43.595, but an employer and a labor organization may waive the right to representation by an attorney in a labor arbitration.
- (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, AS 09.43.300(a), (c), or (d), 09.43.340, 09.43.410, 09.43.450, 09.43.470(d) or (e), 09.43.490, 09.43.500, 09.43.510, 09.43.520, 09.43.560, or 09.43.570.

§ 09.43.320. Application for judicial relief

Except as otherwise provided in AS 09.43.550, an application for judicial relief under AS 09.43.300--09.43.595 shall be made and heard in the manner provided by the court rules of this state.

§ 09.43.330. Validity of agreement to arbitrate

- (a) An agreement contained in a record to submit to arbitration an 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, and except as provided by (b) of this section.
- (b) To the extent an agreement that contains an arbitration provision is invalidated on the grounds that a party was induced into entering into the agreement by fraud, the arbitration provision in the agreement is not enforceable, and the party is not required to prove that the party was induced into entering into the arbitration provision by fraud.
- (c) The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.
- (d) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled.
- (e) 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.

§ 09.43.340. Application to compel arbitration; stay of related proceedings

- (a) On application of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate under the agreement,
 - (1) if the refusing party does not appear or does not oppose the application, the court shall order the parties to arbitrate; and
 - (2) if the refusing party opposes the application, 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 application of a person alleging that an arbitration proceeding has been initiated or threatened but that there is not an agreement to arbitrate, the court shall proceed summarily to decide the issue. If the court finds that there is an enforceable agreement to arbitrate, the court shall order the parties to arbitrate.
- (c) If the court finds that there is not an enforceable agreement, the court may not, under (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 because grounds for the claim have not been established.
- (e) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, an application under this section shall be made in that court. Otherwise, an application under this section may be made in any court as provided in AS 09.43.540.

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

(g) If the court orders arbitration, the court shall, on just terms, stay a 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.

§ 09.43.350. Provisional remedies

(a) Before an arbitrator is appointed and is authorized and able to act, the court, 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 under 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 the orders for provisional remedies, including interim awards, that 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 under the same conditions as if the controversy were the subject of a civil action; and

(2) a party to an arbitration proceeding may apply to 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 under (a) or (b) of this section.

§ 09.43.360. 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 agreed manner 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 must describe the nature of the controversy and the remedy sought.

(b) Unless a person objects for lack or insufficiency of notice under AS 09.43.420(c) not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack or insufficiency of notice.

§ 09.43.370. Consolidation of separate arbitration proceedings

(a) Except as otherwise provided in (c) of this section, upon application of a party to an agreement to arbitrate or 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.

§ 09.43.380. 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 appointed by the court has all the powers of an arbitrator designated in the agreement to arbitrate or appointed under 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.

§ 09.43.390. Disclosure by arbitrator

- (a) Before accepting appointment, an individual who is requested to serve as an arbitrator shall, after making a reasonable inquiry, disclose to all parties to the agreement to arbitrate and arbitration proceeding and to 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 a party to the agreement to arbitrate or arbitration proceeding, counsel for or representatives of the parties, a witness, or another arbitrator.
- (b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitration proceeding and to other arbitrators any facts that the arbitrator learns after accepting appointment that a reasonable person would consider likely to affect the impartiality of the arbitrator.
- (c) If an arbitrator discloses a fact required by (a) or (b) of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based on the fact disclosed, the objection may be a ground under AS 09.43.500(a)(2) for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by (a) or (b) of this section, upon timely objection by a party, the court may, under AS 09.43.500(a)(2), vacate an award.

(e) An arbitrator appointed as a 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 rebuttably presumed to act with evident partiality under AS 09.43.500(a)(2).

(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to an application to vacate an award on that ground under AS 09.43.500(a)(2).

§ 09.43.400. 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 under AS 09.43.420(c).

§ 09.43.410. Immunity of arbitrator; competency to testify; attorney 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 under other law.

(c) The failure of an arbitrator to make a disclosure required by AS 09.43.390 does not cause a loss of immunity under 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 a statement, conduct, a decision, or a 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 to

(1) 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) a hearing on an application to vacate an award under AS 09.43.500(a)(1) or (2) if the applicant 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 (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 attorney fees and expenses of litigation as determined under the court rules of this state.

§ 09.43.420. Arbitration process

(a) An arbitrator may conduct an arbitration in the manner 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) on 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 to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. On request of a party to the arbitration proceeding and for good cause shown, or on 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 on the evidence produced although a party who was 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 under (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) If an arbitrator ceases acting or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed under AS 09.43.380 to continue the proceeding and to resolve the controversy.

§ 09.43.430. Representation by attorney

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

§ 09.43.440. 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 a hearing and may administer oaths. A subpoena shall be served in the manner for service of subpoenas in a civil action and, on application to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

(b) In order to make the proceedings fair, expeditious, and cost-effective, on request of a party to or witness in an arbitration proceeding, an arbitrator may permit a deposition of a 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 under which the deposition is taken.

(c) An arbitrator may permit the discovery 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 under (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, deposition, or 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, on application to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by law for enforcement of subpoenas in a civil action in this state.

§ 09.43.450. 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 under AS 09.43.460. A prevailing party may apply to the court for an expedited order to confirm the award under AS 09.43.490, 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 under AS 09.43.500 or 09.43.510.

§ 09.43.460. Award

(a) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an 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 in the agreement, 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 extend the time within or after the time specified or ordered. A party waives an 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.

§ 09.43.470. Change of award by arbitrator

- (a) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award
- (1) on a ground stated in AS 09.43.510(a)(1) or (3);
 - (2) because the arbitrator has not made a final and definite award on a claim submitted by the parties to the arbitration proceeding; or
 - (3) to clarify the award.
- (b) A motion under (a) of this section shall be made and notice shall be given to all parties within 20 days after the movant receives notice of the award.
- (c) A party to the arbitration proceeding shall give notice of an objection to the motion within 10 days after receipt of the notice.
- (d) If an application to the court is pending under AS 09.43.490, 09.43.500, or 09.43.510, the court may submit the claim to the arbitrator to consider whether to modify or correct the award
- (1) on a ground stated in AS 09.43.510(a)(1) or (3);
 - (2) because the arbitrator has not made a final and definite award on a claim submitted by the parties to the arbitration proceeding; or
 - (3) to clarify the award.
- (e) An award modified or corrected under this section is subject to AS 09. 43.460(a) and 09.43.490--09.43.510.

§ 09.43.480. Remedies; fees and expenses of arbitration proceeding

- (a) An arbitrator may award punitive damages or other exemplary relief if the award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.
- (b) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration if the 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 (a) and (b) of this section, an arbitrator may order the remedies the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that the remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under AS 09.43.490 or for vacating an award under AS 09.43.500.
- (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 under (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 shall state the amount of the punitive damages or other exemplary relief separately.

§ 09.43.490. Confirmation of award

After a party to an arbitration proceeding receives notice of an award, the party may apply to 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 under AS 09.43.470 or 09.43.510 or is vacated under AS 09.43.500.

§ 09.43.500. Vacating award

- (a) On application to 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) there was
 - (A) evident partiality by an arbitrator appointed as a neutral arbitrator;
 - (B) corruption by an arbitrator; or
 - (C) misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;
 - (3) an arbitrator refused to postpone the hearing on showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to AS 09.43.420, so as to prejudice substantially the rights of a party to the arbitration proceeding;
 - (4) an arbitrator exceeded the arbitrator's powers;
 - (5) there was not an agreement to arbitrate, unless the person participated in the arbitration proceeding without raising the objection under AS 09.43.420(c) 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 under AS 09.43.360 so as to prejudice substantially the rights of a party to the arbitration proceeding.
- (b) An application under this section shall be filed within 90 days after the applicant receives notice of the award under AS 09.43.460 or within 90 days after the applicant receives notice of a modified or corrected award under AS 09.43.470, unless the applicant alleges that the award was procured by corruption, fraud, or other undue means, in which case the application shall be made within 90 days after the ground is known or, by the exercise of reasonable care, would have been known by the applicant.
- (c) If the court vacates an award on a ground other than that stated in (a)(5) of this section, it may order a rehearing. If the award is vacated on a ground stated in (a)(1) or (2) of this section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in (a)(3), (4), or (6) 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 AS 09.43.460(b) 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.

§ 09.43.510. Modification or correction of award

- (a) On application made within 90 days after the applicant receives notice of the award under AS 09.43.460 or within 90 days after the applicant receives notice of a modified or corrected award under AS 09.43.470, 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 has made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision on 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 under (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 under this section may be joined with an application to vacate the award.

§ 09.43.520. Judgment on award

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

§ 09.43.530. 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 under AS 09.43.300--09.43.595.

§ 09.43.540. Venue

An application to the court under AS 09.43.320 shall be made in the court of the judicial district 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 judicial district in which it was held. Otherwise, the application may be made in the court of a judicial district in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any judicial district in this state. All subsequent applications shall be made in the court hearing the initial application unless the court otherwise directs.

§ 09.43.550. Appeals

(a) An appeal may be taken from

- (1) an order denying an application to compel arbitration;
- (2) an order granting an application 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 under AS 09.43.300--09.43.595.

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

§ 09.43.560. Uniformity of application and construction

In applying and construing AS 09.43.300--09.43.595, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Revised Uniform Arbitration Act.

§ 09.43.570. Relationship to Electronic Signatures in Global and National Commerce Act

The provisions of AS 09.43.300--09.43.595 governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of the records or signatures shall conform to the requirements of 15 U.S.C. 7002 (Electronic Signatures in Global and National Commerce Act).

§ 09.43.580. Notice

(a) Except as otherwise provided in AS 09.43.300--09.43.595, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in the ordinary course of affairs, 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 the notice 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 the communications.

§ 09.43.590. Definitions

In AS 09.43.300--09.43.595,

- (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 who is appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate;
- (3) "court" means a court of competent jurisdiction in this state;
- (4) "knowledge" means actual knowledge;
- (5) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or another legal or commercial entity;
- (6) "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and may be retrieved in perceivable form.

§ 09.43.595. Short title

AS 09.43.300--09.43.595 may be cited as the Revised Uniform Arbitration Act.