

TITLE 10

Courts and Judicial Procedure

Special Proceedings

CHAPTER 57. UNIFORM ARBITRATION ACT

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[§ 5701 Effect of arbitration agreement.](#)

A written agreement to submit to arbitration any controversy existing at or arising after the effective date of the agreement is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract, without regard to the justiciable character of the controversy, and confers jurisdiction on the Chancery Court of the State to enforce it and to enter judgment on an award. In determining any matter arising under this chapter, the Court shall not consider whether the claim with respect to which arbitration is sought is tenable, or otherwise pass upon the merits of the dispute. This chapter also applies to arbitration agreements between employers and employees or between their respective representatives, except as otherwise provided in § 5725 of this title.

10 Del. C. 1953, § 5701; [58 Del. Laws, c. 382, § 2](#);

[§ 5702 Jurisdiction; applications; venue; statutes of limitations.](#)

(a) *Jurisdiction of the Court; applications to the Court* — The term "Court" means the Court of Chancery of this State, except where otherwise specifically provided. The making of an agreement described in § 5701 of this title specifically referencing the Delaware Uniform Arbitration Act [§ 5701 et seq. of this title] and the parties' desire to have it apply to their agreement confers jurisdiction on the Court to enforce the agreement under this chapter and to enter judgment on an award thereunder, except as provided in § 5718 of this title. Action

shall be commenced by an initial complaint and shall be heard in the manner and upon the notice provided by law or rule of court on any civil action. Notice of an initial complaint shall be served in the manner provided by law for the service of summons in an action.

(b) **Venue** — An initial complaint shall be made to the Court with the Register in Chancery in and for the county in which the agreement provides the arbitration hearing shall be held or, if the hearing has been held, in the county in which it was held. Otherwise the complaint shall be filed with the Register in Chancery in the county where the adverse party resides or has a place of business or, if the adverse party has no residence or place of business in this State, to the Register in and for any county. All subsequent pleadings or applications for an order made under this chapter shall be filed in the Court hearing the initial complaint unless the Court otherwise directs.

(c) **Court of Chancery jurisdiction over arbitration-related disputes in cases not governed by the Delaware Uniform Arbitration Act.** — Unless an arbitration agreement complies with the standard set forth in subsection (a) of this section for the applicability of the Delaware Uniform Arbitration Act, any application to the Court of Chancery to enjoin or stay an arbitration, obtain an order requiring arbitration, or to vacate or enforce an arbitrator's award shall be decided by the Court of Chancery in conformity with the Federal Arbitration Act [9 U.S.C. § 1 et seq.], and such general principles of law and equity as are not inconsistent with that Act. In

such cases, the other provisions of this Delaware Uniform Arbitration Act are without standing and cases shall be adjudicated in accordance with the Court of Chancery's Rules of Procedure.

(d) *Jurisdiction of the Court of Common Pleas.* — Notwithstanding anything to the contrary in this Chapter 57 of this title, the term "Court" in this chapter shall refer to the Court of Common Pleas with respect to all actions arising from an arbitration agreement in or relating to a contract to provide consumer credit, and the making of such an agreement to arbitrate issues arising from the extension of consumer credit shall confer jurisdiction on the Court of Common Pleas, and not the Court of Chancery, to enforce the agreement and to enter judgment on an award. Any action brought under this Chapter 57 of this title relating to an agreement to arbitrate issues arising from the extension of consumer credit filed in the Court of Chancery shall not therefore be dismissed, but shall be transferred to the Court of Common Pleas for resolution there as though filed originally in that Court.

10 Del. C. 1953, § 5702; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#); [76 Del. Laws, c. 34, § 1](#); [77 Del. Laws, c. 8, §§ 2, 3](#);

§ 5703 Proceedings to compel or enjoin arbitration; notice of intention to arbitrate.

(a) *Proceeding to compel arbitration* — A party aggrieved by the failure of another to arbitrate may file a complaint for an order compelling arbitration. Where there is no substantial question whether a valid agreement to arbitrate in this State was made or complied with the Court shall order the parties to proceed with arbitration. Where any such question is raised it shall be tried forthwith in

said Court. If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in the Court of Chancery in the State the application shall be made therein. If the application is granted, the order shall operate to stay the pending or any subsequent action, or so much of it as is referable to arbitration. Any action or proceeding in any other court of the State, involving an issue subject to arbitration, shall be stayed if an order for arbitration or a complaint or an application therefor has been made in the Court of Chancery under this chapter or, if the issue is severable, the stay may be with respect thereto only.

(b) *Application to enjoin arbitration* — Subject to subsection (c) of this section, a party who has not participated in the arbitration and who has not been made or served with an application to compel arbitration may file its complaint with the Court seeking to enjoin arbitration on the ground that a valid agreement was not made or has not been complied with.

(c) *Notice of intention to arbitrate* — A party must serve upon another party a notice of intention to arbitrate, specifying the agreement pursuant to which arbitration is sought and the name and address of the party serving the notice, or of an officer or agent thereof if such party is an association or corporation, and stating that unless the party served applies to enjoin the arbitration within 20 days after such service such party shall thereafter be precluded from objecting that a valid agreement was not made or has not been complied with. Such notice shall be served in the same manner as a summons or by registered or certified mail, return receipt requested. A complaint seeking to enjoin arbitration must be made by the party served within 20 days after service of the notice or the

party shall be so precluded. Notice of the filing of such complaint shall be served in the same manner as a summons or by registered or certified mail, return receipt requested.

10 Del. C. 1953, § 5703; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#); [77 Del. Laws, c. 8, §§ 4-6](#);

§ 5704 Appointment of arbitrators by Court.

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and the arbitrator's successor has not been duly appointed, the Court on complaint or on application in an existing case of a party shall appoint 1 or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

10 Del. C. 1953, § 5704; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5705 Majority action by arbitrators.

The powers of the arbitrators shall be exercised by a majority unless otherwise provided by the agreement.

10 Del. C. 1953, § 5705; [58 Del. Laws, c. 382, § 2](#);

§ 5706 Hearing.

Unless otherwise provided by the agreement:

(1) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered or certified mail, return receipt

requested, not less than 5 days before the hearing. Appearance at the hearing waives such 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 party duly notified to appear. The Court, on complaint or on application in an existing action, may direct the arbitrators 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 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 may continue with the hearing and determination of the controversy.

10 Del. C. 1953, § 5706; [58 Del. Laws, c. 382, § 2](#);

§ 5707 Representation by attorney.

A party has the right to be represented by an attorney, and may claim such right at any time at any proceeding or hearing under this chapter. A waiver thereof prior to the proceeding or hearing is ineffective. If a party is represented by an attorney, papers to be served on the party shall be served upon the party's attorney.

10 Del. C. 1953, § 5707; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5708 Witnesses; subpoenas; depositions.

(a) The arbitrators may compel the attendance of witnesses and the production of books, records, contracts, papers, accounts, and all other documents and evidence, and shall have the power to administer oaths. An arbitrator and any attorney of record in any arbitration proceeding shall have the power to issue subpoenas in his or her own name. Subpoenas so issued shall be served by any sheriff, deputy sheriff, constable or other person, in the manner provided by law for the service and enforcement of subpoenas in a civil action and in accordance with the provisions of Chapter 21 of this title.

(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 in accordance with § 8903 of this title.

10 Del. C. 1953, § 5708; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5709 Award generally.

(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 or certified mail, return receipt requested, or as provided in the agreement.

(b) An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the Court orders on complaint or application of a party in an existing case. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of such objection prior to the delivery of the award. The arbitrators shall deliver a copy of the award to each party in the manner provided in the agreement, or if no provision is so made, personally or by registered or certified mail, return receipt requested.

10 Del. C. 1953, § 5709; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5710 Award by confession.

(a) When available — An award by confession may be made for money due or to become due at any time before an award is otherwise made. The award shall be based upon a statement, verified by each party, containing an authorization to make the award, the sum of the award or the method of ascertaining it, and the facts constituting the liability.

(b) Time of award — The award shall be made at any time within 3 months after the statement is verified and has been served upon the arbitrators or the agency or person or persons named by the parties to designate the arbitrators. Such service shall be made personally or by registered or certified mail, return receipt requested.

(c) Persons or agency making award — The award may be made and entered on the judgment roll by the arbitrators or by the agency or person or persons named by the parties to designate the arbitrators.

10 Del. C. 1953, § 5710; [58 Del. Laws, c. 382, § 2](#);

§ 5711 Modification of award by arbitrators.

On written application of a party to the arbitrators within 20 days after delivery of the award to the applicant, or, if an application to the Court is pending under § 5713, 5714 or 5715 of this title, on submission to the arbitrators by the Court under such conditions as the Court may order, the arbitrators may modify or correct the award upon the grounds stated in § 5715(a)(1) and (3) of this title, or for the purpose of clarifying the award. Written notice of such application to the arbitrators shall be given forthwith to the opposing party, delivered personally or by registered or certified mail, return receipt requested, stating that the party must serve his or her objections thereto, if any, within 10 days from the date of the notice. The arbitrators shall dispose of any application made under this section in writing, signed and acknowledged by them, within 30 days after either written objection to modification has been served on them or the time for serving such objection has expired, whichever is earlier. The parties may in writing extend the time for such disposition either before or after its expiration. The award so modified or corrected by the arbitrators is subject to the provisions of §§ 5713, 5714 and 5715 of this title.

10 Del. C. 1953, § 5711; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5712 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. The Court, on complaint or on application in an existing case, may reduce or disallow any fee or expense which it finds excessive, or may allocate it as justice requires.

10 Del. C. 1953, § 5712; [58 Del. Laws, c. 382, § 2](#);

§ 5713 Confirmation of an award.

The Court shall confirm an award upon complaint or application of a party in an existing case made within 1 year after its delivery to the party, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the Court shall proceed as provided in §§ 5714 and 5715 of this title.

10 Del. C. 1953, § 5713; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5714 Vacating an award.

(a) Upon complaint or application of a party in an existing case, the Court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral except where the award was by confession, or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers, or so imperfectly executed them that a final and definite award upon the subject matter submitted was not made;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown

therefor, or refused to hear evidence material to the controversy, or otherwise so conducted the hearing, contrary to the provisions of § 5706 of this title, or failed to follow the procedures set forth in this chapter, so as to prejudice substantially the rights of a party, unless the party applying to vacate the award continued with the arbitration with notice of the defect and without objection; or

(5) There was no valid arbitration agreement, or the agreement to arbitrate had not been complied with, or the arbitrated claim was barred by limitation and the party applying to vacate the award did not participate in the arbitration hearing without raising the objection;

but the fact that the relief was 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.

(b) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within 90 days after such grounds are known or should have been known.

(c) In vacating the award on grounds other than stated in paragraph (a)(5) of this section, the Court may order a rehearing and determination of all or any of the issues, before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the Court in accordance with § 5704 of this title, or, if the award is vacated on grounds set forth in paragraphs (a)(3) and (4) of this section, the Court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with § 5704 of this title. 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.

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

10 Del. C. 1953, § 5714; [58 Del. Laws, c. 382, § 2](#); [77 Del. Laws, c. 8, § 7](#);

§ 5715 Modification or correction of award by Court.

(a) Upon complaint or on application in an existing case made within 90 days after delivery of a copy of the award to the applicant, the Court shall modify or correct the award where:

(1) There was an evident miscalculation of figures or an evident mistake in the description of any 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 so as to effect its intent and shall confirm the award as so 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.

10 Del. C. 1953, § 5715; [58 Del. Laws, c. 382, § 2](#);

§ 5716 Judgment or decree on award.

Upon the granting of an order confirming, modifying or correcting an award, except in cases where the award is for money damages, a final judgment or decree shall be entered in conformity therewith and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the Court.

10 Del. C. 1953, § 5716; [58 Del. Laws, c. 382, § 2](#);

§ 5717 Judgment roll; docketing with Register in Chancery.

(a) On entry of judgment or decree in cases other than an award for money damages, the Register shall prepare the judgment roll consisting, to the extent filed, of the following:

- (1) The agreement and each written extension of the time within which to make the award;
- (2) The award;
- (3) A copy of the order confirming, modifying or correcting the award; and
- (4) A copy of the final judgment or decree.

(b) The judgment or decree may be docketed as if rendered in an action.

10 Del. C. 1953, § 5717; [58 Del. Laws, c. 382, § 2](#);

§ 5718 Transfer of money damage award to Superior Court; lien on real estate.

(a) Upon the granting of an order confirming, modifying or correcting an award for money damages, a duly certified copy of the award and of the order confirming, modifying or correcting the award shall be filed with the

prothonotary of the Superior Court in the county where the arbitration was conducted and the award made. The prothonotary shall enter in his or her judgment docket the names of the parties, the amount of the award, the time from which interest, if any, runs, and the amount of the costs, with the true date of such filing and entry. A confirmed award, so entered, shall constitute a judgment or decree on the docket with the same force and effect as if rendered in an action at law.

(b) Any confirmed award so transferred as authorized by subsection (a) of this section, shall, from that date, become and be a lien on all the real estate of the debtor in the county, in the same manner and as fully as judgments rendered in the Superior Court are liens, and may be executed and enforced in the same way as judgments of that Court.

10 Del. C. 1953, § 5718; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5719 Appeals.

(a) Appeals may be taken from:

- (1) A final order denying a complaint seeking to compel arbitration made under § 5703(a) of this title;
- (2) An order granting an application to enjoin arbitration made under § 5703(b) of this title;
- (3) A final order confirming or denying confirmation of an award;
- (4) A final order modifying or correcting an award;
- (5) A final order vacating an award without directing a rehearing; or
- (6) A final judgment or decree entered pursuant to the provisions of this chapter.

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

10 Del. C. 1953, § 5719; [58 Del. Laws, c. 382, § 2](#);

§ 5720 Uniformity of interpretation.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

10 Del. C. 1953, § 5720; [58 Del. Laws, c. 382, § 2](#);

§ 5721 Short title.

This chapter may be cited as the "Delaware Uniform Arbitration Act."

10 Del. C. 1953, § 5721; [58 Del. Laws, c. 382, § 2](#); [77 Del. Laws, c. 8, § 8](#);

§ 5722 Death or incompetency of a party.

Where a party dies after making a written agreement to submit a controversy to arbitration, the proceedings may be begun or continued upon the application of, or upon notice to, the party's executor or administrator, or, where it relates to real property, the party's distributee or devisee who has succeeded to the party's interest in the real property. Where a committee of the property or of the person of a party to such an agreement is appointed, the proceedings may be continued upon the application of, or notice to, the committee. Upon the death or incompetency of a party, the Court may extend the time within which an application to confirm, vacate or modify the award or to stay arbitration must be made. Where a party has died since an award was delivered, the proceedings thereupon are the

same as where a party dies after a judgment or decree has been rendered.

10 Del. C. 1953, § 5722; [58 Del. Laws, c. 382, § 2](#); [70 Del. Laws, c. 186, § 1](#);

§ 5723 Arbitration of contracts of State and municipalities.

It shall be lawful to include in any contract hereinafter executed by or on behalf of the State, or any department or agency thereof or by or on behalf of any county, municipal corporation, or other division of the State, a provision that any matter in dispute arising under the said contract shall be submitted to arbitration in accordance with this chapter or such sections thereof as may be set forth in such contract, except as provided in § 5725 of this title.

10 Del. C. 1953, § 5723; [58 Del. Laws, c. 382, § 2](#);

§ 5724 Application of chapter to state and municipal contracts.

This chapter applies to any written contract to which the State or any agency or subdivision thereof, or any municipal corporation or political division of the State shall be a party, except as provided in § 5725 of this title.

10 Del. C. 1953, § 5724; [58 Del. Laws, c. 382, § 2](#);

§ 5725 Exclusion of collective bargaining labor contracts with public and private employers.

Notwithstanding anything contained in this chapter by word or inference to the contrary, this chapter shall not apply to labor contracts with either public or private employers where such contracts have been negotiated by, or the

employees covered thereby are represented by, any labor organization or collective bargaining agent or representative.

10 Del. C. 1953, § 5725; [58 Del. Laws, c. 382, § 2](#);