

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

S

D

SENATE DRS65185-LD-39 (03/12)

Short Title: Revised Uniform Arbitration Act. (Public)

Sponsors: Senator Hartsell.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL THE UNIFORM ARBITRATION ACT AND TO ENACT THE
3 REVISED UNIFORM ARBITRATION ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 45A of Chapter 1 of the General Statutes is repealed.

6 **SECTION 2.** Chapter 1 of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 45C.

9 "Revised Uniform Arbitration Act.

10 **"§ 1-569.1. Definitions.**

11 The following definitions apply in this Article:

12 (1) 'Arbitration organization' means an association, agency, board,
13 commission, or other entity that is neutral and initiates, sponsors, or
14 administers an arbitration proceeding or is involved in the appointment
15 of an arbitrator.

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

19 (3) 'Court' means a court of competent jurisdiction in this State.

20 (4) 'Knowledge' means actual knowledge.

21 (5) 'Person' means an individual, corporation, business trust, estate, trust,
22 partnership, limited liability company, association, joint venture,
23 government; governmental subdivision, agency, or instrumentality;
24 public corporation; or any other legal or commercial entity.

25 (6) 'Record' means information that is inscribed on a tangible medium or
26 that is stored in an electronic or other medium and is retrievable in
27 perceivable form.

1 **"§ 1-569.2. Notice.**

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

5 (b) A person has notice if the person has knowledge of the notice or has received
6 notice.

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

10 **"§ 1-569.3. When Article applies.**

11 (a) This Article governs an agreement to arbitrate made on or after January 1,
12 2004.

13 (b) This Article governs an agreement to arbitrate made before January 1, 2004,
14 if all parties to the agreement or to the arbitration proceeding so agree in a record.

15 (c) On or after January 1, 2006, this Article governs an agreement to arbitrate
16 whenever made.

17 **"§ 1-569.4. Effect of agreement to arbitrate; nonwaivable provisions.**

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

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

23 (1) Waive or agree to vary the effect of the requirements of G.S.
24 1-569.5(a), 1-569.6(a), 1-569.8, 1-569.17(a), 1-569.17(b), 1-569.26, or
25 1-569.28;

26 (2) Agree to unreasonably restrict the right under G.S. 1-569.9 to notice of
27 the initiation of an arbitration proceeding;

28 (3) Agree to unreasonably restrict the right under G.S. 1-569.12 to
29 disclosure of any facts by a neutral arbitrator; or

30 (4) Waive the right under G.S. 1-569.16 of a party to an agreement to
31 arbitrate to be represented by a lawyer at any proceeding or hearing
32 under this Article, but an employer and a labor organization may
33 wave the right to representation by a lawyer in a labor arbitration.

34 (c) A party to an agreement to arbitrate or to an arbitration proceeding may not
35 wave, or the parties shall not vary the effect of, the requirements of this section or G.S.
36 1-569.3(a), 1-569.3(c), 1-569.7, 1-569.14, 1-569.18, 1-569.20(d), 1-569.20(e), 1-569.22,
37 1-569.23, 1-569.24, 1-569.25(a), 1-569.25(b), 1-569.29, 1-569.30, 1-569.31, or
38 1-569.32.

39 **"§ 1-569.5. Application for judicial relief.**

40 (a) Except as otherwise provided in G.S. 1-569.28, an application for judicial
41 relief under this Article must be made by motion to the court and heard in the manner
42 provided by law or rule of court for making and hearing motions.

43 (b) Unless a civil action involving the agreement to arbitrate is pending, notice of
44 an initial motion to the court under this Article must be served in the manner provided

1 by law for the service of a summons in a civil action. Otherwise, notice of the motion
2 must be given in the manner prescribed by law or rule of court for serving motions in
3 pending cases.

4 **"§ 1-569.6. Validity of agreement to arbitrate.**

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

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

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

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

18 **"§ 1-569.7. Motion to compel or stay arbitration.**

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

21 (1) If the refusing party does not appeal or does not oppose the motion, the
22 court shall order the parties to arbitrate; and

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

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

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

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

34 (e) If a proceeding involving a claim referable to arbitration under an alleged
35 agreement to arbitrate is pending in a court, a motion under this section must be made in
36 that court. Otherwise a motion under this section may be made in any court as provided
37 in G.S. 1-569.27.

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

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

44 **"§ 1-569.8. Provisional remedies.**

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

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

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

13 (2) A party to an arbitration proceeding may move the court for a
14 provisional remedy if the matter is urgent and the arbitrator is not able
15 to act in a timely manner or the arbitrator cannot provide an adequate
16 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 **"§ 1-569.9. Initiation of arbitration.**

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

25 (b) Unless a person objects for lack or insufficiency of notice under G.S.
26 1-569.15(c) no later than the beginning of the arbitration hearing, the person, by
27 appearing at the hearing, waives any objection to lack or insufficiency of notice.

28 **"§ 1-569.10. Consolidation of separate arbitration proceedings.**

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

32 (1) There are separate agreements to arbitrate or separate arbitration
33 proceedings between the same persons or one of them is a party to a
34 separate agreement to arbitrate or a separate arbitration with a third
35 person;

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

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

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

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

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

3 **"§ 1-569.11. Appointment of arbitrator; service as a neutral arbitrator.**

4 (a) If the parties to an agreement to arbitrate agree on a method for appointing an
5 arbitrator, that method must be followed, unless the method fails. If the parties have not
6 agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable
7 to act and a successor has not been appointed, the court, on motion of a party to the
8 arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the
9 powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to
10 the agreed method.

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

14 **"§ 1-569.12. Disclosure by arbitrator.**

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

20 (1) A financial or personal interest in the outcome of the arbitration
21 proceeding; and

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

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

29 (c) If an arbitrator discloses a fact required by subsection (a) or (b) of this section
30 to be disclosed and a party timely objects to the appointment or continued service of the
31 arbitrator based upon the fact disclosed, the objection may be a ground under G.S. 1-
32 569.23(a)(2) for vacating an award made by the arbitrator.

33 (d) If the arbitrator did not disclose a fact as required by subsection (a) or (b) of
34 this section, upon timely objection by a party, the court under G.S.-1-569.23(a)(2) may
35 vacate an award.

36 (e) An arbitrator appointed as a neutral arbitrator who does not disclose a known,
37 direct, and material interest in the outcome of the arbitration proceeding or a known,
38 existing, and substantial relationship with a party is presumed to act with evident
39 partiality under G.S. 1-569.23(a)(2).

40 (f) If the parties to an arbitration proceeding agree to the procedures of an
41 arbitration organization or any other procedures for challenges to arbitrators before an
42 award is made, substantial compliance with those procedures is a condition precedent to
43 a motion to vacate an award on that ground under G.S. 1-569.23(a)(2).

44 **"§ 1-569.13. Action by majority.**

1 If there is more than one arbitrator, the powers of an arbitrator must be exercised by
2 a majority of the arbitrators, but all of them shall conduct the hearing under G.S.
3 1-569.15(c).

4 **"§ 1-569.14. Immunity of arbitrator; competency to testify; attorney's fees and**
5 **costs.**

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

9 (b) The immunity afforded by this section supplements any immunity under other
10 law.

11 (c) The failure of an arbitrator to make a disclosure required by G.S. 1-569.12
12 does not cause any loss of immunity under this section.

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

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

21 (2) To a hearing on a motion to vacate an award under G.S. 1-569.23(a)(1)
22 or (a)(2) if the movant establishes prima facie that a ground for
23 vacating the award exists.

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

33 (f) Immunity under this section does not apply to acts or omissions that occur
34 with respect to the operation of a motor vehicle.

35 **"§ 1-569.15. Arbitration process.**

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

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

43 (1) If all interested parties agree; or

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

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

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

19 (e) If an arbitrator ceases to or is unable to act during the arbitration proceeding,
20 a replacement arbitrator must be appointed in accordance with G.S. 1-569.11 to
21 continue the proceeding and to resolve the controversy.

22 (f) The rules of evidence do not apply in arbitration proceedings, except as to
23 matters of privilege or immunities.

24 **"§ 1-569.16. Representation by lawyer.**

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

26 **"§ 1-569.17. Witnesses; subpoenas; depositions; discovery.**

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

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

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

41 (d) If an arbitrator permits discovery under subsection (c) of this section, the
42 arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's
43 discovery-related orders, issue subpoenas for the attendance of a witness and for the
44 production of records and other evidence at a discovery proceeding, and take action

1 against a noncomplying party to the extent a court could if the controversy were the
2 subject of a civil action in this State.

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

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

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

20 (h) An arbitrator does not have the authority to hold a party in contempt of any
21 order the arbitrator makes under this section. A court may hold parties in contempt for
22 failure to obey an arbitrator's order, or an order made by the court, pursuant to this
23 section, among other sanctions imposed by the arbitrator or the court.

24 **"§ 1-569.18. Judicial enforcement of preaward ruling by arbitrator.**

25 (a) If an arbitrator makes a preaward ruling in favor of a party to the arbitration
26 proceeding, the party may request the arbitrator to incorporate the ruling into an award
27 under G.S. 1-569.19. A prevailing party may make a motion to the court for an
28 expedited order to confirm the award under G.S. 1-569.22, in which case the court shall
29 summarily decide the motion. The court shall issue an order to confirm the award unless
30 the court vacates, modifies, or corrects the award under G.S. 1-569.23 or G.S. 1-569.24.

31 (b) An arbitrator's ruling under G.S. 1-569.18 that denies a request for a preaward
32 ruling is not subject to trial court review; a party whose request under G.S. 1-569.18 for
33 a preaward ruling has been denied by an arbitrator retains the right to seek relief under
34 G.S. 1-569.20 and G.S. 1-569.21 from any final award the arbitrator renders.

35 (c) There is no right of appeal from trial court orders and judgments on preaward
36 rulings by an arbitrator after a trial court award under this section, G.S. 1-569.19, and
37 G.S. 1-569.28.

38 **"§ 1-569.19. Award.**

39 (a) An arbitrator shall make a record of an award. The record must be signed or
40 otherwise authenticated as authorized by federal or State law by any arbitrator who
41 concurs with the award. The arbitrator or the arbitration organization shall give notice of
42 the award, including a copy of the award, to each party to the arbitration proceeding.

43 (b) An award must be made within the time specified by the agreement to
44 arbitrate or, if not specified therein, within the time ordered by the court. The court may

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

5 **"§ 1-569.20. 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 G.S. 1-569.24(a)(1) or (a)(3);

9 (2) Because the arbitrator had 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 given
13 to all parties within 20 days after the movant receives notice of the award.

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

16 (d) If a motion to the court is pending under G.S. 1-569.22, 1-569.23, or
17 1-569.24, the court may submit the claim to the arbitrator to consider whether to modify
18 or correct the award:

19 (1) Upon a ground stated in G.S. 1-569.24(a)(1) or (a)(3);

20 (2) Because the arbitrator had not made a final and definite award upon a
21 claim submitted by the parties to the arbitration proceeding; or

22 (3) To clarify the award.

23 (e) An award modified or corrected pursuant to this section is subject to G.S.
24 1-569.19(a), 1-569.22, 1-569.23, and 1-569.24.

25 **"§ 1-569.21. Remedies; fees and expenses of arbitration proceeding.**

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

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

33 (c) As to all remedies other than those authorized by subsections (a) and (b) of
34 this section, an arbitrator may order such remedies as the arbitrator considers just and
35 appropriate under the circumstances of the arbitration proceeding. The fact that such a
36 remedy could not or would not be granted by the court is not a ground for refusing to
37 confirm an award under G.S. 1-569.22 or for vacating an award under G.S. 1-569.23.

38 (d) An arbitrator's expenses and fees, together with other expenses, must be paid
39 as provided in the award.

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

44 **"§ 1-569.22. Confirmation of award.**

1 After a party to an arbitration receives notice of an award, the party may make a
2 motion to the court for an order confirming the award, at which time the court shall
3 issue a confirming order unless the award is modified or corrected pursuant to G.S.
4 1-569.20 or G.S. 1-569.24 or is vacated pursuant to G.S. 1-569.23.

5 **"§ 1-569.23. Vacating award.**

6 (a) Upon motion to the court by a party to an arbitration proceeding, the court
7 shall vacate an award made in the arbitration proceeding if:

8 (1) The award was procured by corruption, fraud, or other undue means;

9 (2) There was:

10 a. Evident partiality by an arbitrator appointed as a neutral
11 arbitrator;

12 b. Corruption by an arbitrator; or

13 c. Misconduct by an arbitrator prejudicing the rights of a party to
14 the arbitration proceeding;

15 (3) An arbitrator refused to postpone the hearing upon a showing of
16 sufficient cause for postponement, refused to consider evidence
17 material to the controversy, or otherwise conducted the hearing
18 contrary to G.S. 1-569.15 so as to prejudice substantially the rights of a
19 party to the arbitration proceeding;

20 (4) An arbitrator exceeded the arbitrator's powers;

21 (5) There was no agreement to arbitrate, unless the person participated in
22 the arbitration proceeding without raising the objection under G.S.
23 1-569.15(c) no later than the beginning of the arbitration hearing; or

24 (6) The arbitration was conducted without proper notice of the initiation of
25 an arbitration as required in G.S. 1-569.9 so as to prejudice
26 substantially the rights of a party to the arbitration proceeding.

27 (b) A motion under this section must be filed within 90 days after the movant
28 receives notice of the award pursuant to G.S. 1-569.19 or within 90 days after the
29 movant receives notice of a modified or corrected award pursuant to G.S. 1-569.20,
30 unless the movant alleges that the award was procured by corruption, fraud, or other
31 undue means, in which case the motion must be made within 90 days after the ground is
32 known or by the exercise of reasonable care would have been known by the movant.

33 (c) If the court vacates an award on a ground other than that set forth in
34 subdivision (a)(5) of this section, it may order a rehearing. If the award is vacated on a
35 ground stated in subdivision (1) or (2) of subsection (a) of this section, the rehearing
36 must be before a new arbitrator. If the award is vacated on a ground stated in
37 subdivision (3), (4), or (6) of subsection (a) of this section, the rehearing may be before
38 the arbitrator who made the award or the arbitrator's successor. The arbitrator must
39 render the decision in the rehearing within the same time as that provided in G.S. 1-
40 569.19(5) for an award.

41 (d) If the court denies a motion to vacate an award, it shall confirm the award
42 unless a motion to modify or correct the award pursuant to G.S. 1-569.24 is pending.

43 **"§ 1-569.24. Modification or correction of award.**

1 (a) Upon motion made within 90 days after the movant receives notice of the
2 award pursuant to G.S. 1-569.19 or within 90 days after the movant receives notice of a
3 modified or corrected award pursuant to G.S. 1-569.20, the court shall modify or correct
4 the award if:

5 (1) There was an evident mathematical miscalculation or an evident
6 mistake in the description of a person, thing, or property referred to in
7 the award;

8 (2) The arbitrator has made an award on a claim not submitted to the
9 arbitrator, and the award may be corrected without affecting the merits
10 of the decision on the claims submitted; or

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

13 (b) If a motion made under subsection (a) of this section is granted, the court
14 shall modify and confirm the award as modified or corrected. Otherwise, unless a
15 motion to vacate is pending, the court shall confirm the award.

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

18 **"§ 1-569.25. Judgment on award; attorney's fees and litigation expenses.**

19 (a) Upon granting an order confirming, vacating without directing a rehearing,
20 modifying, or correcting an award, the court shall enter a judgment in conformity
21 therewith. The judgment may be recorded, docketed, and enforced as any other
22 judgment in a civil action.

23 (b) A court may allow reasonable costs of the motion and subsequent judicial
24 proceedings.

25 (c) On motion of a prevailing party to a contested judicial proceeding under G.S.
26 1-569.22, 1-569.23, or 1-569.24, the court may add reasonable attorney's fees and other
27 reasonable expenses of litigation incurred in a judicial proceeding after the award is
28 made to a judgment confirming, vacating without directing a rehearing, modifying, or
29 correcting an award.

30 **"§ 1-569.26. Jurisdiction.**

31 (a) A court of this State having jurisdiction over the controversy and the parties
32 may enforce the agreement to arbitrate.

33 (b) An agreement to arbitrate providing for arbitration in this State confers
34 exclusive jurisdiction on the court to enter judgment on an award under this Article.

35 **"§ 1-569.27. Venue.**

36 A motion pursuant to G.S. 1-569.5 must be made in the court of the county in which
37 the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing
38 has been held, in the court of the county in which it was held. Otherwise, the motion
39 may be made in the court of any county in which an adverse party resides or has a place
40 of business or, if no adverse party has a residence or place of business in this State, in
41 the court of any county in this State. All subsequent motions must be made in the court
42 hearing the initial motion unless the court otherwise directs.

43 **"§ 1-569.28. Appeals.**

44 (a) An appeal may be taken from:

- 1 (1) An order denying a motion to compel arbitration;
- 2 (2) An order granting a motion to stay arbitration;
- 3 (3) An order confirming or denying confirmation of an award;
- 4 (4) An order modifying or correcting an award;
- 5 (5) An order vacating an award without directing a rehearing; or
- 6 (6) A final judgment entered pursuant to this Article.
- 7 (b) An appeal under this section must be taken as from an order or a judgment in
- 8 a civil action.

9 **"§ 1-569.29. Uniformity of application and construction.**

10 In applying and construing this Article, the Revised Uniform Arbitration Act,

11 consideration must be given to the need to promote uniformity of the law with respect to

12 its subject matter among states that enact it.

13 **"§ 1-569.30. Relationship to federal Electronic Signatures in Global and National**

14 **Commerce Act.**

15 The provisions of this Article governing the legal effect, validity, and enforceability

16 of electronic records or electronic signatures, and of contracts performed with the use of

17 such records or signatures, conform to the requirements of section 102 of the Electronic

18 Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., or as

19 otherwise authorized by federal or State law governing such electronic records or

20 electronic signatures.

21 **"§ 1-569.31. Short title.**

22 This Article may be cited as the Revised Uniform Arbitration Act."

23 **SECTION 3.** This act does not affect an action or proceeding that

24 commences or accrues before Article 45C, as enacted in Section 2 of this act, becomes

25 effective. Subject to G.S. 1-569.3, as enacted in Section 2 of this act, an arbitration

26 agreement made before the effective date of this act is governed by Article 45A of

27 Chapter 1 of the General Statutes.

28 **SECTION 4.** Section 1 of this act becomes effective January 1, 2006. The

29 remainder of this act becomes effective January 1, 2004.