

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-171
HOUSE BILL 772

AN ACT TO AMEND THE NORTH CAROLINA INTERNATIONAL COMMERCIAL
ARBITRATION AND CONCILIATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 45B of Chapter 1 of the General Statutes reads as rewritten:

"Article 45B.

"International Commercial Arbitration and Conciliation.

"Part 1. General Provisions.

...

"§ 1-567.31. Scope of application.

(a) This Article applies to international commercial arbitration and conciliation, subject to any applicable international agreement in force between the United States of America and any other nation or nations, ~~or and~~ any federal statute-law.

(b) The provisions of this Article, except G.S. 1-567.38, 1-567.39, and 1-567.65, apply only if the place of arbitration is in this State.

(c) An arbitration or conciliation is international ~~if~~ if any of the following are true:

(1) The parties to the arbitration or conciliation agreement have their places of business in different nations when the agreement is ~~concluded; or~~ concluded.

(2) One or more of the following places is situated outside the nations in which the parties have their places of business:

a. The place of arbitration or conciliation if determined pursuant to the arbitration ~~agreement; or~~ agreement.

b. Any place where a substantial part of the obligations of the commercial relationship is to be ~~performed; or~~ performed.

c. The place with which the subject matter of the dispute is most closely ~~connected; or~~ connected.

(3) The parties have expressly agreed in a record that the subject matter of the arbitration or conciliation agreement relates to more than one nation.

(d) For the purposes of subsection (c) of this section:

(1) If a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration or conciliation ~~agreement; or~~ agreement.

(2) If a party does not have a place of business, reference is to be made to the party's domicile.

(e) An arbitration or conciliation, respectively, is deemed commercial for the purposes of this Article if it arises out of a relationship of a commercial nature, including, but not limited to any of the following:

(1) A transaction for the exchange of goods ~~and services; or~~ services.

(2) A distribution ~~agreement; or~~ agreement.

(3) A commercial representation or ~~agency; or~~ agency.

(4) An exploitation agreement or ~~concession; or~~ concession.



- (5) A joint venture or other related form of industrial or business ~~cooperation;~~cooperation.
- (6) The carriage of goods or passengers by air, sea, water, land, or road;~~road;~~
- (7) A contract or agreement relating to construction, insurance, licensing, factoring, leasing, consulting, engineering, financing, or ~~banking;~~banking.
- (8) The transfer of data or ~~technology;~~technology.
- (9) The use or transfer of intellectual or industrial property, including trade secrets, trademarks, trade names, patents, copyrights, plant variety protection, and software programs;~~programs.~~
- (10) A contract for the provision of any type of professional service, whether provided by an employee or an independent contractor.

...

(h) This Article does not govern arbitrations under Article 1H of Chapter 90 of the General Statutes.

"§ 1-567.32. Definitions and rules of interpretation.

- (a) ~~For the purposes of this Article:~~The following definitions apply in this Article:
 - (1) ~~"Arbitral award" means any Arbitral award. – Any decision of an arbitral tribunal on the substance of a dispute submitted to it, and includes an interlocutory, interlocutory or partial award;~~award.
 - (2) ~~"Arbitral tribunal" means a Arbitral tribunal. – A sole arbitrator or a panel of arbitrators;~~arbitrators.
 - (3) ~~"Arbitration" means any arbitration Arbitration. – Any arbitration, whether or not administered by a permanent arbitral institution;~~institution.
 - (3a) Court. – A court of competent jurisdiction in this State.
 - (4) ~~"Party" means a Party. – A party to an arbitration agreement;~~agreement.
 - (5) ~~"Superior court" means the superior court of any county in this State selected pursuant to G.S. 1-567.36.~~
 - (6) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

...

(d) Where a provision of this Article, other than in G.S. 1-567.55(1) and G.S. 1-567.62(b)(1), refers to a claim, it also applies to a ~~counterclaim,~~counterclaim or setoff, and where it refers to a defense, it also applies to a defense to ~~such counterclaim;~~a counterclaim or setoff.

"§ 1-567.33. Receipt of written communications or submissions.

(a) Unless otherwise agreed in a record by the parties, any written communication or submission is deemed to have been received if it is delivered to the addressee personally or if it is delivered at the addressee's place of business, ~~domicile~~domicile, or mailing ~~address and address,~~ and the communication or submission is deemed to have been received on the day it is ~~so delivered. Delivery~~Unless otherwise agreed in a record by the parties, delivery by facsimile transmission or electronic transmission, if in a record, shall constitute valid receipt if the communication or submission is in fact ~~received.~~received, and the receipt is in a record.

(b) If none of the places referred to in subsection (a) can be found after making reasonable inquiry, a written communication or submission is deemed to have been received if it is sent to the addressee's last known place of business, ~~domicile~~domicile, or mailing address by registered ~~mail~~mail, certified mail, or any other means ~~which~~that provide a record of the attempt to deliver it.

(c) The provisions of this Article do not apply to a written communication or submission relating to a court, ~~administrative~~administrative, or special proceeding.

...

"Part 2. International Commercial Arbitration.

...

"§ 1-567.36. Venue and jurisdiction of courts.

(a) The functions referred to in G.S. 1-567.41(c) and (d), 1-567.43(a), 1-567.44(b), 1-567.46(c), and 1-567.57 shall be performed by the ~~superior court in~~ in the following county:

- (1) The county where the arbitration agreement is to be performed or was ~~made;~~made.
- (2) If the arbitration agreement does not specify a county where the agreement is to be performed and the agreement was not made in any county in the State of North Carolina, the county where any party to the court proceeding resides or has a place of ~~business;~~business.
- (3) In any case not covered by subdivisions (1) or (2) of this subsection, in any county in the State of North Carolina.

(b) All other functions assigned by this Article to the ~~superior court~~ shall be performed by the ~~superior court~~ of the county in which the place of arbitration is located.

...

"§ 1-567.38. Arbitration agreement and substantive claim before court.

(a) When a party to an international commercial arbitration agreement ~~as defined in this Article~~ commences judicial proceedings seeking relief with respect to a matter covered by the agreement to arbitrate, any other party to the agreement may apply to the ~~superior court~~ for an order to stay the proceedings and compel arbitration.

(b) Arbitration proceedings may begin or continue, and an award may be made, while an action described in subsection (a) is pending before the court.

"§ 1-567.39. Interim relief and the enforcement of interim measures.

(a) In the case of an arbitration where the arbitrator or arbitrators have not been appointed, or where the arbitrator or arbitrators are unavailable, a party may seek interim relief directly from the ~~superior court~~ as provided in subsection (c). Enforcement shall be granted as provided by the law applicable to the type of interim relief sought.

(b) In all other cases, a party shall seek interim ~~measures under G.S. 1-567.47 from the arbitral tribunal and shall have no right to seek interim relief from the superior court, except that a party to an arbitration governed by this Article may request from the superior court enforcement of an order of an arbitral tribunal granting interim measures under G.S. 1-567.47.~~relief under G.S. 1-567.47.

(c) In connection with an agreement to arbitrate or a pending arbitration, the ~~superior court~~ may grant, pursuant to subsection (a) of this ~~section;~~section, any of the following:

- (1) An order of attachment or ~~garnishment;~~garnishment.
- (2) A temporary restraining order or preliminary ~~injunction;~~injunction.
- (3) An order for claim and ~~delivery;~~delivery.
- (4) The appointment of a ~~receiver;~~receiver.
- (5) Delivery of money or other property into ~~court;~~court.
- (6) Any other order that may be necessary to ensure the preservation or availability either of assets or of documents, the destruction or absence of which would be likely to prejudice the conduct or effectiveness of the arbitration.

...

(f) The availability of interim relief under this section may be limited by prior written agreement of the ~~parties;~~parties in a record.

...

"§ 1-567.41. Appointment of arbitrators.

...

- (c) (1) If an agreement is not made under subsection (b) of this section, in an arbitration with three arbitrators, each party shall appoint one arbitrator, and

the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon request of a party, by the ~~superior~~ court.

(2) In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, a sole arbitrator shall be appointed, upon request of a party, by the ~~superior~~ court.

(3) In an arbitration involving more than two parties, if no agreement is reached under subsection (b) of this section, the ~~superior~~ court, on request of a party, shall appoint one or more arbitrators, as provided in G.S. 1-567.40.

(d) The ~~superior~~ court, on request of any party, may take the necessary measures, unless the agreement on the appointment procedure provides other means for securing the appointment, if, under an appointment procedure agreed upon by the ~~parties~~; parties, any of the following events occur:

(1) A party fails to act as required under ~~such procedure~~; or the procedure.

(2) The parties, or two arbitrators, are unable to reach an agreement expected of them under ~~such procedure~~; or the procedure.

(3) A third party, including an institution, fails to perform any function entrusted to it under ~~such~~ the procedure.

(e) A decision of the ~~superior~~ court on a matter entrusted by subsection (c) or (d) of this section shall be final and not subject to appeal.

(f) The ~~superior~~ court, in appointing an arbitrator, shall ~~consider~~; consider all of the following:

(1) Any qualifications required of the arbitrator by the agreement of the ~~parties~~; parties.

(2) Such other considerations as are likely to secure the appointment of an independent and impartial ~~arbitrator~~; arbitrator.

(3) In the case of a sole or third arbitrator, the advisability of appointing an arbitrator of a nationality other than those of the parties.

(g) The parties may agree to employ an established arbitration institution to conduct the arbitration. If they do not so agree, the ~~superior~~ court may in its discretion designate an established arbitration institution to conduct the arbitration.

(h) Unless otherwise agreed, an arbitrator ~~shall be~~ is entitled to compensation at an hourly or daily rate ~~which that~~ reflects the size and complexity of the case, and the experience of the arbitrator. If the parties are unable to agree on ~~such~~ a rate, the rate shall be determined by the arbitral institution chosen pursuant to subsection (g) of this section or by the arbitral tribunal, in either case subject to the review of the ~~superior~~ court upon the motion of any dissenting party.

~~§ 1-567.42. Grounds for challenge.~~

(a) ~~Except as otherwise provided in this Article, all persons whose names have been submitted for consideration for appointment or designation as arbitrators, or who have been appointed or designated as such, shall make a disclosure to the parties within 15 days of such submission, appointment, or designation of any information which might cause their impartiality to be questioned including, but not limited to, any of the following instances:~~

(1) ~~The person has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;~~

(2) ~~The person served as a lawyer in the matter in controversy, or the person is or has been associated with another who has participated in the matter during such association, or has been a material witness concerning it;~~

- ~~(3) The person served as an arbitrator in another proceeding involving one or more of the parties to the proceeding;~~
- ~~(4) The person, individually or as a fiduciary, or such person's spouse or minor child residing in such person's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;~~
- ~~(5) The person, his or her spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person meets any of the following conditions:

 - ~~a. The person is or has been a party to the proceeding, or an officer, director, or trustee of a party;~~
 - ~~b. The person is acting or has acted as a lawyer in the proceeding;~~
 - ~~c. The person is known to have an interest that could be substantially affected by the outcome of the proceeding;~~
 - ~~d. The person is likely to be a material witness in the proceeding;~~~~
- ~~(6) The person has a close personal or professional relationship with a person who meets any of the following conditions:

 - ~~a. The person is or has been a party to the proceeding, or an officer, director, or trustee of a party;~~
 - ~~b. The person is acting or has acted as a lawyer or representative in the proceeding;~~
 - ~~c. The person is or expects to be nominated as an arbitrator or conciliator in the proceeding;~~
 - ~~d. The person is known to have an interest that could be substantially affected by the outcome of the proceeding;~~
 - ~~e. The person is likely to be a material witness in the proceeding.~~~~

~~(b) The obligation to disclose information set forth in subsection (a) of this section is mandatory and cannot be waived as to the parties with respect to persons serving either as sole arbitrator or as the chief or prevailing arbitrator. The parties may otherwise agree to waive such disclosure.~~

~~(c) From the time of appointment and throughout the arbitral proceedings, an arbitrator shall disclose to the parties without delay any circumstances referred to in subsection (a) of this section which were not previously disclosed.~~

~~(d) Unless otherwise agreed by the parties or the rules governing the arbitration, an arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his or her independence or impartiality, or as to his or her possession of the qualifications upon which the parties have agreed.~~

~~(e) A party may challenge an arbitrator appointed by it, or in whose appointment it has participated only for reasons of which it becomes aware after the appointment has been made.~~

~~**§ 1-567.43. Challenge procedure.**~~

~~(a) The parties may agree on a procedure for challenging an arbitrator, subject to the provisions of subsection (c) of this section.~~

~~(b) If there is no agreement under subsection (a) of this section, a party challenging an arbitrator shall, within 15 days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstance referred to in G.S. 1-567.42(a), send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.~~

~~(c) If a challenge under any procedure agreed upon by the parties or under the procedure of subsection (b) of this section is not successful, the challenging party may, within~~

~~30 days after having received notice of the decision rejecting the challenge, request the superior court to decide on the challenge, which decision shall be final and subject to no appeal. While such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue to conduct the arbitral proceedings and make an award.~~

"§ 1-567.43A. Disclosure by arbitrator.

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

- (1) A financial or personal interest in the outcome of the arbitration proceeding.
- (2) An existing or past relationship with any of the parties to the agreement to arbitrate or to the arbitration proceeding, their counsel or representatives, a witness, or other arbitrators.

(b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and to the arbitration and to any 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 subsection (a) or (b) of this section to be disclosed, and a party makes a timely objection to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under G.S. 1-567.64 for vacating an award made by the arbitrator.

(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b) of this section, upon timely objection by a party, the court under G.S. 1-567.64 may 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 presumed to act with evident partiality under G.S. 1-567.64.

(f) If the parties to an arbitration proceeding agree to the procedures of an institution or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under G.S. 1-567.64.

"§ 1-567.44. Failure or impossibility to act.

...
(b) If a controversy remains concerning any of the grounds referred to in subsection (a) of this section, a party may request the ~~superior~~ court to decide on the termination of the mandate. The decision of the ~~superior~~ court shall be final and not subject to appeal.

(c) If under this section or under G.S. 1-567.43, an arbitrator withdraws or otherwise agrees to the termination of ~~his or her~~ the arbitrator's mandate, no acceptance of the validity of any ground referred to in this section or G.S. 1-567.43(b) shall be implied in consequence of ~~such~~ the action.

...
"§ 1-567.46. Competence of arbitral tribunal to rule on its jurisdiction.

...
(c) The arbitral tribunal may rule on a plea referred to in subsection (b) of this section either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, after having received notice of that ruling, any party may request the ~~superior~~ court to decide the matter. The decision of the ~~superior~~ court shall be final and not subject to appeal. While ~~such a~~ the request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

"§ 1-567.47. Power of arbitral tribunal to order interim measures.

(a) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject matter of the dispute, including an interim measure analogous to any type of interim relief specified in G.S. 1-567.39(c). The arbitral tribunal may require any party to provide appropriate security, including security for costs as provided in G.S. 1-567.61(h)(2), in connection with ~~such~~the measure.

(b) A court has the same power to issue an interim measure in an arbitration proceeding, irrespective of whether the arbitration proceeding is in the territory of this State, as it has in a court proceeding. The court shall exercise this power in accordance with its own procedures in consideration of the specific features of international arbitration.

...

"§ 1-567.49. Determination of rules of procedure.

(a) Subject to the provisions of this Article, the parties may agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(b) ~~If there is no agreement under subsection (a) of this section, the arbitral tribunal may, subject to the provisions of this Article, subject to the provisions of this Article, the tribunal shall select the rules for conducting the arbitration after hearing all the parties and taking particular reference to model rules developed by arbitration institutions or similar sources. If the tribunal is unable to decide on rules for conducting the arbitration, upon application by a party, the court may order use of rules for conducting the arbitration, taking particular reference to model rules developed by arbitration institutions or similar sources. In other matters not covered by rules, the tribunal shall conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to order such discovery as it deems necessary and to determine the admissibility, relevance, materiality, and weight of any evidence. Evidence need not be limited by the rules of evidence applicable in judicial proceedings, except as to immunities and privilege. Each party shall have the burden of proving the facts relied on to support its claim, counterclaim, setoff, or defense.~~

...

"§ 1-567.50A. Consolidation.

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

- (1) There are separate arbitration agreements or separate arbitral proceedings between the same parties or one of the parties is a party to a separate agreement to arbitrate or a separate arbitration with a third person.
- (2) The claims subject to the arbitration agreements 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 arbitral proceedings.
- (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 arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.

(c) The court shall not order consolidation of the claims of a party to an arbitration agreement if the agreement prohibits consolidation.

"§ 1-567.51. Commencement of arbitral proceedings.

Unless otherwise agreed by the parties, parties or otherwise provided in the rules and procedures upon which the parties have agreed, the arbitral proceedings in respect of a

particular dispute shall commence on the date on which a request for that dispute to be referred to arbitration is received by ~~the respondent~~ a party as provided in G.S. 1-567.33.

...

"§ 1-567.53. Statements of claim and defense.

(a) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting its claim, the points at issue and the relief or remedy sought, and the respondent shall state its ~~defenses and counterclaims~~ defenses, counterclaims, or setoffs in respect of these particulars, unless the parties have otherwise agreed as to the required elements of ~~such these~~ statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence the party will submit.

(b) Unless otherwise agreed by the parties, either party may amend or supplement a claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow ~~such amendment~~ the amendment, having regard to the delay in making it.

(c) If there are more than two parties to the arbitration, each party shall state its claims, defenses, counterclaims, or setoffs, ~~and defenses~~ as provided in subsection (a) of this section.

...

"§ 1-567.57. Court assistance in obtaining discovery and taking evidence.

(a) The arbitral tribunal or a party with the approval of the arbitral tribunal may request from the ~~superior~~ court assistance in obtaining discovery and taking evidence. The court may execute the request within its competence and according to its rules on discovery and taking evidence, and may impose sanctions for failure to comply with its orders. A subpoena may be issued as provided by G.S. 8-59, in which case the witness compensation provisions of G.S. 6-51, 6-53, and 7A-314 shall apply.

(b) ~~If the parties to two or more arbitration agreements agree, in their respective arbitration agreements or otherwise, to consolidate the arbitrations arising out of those agreements, the superior court, upon application by a party, may do any of the following:~~

- ~~(1) Order the arbitrations to be consolidated on terms the court considers just and necessary;~~
- ~~(2) If all the parties cannot agree on an arbitral tribunal for the consolidated arbitration, appoint an arbitral tribunal as provided by G.S. 1-567.41; and~~
- ~~(3) If all the parties cannot agree on any other matter necessary to conduct the consolidated arbitration, make any other order it considers necessary.~~

...

"§ 1-567.61. Form and contents of award.

(a) The award shall be made in writing in a record and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is ~~stated~~ stated in the record of the award.

(a1) An award shall be made within the time specified by the agreement to arbitrate or the arbitration institution, or, if not so specified, 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. A party waives any objection that an award was not timely made unless that party gives notice of the objection to the arbitral tribunal before receiving notice of the award.

...

- (h) (1) Unless otherwise agreed by the parties, the awarding of costs of an arbitration shall be at the discretion of the arbitral tribunal.
- (2) In making an order for costs, the arbitral tribunal may include any of the following as costs:

- a. The fees and expenses of the arbitrator or arbitrators, expert witnesses, and ~~translators;~~translators.
 - b. Fees and expenses of counsel and of the institution supervising the arbitration, if ~~any;~~ and any.
 - c. Any other expenses incurred in connection with the arbitral proceedings.
- (3) In making an order for costs, the arbitral tribunal may ~~specify;~~specify any of the following:
- a. The party entitled to ~~costs;~~costs.
 - b. The party who shall pay the ~~costs;~~costs.
 - c. The amount of costs or method of determining that ~~amount;~~ and amount.
 - d. The manner in which the costs shall be paid.
- (i) The arbitral tribunal may award punitive damages or other exemplary relief if all of the following are true:
- (1) The arbitration agreement provides for an award of punitive damages or exemplary relief.
 - (2) An award for punitive damages or other exemplary relief is authorized by law in a civil action involving the same claim.
 - (3) The evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.
- (j) If the arbitral tribunal awards punitive damages or other exemplary relief under subsection (i) of this section, the arbitral tribunal shall specify in the award the basis in fact justifying and the basis in law authorizing the award and shall state separately the amount of the punitive damages or other exemplary relief.

...

"§ 1-567.64. Modifying or vacating of awards.

Subject to the relevant provisions of federal law ~~or~~ and any applicable international agreement in force between the United States of America and any other nation or nations, an arbitral award may be vacated by a court only upon a showing that the award is tainted by illegality, or substantial unfairness in the conduct of the arbitral proceedings. In determining whether an award is ~~so~~ tainted, the ~~superior~~ court shall ~~have regard to~~ consider the provisions of this Article, ~~and of G.S. 1-569.23 and G.S. 1-569.24,~~ but shall not engage in de novo review of the subject matter of the dispute giving rise to the arbitration proceedings.

"§ 1-567.65. Confirmation and enforcement of awards.

(a) Subject to the relevant provisions of federal law ~~or~~ and any applicable international agreement in force between the United States of America and any other nation or nations, upon application of a party, the ~~superior~~ court shall confirm an arbitral award, unless it finds grounds for modifying or vacating the award under G.S. 1-567.64. An award shall not be confirmed unless the time for correction and interpretation of awards prescribed by G.S. 1-567.63 ~~shall~~ have ~~has~~ expired or has been waived by all the parties. Upon the granting of an order confirming, modifying, or correcting an award, a judgment or decree shall be entered in conformity therewith and enforced as any other judgment or decree. The ~~superior~~ court may award costs of the application and of the subsequent proceedings.

(b) Notwithstanding G.S. 7A-109, 7A-276.1, 132-1, or any other provision of law, the court may seal or redact, in whole or in part, an order, judgment, or arbitral award issued under this Article. Upon good cause shown, the court may do any of the following:

- (1) Open a sealed or redacted order, judgment, or arbitral award.
- (2) Seal or redact an opened order, judgment, or arbitral award.

"§ 1-567.66. Applications to ~~superior~~ court.

Except as otherwise provided, an application to the ~~superior~~ court under this Article 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~~ a civil action.

...

"§ 1-567.88. Uniformity of application and construction.

In applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states of the United States that have enacted the Revised Uniform Arbitration Act, and particular consideration shall be given to the Revised Uniform Arbitration Act as enacted in this State.

"§ 1-567.89. Relationship to federal Electronic Signatures in Global and National Commerce Act.

The provisions of this Article governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of these records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., or as otherwise authorized by federal or State law governing these electronic records or electronic signatures."

SECTION 2. This act becomes effective October 1, 2017, and applies to agreements entered into, renewed, or modified on or after that date.

In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:45 a.m. this 21st day of July, 2017