

**LOUISIANA STATE LAW INSTITUTE
ALTERNATIVE DISPUTE RESOLUTION COMMITTEE**

TITLE 9

**CODE TITLE XIX – OF ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 2. R.S. 9:4201 et seq.
UNIFORM ARBITRATION ACT**

SECTIONS 1-10

I.

Prepared for the
Meeting of the Committee

March 22, 2013
Baton Rouge

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1 APPROVED CHANGES TO REVISED UNIFORM ARBITRATION ACT (2000)

2
3 **Introductory Note**

4 The text below reproduces the Uniform Act of 2000 with the changes highlighted. Words in
5 ~~struck through~~ type are deletions from the Uniform Act; words underscored are additions. The
6 word "Chapter" was substituted for "Act" without coding.

7
8 **Approved by Committee 6-30-09**

9 **§ 1. Definitions**

10 In this Chapter:

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

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

16 (3) "Court" means [a court of competent jurisdiction in this state].

17 (4) "Knowledge" means actual knowledge.

18 (5) "Person" means an individual, or any legal or commercial entity,
19 including a corporation, business trust, estate, trust, partnership, limited liability
20 company, association, joint venture, government; governmental subdivision,
21 agency, or instrumentality; or public corporation; ~~or any other legal or commercial~~
22 ~~entity.~~

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

26 **Notes**

27 The definition of "record" is identical to that in R.S. 10:1-201(31) and similar to that in
28 9-102(69). "Record" is used in Sections 3 (applicability); (agreement to arbitrate); 9 (notice); and
29 19 (award). "Records" is uses in the sense of production of records in Section 14 and 17.

30
31 The definition of "person" has been changed to mirror the changes made by the Law
32 Institute in R.S. 10:1-201(27). In Louisiana, a person may be a natural or juridical person. See.

1 C.C. Art. 24. A trust and an estate are not persons in Louisiana. See C.C. Art. 872 and R.S. 9:
2 1731.
3

1 **Approved by Committee 6-30-09**

2 **§ 2. Notice**

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

7 B. A person has notice if the person has knowledge of the notice or has
8 received notice.

9 C. A person receives notice when it comes to the person's attention or the
10 notice is delivered at the person's place of residence or place of business, or at
11 another location held out by the person as a place of delivery of such
12 communications.

1 **Approved by Committee 6-30-09**

2 **§ 3. When Chapter applies**

3 A. This Chapter governs an agreement to arbitrate made on or after ~~{the~~
4 ~~effective date of this [Act]].~~ January 1, 2011.

5 B. This Chapter governs an agreement to arbitrate made before ~~{the effective~~
6 ~~date of this [Act]].~~ January 1, 2011 if all the parties to the agreement or to the
7 arbitration proceeding so agree in a record.

8 C. On or after ~~{a delayed date}~~ January 1, 2013, this Chapter governs an
9 agreement to arbitrate whenever made.

1 **Approved by Committee 6-30-09**

2 **§ 4. Effect of agreement to arbitrate; nonwaivable provisions**

3 A. Except as otherwise provided in Subsections B and C, a party to an
4 agreement to arbitrate or to an arbitration proceeding may waive or, the parties
5 may vary the effect of, the requirements of this Chapter to the extent permitted by
6 law.

7 B. Before a controversy arises that is subject to an agreement to arbitrate, a
8 party to the agreement may not:

9 (1) Waive or agree to vary the effect of the requirements of Section 5(A),
10 6(A), 8, 17(A), 17(B), 26, or 28;

11 (2) Agree to unreasonably restrict the right under Section 9 to notice of the
12 initiation of an arbitration proceeding;

13 (3) Agree to unreasonably restrict the right under Section 12 to disclosure of
14 any facts by a neutral arbitrator; or

15 (4) Waive the right under Section 16 of a party to an agreement to arbitrate
16 to be represented by a lawyer at any proceeding or hearing under this Chapter, but
17 an employer and a labor organization may waive the right to representation by a
18 lawyer in a labor arbitration.

19 C. A party to an agreement to arbitrate or arbitration proceeding may not
20 waive, or the parties may not vary the effect of, the requirements of this section or
21 Section 3(A) or (C), 7, 14, 18, 20(D) or (E), 22, 23, 24, 25(A) or (B), 29, 30, 31, or
22 32.

1 **Recommitted by Committee 6-30-09**

2 **§ 5. [APPLICATION] for judicial relief**

3 A. Except as otherwise provided in Section 28, an application for judicial
4 relief under this Chapter must be made by contradictory motion to the court and
5 heard in the manner provided by law ~~or rule of court for making and hearing~~
6 ~~{motions} for summary proceedings.~~

7 B. Unless a civil action involving the agreement to arbitrate is pending,
8 notice of an initial motion to the court under this Chapter must be served in the
9 manner provided by law for the service of a summons in a civil action. Otherwise,
10 notice of the motion must be given in the manner provided by law or rule of court
11 for serving {motions} in pending cases.

12

1 **Approved by Committee 6-30-09**

2 **§ 6. Validity of agreement to arbitrate**

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

7 B. The court shall decide whether an agreement to arbitrate exists or a
8 controversy is subject to an agreement to arbitrate.

9 C. An arbitrator shall decide whether a condition precedent to arbitrability
10 has been fulfilled and whether a contract containing a valid agreement to arbitrate
11 is enforceable.

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

1 **Approved by Committee 6-30-09**

2 **§ 7. [MOTION] to compel or stay arbitration**

3 A. On [motion] of a person showing an agreement to arbitrate and alleging
4 another person's refusal to arbitrate pursuant to the agreement:

5 (1) If the refusing party does not appear or does not oppose the [motion], the
6 court shall order the parties to arbitrate; and

7 (2) If the refusing party opposes the [motion], the court shall proceed
8 summarily to decide the issue and order the parties to arbitrate unless it finds that
9 there is no enforceable agreement to arbitrate.

10 B. On [motion] of a person alleging that an arbitration proceeding has been
11 initiated or threatened but that there is no agreement to arbitrate, the court shall
12 proceed summarily to decide the issue. If the court finds that there is an
13 enforceable agreement to arbitrate, it shall order the parties to arbitrate.

14 C. If the court finds that there is no enforceable agreement, it may not
15 pursuant to Subsection A or B order the parties to arbitrate.

16 D. The court may not refuse to order arbitration because the claim subject to
17 arbitration lacks merit or grounds for the claim have not been established.

18 E. If a proceeding involving a claim referable to arbitration under an alleged
19 agreement to arbitrate is pending in court, a [motion] under this section must be
20 made in that court. Otherwise a [motion] under this section may be made in any
21 court as provided in Section 27.

22 F. If a party makes a [motion] to the court to order arbitration, the court on
23 just terms shall stay any judicial proceeding that involves a claim alleged to be
24 subject to the arbitration until the court renders a final decision under this section.

25 G. If the court orders arbitration, the court on just terms shall stay any
26 judicial proceeding that involves a claim subject to the arbitration. If a claim
27 subject to the arbitration is severable, the court may limit the stay to that claim.

28

1 **Approved by Committee 6-30-09**

2 **§ 8. Provisional remedies**

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

8 B. After an arbitrator is appointed and is authorized and able to act:

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

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

17 C. A party does not waive a right of arbitration by making a [motion] under
18 Subsection A or B.

1 **Approved by Committee 6-30-09**

2 **§ 9. Initiation of arbitration**

3 A. A person initiates an arbitration proceeding by giving notice in a record
4 to the other parties to the agreement to arbitrate in the agreed manner between the
5 parties or, in the absence of agreement, by certified or registered mail, return
6 receipt requested and obtained, or by service as authorized for the commencement
7 of a civil action. The notice must describe the nature of the controversy and the
8 remedy sought.

9 B. Unless a person objects for lack or insufficiency of notice under Section
10 15(C) not later than the beginning of the arbitration hearing, the person by
11 appearing at the hearing waives any objection to lack of or insufficiency of notice.

12

1 **Approved by Committee 6-30-09**

2 **§ 10. Consolidation of separate arbitrations proceedings**

3 A. Except as otherwise provided in Subsection C, upon [motion] of a party
4 to an agreement to arbitrate or to an arbitration proceeding, the court may order
5 consolidation of separate arbitration proceedings as to all or some of the claims if:

6 (1) There are separate agreements to arbitrate or separate arbitration
7 proceedings between the same persons or one of them is a party to a separate
8 agreement to arbitrate or a separate arbitration proceeding with a third person;

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

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

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

16 B. The court may order consolidation of separate arbitration proceedings as
17 to some claims and allow other claims to be resolved in separate arbitration
18 proceedings.

19 C. The court may not order consolidation of the claims of a party to an
20 agreement to arbitrate if the agreement prohibits consolidation.