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# An Act

HOUSE BILL 04-1080

BY REPRESENTATIVE(S) Williams T., Coleman, Rippy, and White;  
also SENATOR(S) Lamborn.

CONCERNING THE "UNIFORM ARBITRATION ACT".

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Part 2 of article 22 of title 13, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

## PART 2 UNIFORM ARBITRATION ACT

**13-22-201. Definitions.** AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ARBITRATION ORGANIZATION" MEANS AN ASSOCIATION, AGENCY, BOARD, COMMISSION, OR OTHER ENTITY THAT IS NEUTRAL AND INITIATES, SPONSORS, OR ADMINISTERS AN ARBITRATION PROCEEDING OR IS INVOLVED IN THE APPOINTMENT OF AN ARBITRATOR.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(2) "ARBITRATOR" MEANS AN INDIVIDUAL APPOINTED TO RENDER AN AWARD, ALONE OR WITH OTHERS, IN A CONTROVERSY THAT IS SUBJECT TO AN AGREEMENT TO ARBITRATE.

(3) "COURT" MEANS A COURT OF COMPETENT JURISDICTION IN THIS STATE.

(4) "KNOWLEDGE" MEANS ACTUAL KNOWLEDGE.

(5) "PERSON" MEANS AN INDIVIDUAL; CORPORATION; BUSINESS TRUST; ESTATE; TRUST; PARTNERSHIP; LIMITED LIABILITY COMPANY; ASSOCIATION; JOINT VENTURE; GOVERNMENT; GOVERNMENTAL SUBDIVISION, AGENCY, OR INSTRUMENTALITY; PUBLIC CORPORATION; OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

(6) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

**13-22-202. Notice.** (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 2, A PERSON GIVES NOTICE TO ANOTHER PERSON BY TAKING ACTION THAT IS REASONABLY NECESSARY TO INFORM THE OTHER PERSON IN ORDINARY COURSE, WHETHER OR NOT THE OTHER PERSON ACQUIRES KNOWLEDGE OF THE NOTICE.

(2) A PERSON HAS NOTICE IF THE PERSON HAS KNOWLEDGE OF THE NOTICE OR HAS RECEIVED NOTICE.

(3) A PERSON RECEIVES NOTICE WHEN IT COMES TO THE PERSON'S ATTENTION OR THE NOTICE IS DELIVERED AT THE PERSON'S PLACE OF RESIDENCE OR PLACE OF BUSINESS, OR AT ANOTHER LOCATION HELD OUT BY THE PERSON AS A PLACE OF DELIVERY OF SUCH COMMUNICATIONS.

**13-22-203. Applicability.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, THIS PART 2 SHALL GOVERN AN AGREEMENT TO ARBITRATE MADE ON OR AFTER THE EFFECTIVE DATE OF THIS PART 2.

(2) THIS PART 2 SHALL GOVERN AN AGREEMENT TO ARBITRATE MADE BEFORE THE EFFECTIVE DATE OF THIS PART 2 IF ALL PARTIES TO THE

AGREEMENT OR TO THE ARBITRATION PROCEEDING SO AGREE IN A RECORD.

**13-22-204. Effect of agreement to arbitrate - nonwaivable provisions.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (2) AND (3) OF THIS SECTION, A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING MAY WAIVE, OR, THE PARTIES MAY VARY THE EFFECT OF, THE REQUIREMENTS OF THIS PART 2 TO THE EXTENT PERMITTED BY LAW.

(2) BEFORE A CONTROVERSY ARISES THAT IS SUBJECT TO AN AGREEMENT TO ARBITRATE, A PARTY TO THE AGREEMENT MAY NOT:

(a) WAIVE OR AGREE TO VARY THE EFFECT OF THE REQUIREMENTS OF SECTION 13-22-205 (1), 13-22-206 (1), 13-22-208, 13-22-217 (1) OR (2), 13-22-226, OR 13-22-228;

(b) AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 13-22-209 TO NOTICE OF THE INITIATION OF AN ARBITRATION PROCEEDING;

(c) AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 13-22-212 TO DISCLOSURE OF ANY FACTS BY A NEUTRAL ARBITRATOR; OR

(d) WAIVE THE RIGHT UNDER SECTION 13-22-216 OF A PARTY TO AN AGREEMENT TO ARBITRATE TO BE REPRESENTED BY A LAWYER AT ANY PROCEEDING OR HEARING UNDER THIS PART 2, BUT AN EMPLOYER AND A LABOR ORGANIZATION MAY WAIVE THE RIGHT TO REPRESENTATION BY A LAWYER IN A LABOR ARBITRATION.

(3) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), A PARTY TO AN AGREEMENT TO ARBITRATE OR ARBITRATION PROCEEDING MAY NOT WAIVE, OR THE PARTIES MAY NOT VARY THE EFFECT OF, THE REQUIREMENTS OF THIS SECTION OR SECTION 13-22-203 (1), 13-22-207, 13-22-214, 13-22-218, 13-22-220 (4) OR (5), 13-22-222, 13-22-223, 13-22-224, 13-22-225 (1) OR (2), OR 13-22-229.

(b) IF THE PARTIES TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING ARE A GOVERNMENT, GOVERNMENTAL SUBDIVISION, GOVERNMENTAL AGENCY, GOVERNMENTAL INSTRUMENTALITY, PUBLIC CORPORATION, OR ANY COMMERCIAL ENTITY, THE PARTIES MAY WAIVE THE REQUIREMENTS OF SECTION 13-22-223 EXCEPT IF THE AWARD WAS PROCURED BY CORRUPTION OR FRAUD.

**13-22-205. Application for judicial relief.** (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-22-228, AN APPLICATION FOR JUDICIAL RELIEF UNDER THIS PART 2 MUST BE MADE BY MOTION TO THE COURT AND HEARD IN THE MANNER PROVIDED BY LAW OR COURT RULE FOR MAKING AND HEARING MOTIONS.

(2) UNLESS A CIVIL ACTION INVOLVING THE AGREEMENT TO ARBITRATE IS PENDING, NOTICE OF AN INITIAL MOTION TO THE COURT UNDER THIS PART 2 MUST BE SERVED IN THE MANNER PROVIDED BY LAW FOR THE SERVICE OF A SUMMONS IN A CIVIL ACTION. OTHERWISE, NOTICE OF THE MOTION MUST BE GIVEN IN THE MANNER PROVIDED BY LAW OR COURT RULE FOR SERVING MOTIONS IN PENDING CASES.

**13-22-206. Validity of agreement to arbitrate.** (1) AN AGREEMENT CONTAINED IN A RECORD TO SUBMIT TO ARBITRATION ANY EXISTING OR SUBSEQUENT CONTROVERSY ARISING BETWEEN THE PARTIES TO THE AGREEMENT IS VALID, ENFORCEABLE, AND IRREVOCABLE EXCEPT ON A GROUND THAT EXISTS AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

(2) THE COURT SHALL DECIDE WHETHER AN AGREEMENT TO ARBITRATE EXISTS OR A CONTROVERSY IS SUBJECT TO AN AGREEMENT TO ARBITRATE.

(3) AN ARBITRATOR SHALL DECIDE WHETHER A CONDITION PRECEDENT TO ARBITRABILITY HAS BEEN FULFILLED AND WHETHER A CONTRACT CONTAINING A VALID AGREEMENT TO ARBITRATE IS ENFORCEABLE.

(4) IF A PARTY TO A JUDICIAL PROCEEDING CHALLENGES THE EXISTENCE OF, OR CLAIMS THAT A CONTROVERSY IS NOT SUBJECT TO, AN AGREEMENT TO ARBITRATE, THE ARBITRATION PROCEEDING MAY CONTINUE PENDING FINAL RESOLUTION OF THE ISSUE BY THE COURT, UNLESS THE COURT OTHERWISE ORDERS.

**13-22-207. Motion to compel or stay arbitration.** (1) ON THE MOTION OF A PERSON SHOWING AN AGREEMENT TO ARBITRATE AND ALLEGING ANOTHER PERSON'S REFUSAL TO ARBITRATE PURSUANT TO THE AGREEMENT:

(a) IF THE REFUSING PARTY DOES NOT APPEAR OR DOES NOT OPPOSE THE MOTION, THE COURT SHALL ORDER THE PARTIES TO ARBITRATE; AND

(b) IF THE REFUSING PARTY OPPOSES THE MOTION, THE COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE AND ORDER THE PARTIES TO ARBITRATE UNLESS IT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT TO ARBITRATE.

(2) ON THE MOTION OF A PERSON ALLEGING THAT AN ARBITRATION PROCEEDING HAS BEEN INITIATED OR THREATENED BUT THAT THERE IS NOT AN AGREEMENT TO ARBITRATE, THE COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE. IF THE COURT FINDS THAT THERE IS AN ENFORCEABLE AGREEMENT TO ARBITRATE, IT SHALL ORDER THE PARTIES TO ARBITRATE.

(3) IF THE COURT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT, IT MAY NOT INVOKE THE PROVISIONS OF SUBSECTION (1) OR (2) OF THIS SECTION TO ORDER THE PARTIES TO ARBITRATE.

(4) THE COURT MAY NOT REFUSE TO ORDER ARBITRATION BECAUSE THE CLAIM SUBJECT TO ARBITRATION LACKS MERIT OR BECAUSE ONE OR MORE GROUNDS FOR THE CLAIM HAVE NOT BEEN ESTABLISHED.

(5) IF A PROCEEDING INVOLVING A CLAIM REFERABLE TO ARBITRATION UNDER AN ALLEGED AGREEMENT TO ARBITRATE IS PENDING IN COURT, A MOTION MADE UNDER THIS SECTION SHALL BE FILED WITH THAT COURT. OTHERWISE, A MOTION MADE UNDER THIS SECTION MAY BE FILED IN ANY COURT PURSUANT TO SECTION 13-22-227.

(6) IF A PARTY FILES A MOTION WITH THE COURT TO ORDER ARBITRATION, THE COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM ALLEGED TO BE SUBJECT TO THE ARBITRATION UNTIL THE ORDERING COURT RENDERS A FINAL DECISION UNDER THIS SECTION.

(7) IF THE COURT ORDERS ARBITRATION, THE COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM SUBJECT TO THE ARBITRATION. IF A CLAIM SUBJECT TO THE ARBITRATION IS SEVERABLE, THE COURT MAY LIMIT THE STAY TO THAT CLAIM.

**13-22-208. Provisional remedies.** (1) BEFORE AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT, THE COURT, UPON MOTION

OF A PARTY TO AN ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, MAY ENTER AN ORDER FOR PROVISIONAL REMEDIES TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION PROCEEDING TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

(2) AFTER AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT:

(a) THE ARBITRATOR MAY ISSUE SUCH ORDERS FOR PROVISIONAL REMEDIES, INCLUDING INTERIM AWARDS, AS THE ARBITRATOR FINDS NECESSARY TO PROTECT THE EFFECTIVENESS OF THE ARBITRATION PROCEEDING AND TO PROMOTE THE FAIR AND EXPEDITIOUS RESOLUTION OF THE CONTROVERSY, TO THE SAME EXTENT AND UNDER THE SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION; AND

(b) A PARTY TO AN ARBITRATION PROCEEDING MAY REQUEST THE COURT TO ISSUE AN ORDER FOR A PROVISIONAL REMEDY ONLY IF THE MATTER IS URGENT AND THE ARBITRATOR IS NOT ABLE TO ACT TIMELY OR THE ARBITRATOR CANNOT PROVIDE AN ADEQUATE REMEDY.

(3) A PARTY DOES NOT WAIVE A RIGHT OF ARBITRATION BY MAKING A MOTION UNDER SUBSECTION (1) OR (2) OF THIS SECTION.

**13-22-209. Initiation of arbitration.** (1) A PERSON MAY INITIATE AN ARBITRATION PROCEEDING BY GIVING NOTICE IN A RECORD TO THE OTHER PARTIES TO THE AGREEMENT TO ARBITRATE IN THE AGREED MANNER BETWEEN THE PARTIES OR, IN THE ABSENCE OF AN AGREEMENT, BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED AND OBTAINED, OR BY SERVICE AS AUTHORIZED BY LAW FOR THE COMMENCEMENT OF A CIVIL ACTION. THE NOTICE SHALL DESCRIBE THE NATURE OF THE CONTROVERSY AND THE REMEDY SOUGHT.

(2) UNLESS A PERSON OBJECTS TO THE LACK OF NOTICE OR THE INSUFFICIENCY OF NOTICE UNDER SECTION 13-22-215 (3) NOT LATER THAN THE BEGINNING OF THE ARBITRATION HEARING, A PERSON WHO APPEARS AT THE ARBITRATION HEARING WAIVES ANY OBJECTION TO THE LACK OF NOTICE OR INSUFFICIENCY OF NOTICE.

**13-22-210. Consolidation of separate arbitration proceedings.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF THIS SECTION,

UPON THE MOTION OF A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING, THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO ALL OR SOME OF THE CLAIMS IF ALL PARTIES IN THE ARBITRATION PROCEEDINGS CONSENT AND:

(a) THERE ARE SEPARATE AGREEMENTS TO ARBITRATE OR SEPARATE ARBITRATION PROCEEDINGS BETWEEN OR AMONG THE SAME PERSONS OR ONE OF THE PERSONS IS A PARTY TO A SEPARATE AGREEMENT TO ARBITRATE OR A SEPARATE ARBITRATION PROCEEDING WITH A THIRD PERSON;

(b) THE CLAIMS SUBJECT TO THE AGREEMENTS TO ARBITRATE ARISE IN SUBSTANTIAL PART FROM THE SAME TRANSACTION OR SERIES OF RELATED TRANSACTIONS;

(c) THE EXISTENCE OF A COMMON ISSUE OF LAW OR FACT CREATES THE POSSIBILITY OF CONFLICTING DECISIONS IN THE SEPARATE ARBITRATION PROCEEDINGS; AND

(d) 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.

(2) THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO SOME CLAIMS AND ALLOW OTHER CLAIMS TO BE RESOLVED IN SEPARATE ARBITRATION PROCEEDINGS.

(3) THE COURT MAY NOT ORDER CONSOLIDATION OF THE CLAIMS OF A PARTY TO AN AGREEMENT TO ARBITRATE IF THE AGREEMENT PROHIBITS CONSOLIDATION.

**13-22-211. Appointment of arbitrator - service as a neutral arbitrator.** (1) IF THE PARTIES TO AN AGREEMENT TO ARBITRATE AGREE ON A METHOD FOR APPOINTING AN ARBITRATOR, THE METHOD SHALL BE FOLLOWED UNLESS THE METHOD FAILS. IF THE PARTIES HAVE NOT AGREED ON A METHOD, OR THE AGREED METHOD FAILS, OR AN APPOINTED ARBITRATOR FAILS TO ACT OR IS UNABLE TO ACT AND A SUCCESSOR HAS NOT BEEN APPOINTED, THE COURT, ON THE MOTION OF A PARTY TO THE ARBITRATION PROCEEDING, SHALL APPOINT THE ARBITRATOR. AN ARBITRATOR APPOINTED PURSUANT TO THIS SUBSECTION (1) SHALL HAVE ALL THE POWERS OF AN ARBITRATOR DESIGNATED IN AN AGREEMENT TO ARBITRATE OR APPOINTED PURSUANT TO AN AGREED METHOD.

(2) AN INDIVIDUAL WHO HAS A KNOWN, DIRECT, AND MATERIAL INTEREST IN THE OUTCOME OF THE ARBITRATION PROCEEDING OR A KNOWN, EXISTING, AND SUBSTANTIAL RELATIONSHIP WITH A PARTY MAY NOT SERVE AS AN ARBITRATOR IF THE AGREEMENT REQUIRES THE ARBITRATOR TO BE NEUTRAL.

**13-22-212. Disclosure by arbitrator.** (1) BEFORE ACCEPTING AN 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 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:

(a) A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF THE ARBITRATION PROCEEDING; AND

(b) A CURRENT OR PREVIOUS RELATIONSHIP WITH ANY OF THE PARTIES TO THE AGREEMENT TO ARBITRATE OR THE ARBITRATION PROCEEDING, THEIR COUNSEL OR REPRESENTATIVES, A WITNESS, OR ANOTHER ARBITRATOR.

(2) AN ARBITRATOR SHALL HAVE A CONTINUING OBLIGATION TO DISCLOSE TO ALL PARTIES TO THE AGREEMENT TO ARBITRATE AND TO THE ARBITRATION PROCEEDING 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.

(3) IF AN ARBITRATOR DISCLOSES A FACT REQUIRED TO BE DISCLOSED BY SUBSECTION (1) OR (2) OF THIS SECTION AND A PARTY TIMELY OBJECTS TO THE APPOINTMENT OR CONTINUED SERVICE OF THE ARBITRATOR BASED UPON THE FACT DISCLOSED, THE OBJECTION MAY BE A GROUND UNDER SECTION 13-22-223 (1) (b) FOR VACATING AN AWARD MADE BY AN ARBITRATOR.

(4) IF THE ARBITRATOR DOES NOT DISCLOSE A FACT AS REQUIRED BY SUBSECTION (1) OR (2) OF THIS SECTION, UPON TIMELY OBJECTION BY A PARTY, THE COURT MAY VACATE AN AWARD UNDER SECTION 13-22-223 (1) (b).

(5) 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 SHALL BE PRESUMED TO ACT WITH EVIDENT PARTIALITY UNDER SECTION 13-22-223 (1) (b).

(6) IF THE PARTIES TO AN ARBITRATION PROCEEDING AGREE TO THE PROCEDURES OF AN ARBITRATION ORGANIZATION 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 SECTION 13-22-223 (1) (b).

**13-22-213. Action by majority.** IF THERE IS MORE THAN ONE ARBITRATOR, THE POWERS OF AN ARBITRATOR SHALL BE EXERCISED BY A MAJORITY OF THE ARBITRATORS, EXCEPT THAT ALL OF THE ARBITRATORS SHALL CONDUCT THE HEARING UNDER THE PROVISIONS OF SECTION 13-22-215 (3).

**13-22-214. Immunity of arbitrator - competency to testify - attorney fees and costs.** (1) AN ARBITRATOR OR AN ARBITRATION ORGANIZATION ACTING IN THE CAPACITY OF AN ARBITRATOR IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

(2) THE IMMUNITY AFFORDED BY THIS SECTION IS IN ADDITION TO, AND NOT IN LIEU OF, OR IN DEROGATION OF, IMMUNITY CONFERRED UNDER ANY OTHER PROVISION OF LAW.

(3) THE FAILURE OF AN ARBITRATOR TO MAKE A DISCLOSURE REQUIRED BY SECTION 13-22-212 SHALL NOT CAUSE ANY LOSS OF IMMUNITY THAT IS GRANTED UNDER THIS SECTION.

(4)(a) IN A JUDICIAL PROCEEDING, ADMINISTRATIVE PROCEEDING, OR OTHER SIMILAR PROCEEDING, AN ARBITRATOR OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION SHALL NOT BE COMPETENT TO TESTIFY AND MAY NOT BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT, DECISION, OR RULING THAT OCCURRED DURING THE ARBITRATION PROCEEDING, TO THE SAME EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

(b) THIS SUBSECTION (4) SHALL NOT APPLY:

(I) TO THE EXTENT NECESSARY TO DETERMINE THE CLAIM OF AN ARBITRATOR, ARBITRATION ORGANIZATION, OR REPRESENTATIVE OF THE ARBITRATION ORGANIZATION AGAINST A PARTY TO THE ARBITRATION PROCEEDING; OR

(II) TO A HEARING ON A MOTION TO VACATE AN AWARD UNDER SECTION 13-22-223 (1) (a) OR (1) (b) IF THE MOVANT MAKES A PRIMA FACIE SHOWING THAT A GROUND FOR VACATING THE AWARD EXISTS.

(5) IF A PERSON COMMENCES A CIVIL ACTION AGAINST AN ARBITRATOR, ARBITRATION ORGANIZATION, OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION ARISING FROM THE SERVICES OF THE ARBITRATOR, ORGANIZATION, OR REPRESENTATIVE, OR IF A PERSON SEEKS TO COMPEL AN ARBITRATOR OR A REPRESENTATIVE OF AN ARBITRATION ORGANIZATION TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF SUBSECTION (4) OF THIS SECTION, AND THE COURT DECIDES THAT THE ARBITRATOR, ARBITRATION ORGANIZATION, OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS IMMUNE FROM CIVIL LIABILITY OR THAT THE ARBITRATOR OR REPRESENTATIVE OF THE ORGANIZATION IS NOT COMPETENT TO TESTIFY, THE COURT SHALL AWARD TO THE ARBITRATOR, ORGANIZATION, OR REPRESENTATIVE REASONABLE ATTORNEY FEES AND REASONABLE EXPENSES OF LITIGATION.

**13-22-215. Arbitration process.** (1) AN ARBITRATOR MAY CONDUCT AN ARBITRATION IN A MANNER THAT THE ARBITRATOR CONSIDERS APPROPRIATE FOR A FAIR AND EXPEDITIOUS DISPOSITION OF THE PROCEEDING. THE AUTHORITY CONFERRED UPON THE ARBITRATOR BY THIS PART 2 SHALL INCLUDE, BUT NOT BE LIMITED TO, THE POWER TO HOLD CONFERENCES WITH THE PARTIES TO THE ARBITRATION PROCEEDING BEFORE THE HEARING AND THE POWER TO DETERMINE THE ADMISSIBILITY, RELEVANCE, MATERIALITY, AND WEIGHT OF ANY EVIDENCE.

(2) AN ARBITRATOR MAY DECIDE A REQUEST FOR SUMMARY DISPOSITION OF A CLAIM OR PARTICULAR ISSUE:

(a) IF ALL INTERESTED PARTIES AGREE; OR

(b) UPON REQUEST OF ONE OR MORE PARTIES TO THE ARBITRATION PROCEEDING IF THAT PARTY GIVES NOTICE TO ALL OTHER PARTIES TO THE

PROCEEDING AND THE OTHER PARTIES HAVE A REASONABLE OPPORTUNITY TO RESPOND.

(3) IF AN ARBITRATOR ORDERS A HEARING, THE ARBITRATOR SHALL SET A TIME AND PLACE AND GIVE NOTICE OF THE HEARING NOT LESS THAN FIVE DAYS BEFORE THE HEARING BEGINS. UNLESS A PARTY TO THE ARBITRATION PROCEEDING MAKES AN OBJECTION TO LACK OR INSUFFICIENCY OF NOTICE NOT LATER THAN THE BEGINNING OF THE HEARING, THE PARTY'S APPEARANCE AT THE HEARING SHALL WAIVE THE OBJECTION. UPON THE REQUEST OF A PARTY TO THE ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, OR UPON THE ARBITRATOR'S OWN INITIATIVE, THE ARBITRATOR MAY ADJOURN THE HEARING FROM TIME TO TIME AS NECESSARY BUT MAY NOT POSTPONE THE HEARING TO A TIME LATER THAN THAT FIXED BY THE AGREEMENT TO ARBITRATE FOR MAKING THE AWARD UNLESS THE PARTIES TO THE ARBITRATION PROCEEDING CONSENT TO A LATER DATE. THE ARBITRATOR MAY HEAR AND DECIDE THE CONTROVERSY UPON THE EVIDENCE PRODUCED EVEN IF A PARTY WHO WAS DULY NOTIFIED OF THE ARBITRATION PROCEEDING DOES NOT APPEAR. THE COURT, ON MOTION, MAY DIRECT THE ARBITRATOR TO CONDUCT THE HEARING PROMPTLY AND RENDER A TIMELY DECISION.

(4) AT A HEARING UNDER SUBSECTION (3) OF THIS SECTION, A PARTY TO THE ARBITRATION PROCEEDING HAS A RIGHT TO BE HEARD, TO PRESENT EVIDENCE MATERIAL TO THE CONTROVERSY, AND TO CROSS-EXAMINE WITNESSES APPEARING AT THE HEARING.

(5) IF AN ARBITRATOR CEASES OR IS UNABLE TO ACT DURING THE ARBITRATION PROCEEDING, A REPLACEMENT ARBITRATOR SHALL BE APPOINTED IN ACCORDANCE WITH SECTION 13-22-211 TO CONTINUE THE PROCEEDING AND TO RESOLVE THE CONTROVERSY.

**13-22-216. Representation by attorney.** A PARTY TO AN ARBITRATION PROCEEDING MAY BE REPRESENTED BY AN ATTORNEY.

**13-22-217. Witnesses - subpoenas - depositions - discovery.**  
(1) AN ARBITRATOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT ANY HEARING AND MAY ADMINISTER OATHS. A SUBPOENA ISSUED UNDER THIS SECTION SHALL BE SERVED IN THE MANNER FOR SERVICE OF SUBPOENAS IN A CIVIL ACTION AND, UPON MOTION TO THE COURT BY A PARTY TO THE ARBITRATION PROCEEDING OR BY THE ARBITRATOR, ENFORCED IN THE

MANNER FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION.

(2) IN ORDER TO MAKE THE PROCEEDINGS FAIR, EXPEDITIOUS, AND COST EFFECTIVE, UPON THE REQUEST OF A PARTY OR A WITNESS IN AN ARBITRATION PROCEEDING, AN ARBITRATOR MAY PERMIT A DEPOSITION OF ANY WITNESS TO BE TAKEN FOR USE AS EVIDENCE AT THE HEARING, INCLUDING A WITNESS WHO CANNOT BE SUBPOENAED FOR A HEARING OR WHO IS UNABLE TO ATTEND A HEARING. THE ARBITRATOR SHALL DETERMINE THE CONDITIONS UNDER WHICH THE DEPOSITION IS TAKEN.

(3) AN ARBITRATOR MAY PERMIT SUCH DISCOVERY AS THE ARBITRATOR DECIDES IS APPROPRIATE IN THE CIRCUMSTANCES, TAKING INTO ACCOUNT THE NEEDS OF THE PARTIES TO THE ARBITRATION PROCEEDING AND OTHER AFFECTED PERSONS AND THE DESIRABILITY OF MAKING THE PROCEEDING FAIR, EXPEDITIOUS, AND COST EFFECTIVE.

(4) IF AN ARBITRATOR PERMITS DISCOVERY UNDER SUBSECTION (3) OF THIS SECTION, THE ARBITRATOR MAY ORDER A PARTY TO THE ARBITRATION PROCEEDING TO COMPLY WITH THE ARBITRATOR'S DISCOVERY-RELATED ORDERS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT A DISCOVERY PROCEEDING, AND TAKE ACTION AGAINST A NON-COMPLYING PARTY TO THE EXTENT A COURT COULD TAKE SUCH ACTION IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION; EXCEPT THAT THE ARBITRATOR SHALL NOT HAVE THE POWER OF CONTEMPT.

(5) AN ARBITRATOR MAY ISSUE A PROTECTIVE ORDER TO PREVENT THE DISCLOSURE OF PRIVILEGED INFORMATION, CONFIDENTIAL INFORMATION, TRADE SECRETS, AND OTHER INFORMATION PROTECTED FROM DISCLOSURE TO THE EXTENT A COURT COULD IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

(6) ALL PROVISIONS OF LAW THAT COMPEL A PERSON UNDER SUBPOENA TO TESTIFY AND ALL FEES FOR ATTENDING A JUDICIAL PROCEEDING, A DEPOSITION, OR A DISCOVERY PROCEEDING AS A WITNESS SHALL APPLY TO AN ARBITRATION PROCEEDING IN THE SAME MANNER AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

(7) THE COURT MAY ENFORCE A SUBPOENA OR DISCOVERY-RELATED ORDER FOR THE ATTENDANCE OF A WITNESS WITHIN THIS STATE AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE ISSUED BY AN ARBITRATOR

IN CONNECTION WITH AN ARBITRATION PROCEEDING IN ANOTHER STATE UPON CONDITIONS DETERMINED BY THE COURT SO AS TO MAKE THE ARBITRATION PROCEEDING FAIR, EXPEDITIOUS, AND COST EFFECTIVE. A SUBPOENA OR DISCOVERY-RELATED ORDER ISSUED BY AN ARBITRATOR IN ANOTHER STATE SHALL BE SERVED IN THE MANNER PROVIDED BY LAW FOR SERVICE OF SUBPOENAS IN A CIVIL ACTION AND, UPON MOTION TO THE COURT BY A PARTY TO THE ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER PROVIDED BY LAW FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION.

**13-22-218. Judicial enforcement of pre-award ruling by arbitrator.** IF AN ARBITRATOR MAKES A PRE-AWARD RULING IN FAVOR OF A PARTY TO THE ARBITRATION PROCEEDING, THE PARTY MAY REQUEST THE ARBITRATOR TO INCORPORATE THE RULING INTO AN AWARD UNDER SECTION 13-22-219. A PREVAILING PARTY MAY MAKE A MOTION TO THE COURT FOR AN EXPEDITED ORDER TO CONFIRM THE AWARD UNDER SECTION 13-22-222, IN WHICH CASE THE COURT SHALL SUMMARILY DECIDE THE MOTION. THE COURT SHALL ISSUE AN ORDER TO CONFIRM THE AWARD UNLESS THE COURT VACATES, MODIFIES, OR CORRECTS THE AWARD UNDER SECTION 13-22-223 OR 13-22-224.

**13-22-219. Award.** (1) AN ARBITRATOR SHALL MAKE A RECORD OF AN AWARD. THE RECORD SHALL BE SIGNED OR OTHERWISE AUTHENTICATED BY AN ARBITRATOR WHO CONCURS WITH THE AWARD. THE ARBITRATOR OR THE ARBITRATION ORGANIZATION SHALL GIVE NOTICE OF THE AWARD, INCLUDING A COPY OF THE AWARD, TO EACH PARTY TO THE ARBITRATION PROCEEDING.

(2) AN AWARD MUST BE MADE WITHIN THE TIME SPECIFIED BY THE AGREEMENT TO ARBITRATE OR, IF NOT SPECIFIED THEREIN, WITHIN THE TIME ORDERED BY THE COURT. THE COURT MAY EXTEND THE TIME OR THE PARTIES TO THE ARBITRATION PROCEEDING MAY AGREE IN A RECORD TO EXTEND THE TIME. THE COURT OR THE PARTIES MAY DO SO WITHIN OR AFTER THE TIME SPECIFIED OR ORDERED. A PARTY SHALL BE DEEMED TO HAVE WAIVED ANY OBJECTION THAT AN AWARD WAS NOT TIMELY MADE UNLESS THE PARTY GIVES NOTICE OF THE OBJECTION TO THE ARBITRATOR BEFORE RECEIVING NOTICE OF THE AWARD.

**13-22-220. Change of award by arbitrator.** (1) ON MOTION TO AN ARBITRATOR BY A PARTY TO AN ARBITRATION PROCEEDING, THE ARBITRATOR

MAY MODIFY OR CORRECT AN AWARD:

(a) UPON A GROUND STATED IN SECTION 13-22-224 (1) (a) OR (1) (c);

(b) IF THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD UPON A CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING; OR

(c) TO CLARIFY THE AWARD.

(2) A MOTION MADE UNDER SUBSECTION (1) OF THIS SECTION SHALL BE MADE AND NOTICE SHALL BE GIVEN TO ALL PARTIES WITHIN TWENTY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD.

(3) A PARTY TO THE ARBITRATION PROCEEDING SHALL GIVE NOTICE OF ANY OBJECTION TO THE MOTION WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE.

(4) IF A MOTION TO THE COURT IS PENDING UNDER SECTION 13-22-222, 13-22-223, OR 13-22-224, THE COURT MAY SUBMIT THE CLAIM TO THE ARBITRATOR TO CONSIDER WHETHER TO MODIFY OR CORRECT THE AWARD:

(a) UPON A GROUND STATED IN SECTION 13-22-224 (1) (a) OR (1) (c);

(b) IF THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD UPON A CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING; OR

(c) TO CLARIFY THE AWARD.

(5) AN AWARD MODIFIED OR CORRECTED PURSUANT TO THIS SECTION IS SUBJECT TO THE PROVISIONS OF SECTIONS 13-22-219 (1), 13-22-222, 13-22-223, AND 13-22-224.

**13-22-221. Remedies - fees and expenses of arbitration proceeding.** (1) AN ARBITRATOR MAY AWARD REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF ARBITRATION IF SUCH AN AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME CLAIM OR BY THE AGREEMENT OF THE PARTIES TO THE ARBITRATION PROCEEDING.

(2) AN ARBITRATOR'S EXPENSES AND FEES, TOGETHER WITH OTHER EXPENSES, SHALL BE PAID AS PROVIDED IN THE AWARD.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER OR AMEND THE PROVISIONS OF SECTION 13-21-102 (5).

**13-22-222. Confirmation of award.** (1) AFTER A PARTY TO AN ARBITRATION PROCEEDING RECEIVES NOTICE OF AN AWARD, THE PARTY MAY MAKE A MOTION TO THE COURT FOR AN ORDER CONFIRMING THE AWARD AT WHICH TIME THE COURT SHALL ISSUE A CONFIRMING ORDER UNLESS THE AWARD IS MODIFIED OR CORRECTED PURSUANT TO SECTION 13-22-220 OR 13-22-224 OR IS VACATED PURSUANT TO SECTION 13-22-223.

(2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, 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.

**13-22-223. Vacating award.** (1) UPON MOTION TO THE COURT BY A PARTY TO AN ARBITRATION PROCEEDING, THE COURT SHALL VACATE AN AWARD MADE IN THE ARBITRATION PROCEEDING IF THE COURT FINDS THAT:

(a) THE AWARD WAS PROCURED BY CORRUPTION, FRAUD, OR OTHER UNDUE MEANS;

(b) THERE WAS:

(I) EVIDENT PARTIALITY BY AN ARBITRATOR APPOINTED AS A NEUTRAL ARBITRATOR;

(II) CORRUPTION BY AN ARBITRATOR; OR

(III) MISCONDUCT BY AN ARBITRATOR PREJUDICING THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING;

(c) AN ARBITRATOR REFUSED TO POSTPONE THE HEARING UPON SHOWING OF SUFFICIENT CAUSE FOR POSTPONEMENT, REFUSED TO CONSIDER EVIDENCE MATERIAL TO THE CONTROVERSY, OR OTHERWISE CONDUCTED THE HEARING CONTRARY TO SECTION 13-22-215, SO AS TO PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING;

(d) AN ARBITRATOR EXCEEDED THE ARBITRATOR'S POWERS;

(e) THERE WAS NO AGREEMENT TO ARBITRATE, UNLESS THE PERSON PARTICIPATED IN THE ARBITRATION PROCEEDING WITHOUT RAISING THE OBJECTION UNDER SECTION 13-22-215 (3) NOT LATER THAN THE BEGINNING OF THE ARBITRATION HEARING; OR

(f) THE ARBITRATION WAS CONDUCTED WITHOUT PROPER NOTICE OF THE INITIATION OF AN ARBITRATION AS REQUIRED IN SECTION 13-22-209 SO AS TO SUBSTANTIALLY PREJUDICE THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING.

(2) A MOTION MADE UNDER THIS SECTION SHALL BE FILED WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD PURSUANT TO SECTION 13-22-219 OR WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD PURSUANT TO SECTION 13-22-220, UNLESS THE MOVANT ALLEGES THAT THE AWARD WAS PROCURED BY CORRUPTION, FRAUD, OR OTHER UNDUE MEANS, IN WHICH CASE THE MOTION MUST BE MADE WITHIN NINETY DAYS AFTER EITHER THE GROUND IS KNOWN OR BY THE EXERCISE OF REASONABLE CARE SHOULD HAVE BEEN KNOWN BY THE MOVANT.

(3) IF THE COURT VACATES AN AWARD ON A GROUND OTHER THAN THAT SET FORTH IN PARAGRAPH (e) OF SUBSECTION (1) OF THIS SECTION, IT MAY ORDER A REHEARING. IF THE AWARD IS VACATED ON A GROUND STATED IN PARAGRAPH (a) OR (b) OF SUBSECTION (1) OF THIS SECTION, THE REHEARING SHALL BE HELD BEFORE A NEW ARBITRATOR. IF THE AWARD IS VACATED ON A GROUND STATED IN PARAGRAPH (c), (d), OR (f) OF SUBSECTION (1) OF THIS SECTION, THE REHEARING MAY BE HELD BEFORE THE ARBITRATOR WHO MADE THE AWARD OR THE ARBITRATOR'S SUCCESSOR. THE ARBITRATOR MUST RENDER THE DECISION IN THE REHEARING WITHIN THE SAME TIME AS THAT PROVIDED IN SECTION 13-22-219 (2) FOR AN AWARD.

(4) IF THE COURT DENIES A MOTION TO VACATE AN AWARD, IT SHALL CONFIRM THE AWARD UNLESS A MOTION TO MODIFY OR CORRECT THE AWARD IS PENDING.

**13-22-224. Modification or correction of award.** (1) UPON MOTION MADE WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF THE AWARD PURSUANT TO SECTION 13-22-219 OR WITHIN NINETY DAYS

AFTER THE MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD PURSUANT TO SECTION 13-22-220, THE COURT SHALL MODIFY OR CORRECT THE AWARD IF:

(a) THERE IS AN EVIDENT MATHEMATICAL MISCALCULATION OR AN EVIDENT MISTAKE IN THE DESCRIPTION OF A PERSON, THING, OR PROPERTY REFERRED TO IN THE AWARD;

(b) THE ARBITRATOR HAS MADE AN AWARD ON A CLAIM NOT SUBMITTED TO THE ARBITRATOR AND THE AWARD MAY BE CORRECTED WITHOUT AFFECTING THE MERITS OF THE DECISION UPON THE CLAIMS SUBMITTED; OR

(c) THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS OF THE DECISION ON THE CLAIMS SUBMITTED.

(2) IF A MOTION MADE UNDER SUBSECTION (1) OF THIS SECTION IS GRANTED, THE COURT SHALL MODIFY OR CORRECT AND CONFIRM THE AWARD AS MODIFIED OR CORRECTED. OTHERWISE, UNLESS A MOTION TO VACATE IS PENDING, THE COURT SHALL CONFIRM THE AWARD.

(3) A MOTION TO MODIFY OR CORRECT AN AWARD PURSUANT TO THIS SECTION MAY BE JOINED WITH A MOTION TO VACATE THE AWARD.

**13-22-225. Judgment on award - attorney fees and litigation expenses.** (1) UPON GRANTING AN ORDER CONFIRMING, VACATING WITHOUT DIRECTING A REHEARING, MODIFYING, OR CORRECTING AN AWARD, THE COURT SHALL ENTER A JUDGMENT IN CONFORMITY THEREWITH. THE JUDGMENT MAY BE RECORDED, DOCKETED, AND ENFORCED AS ANY OTHER JUDGMENT IN A CIVIL ACTION.

(2) A COURT MAY AWARD THE REASONABLE COSTS OF THE MOTION AND SUBSEQUENT JUDICIAL PROCEEDINGS.

(3) ON THE APPLICATION OF A PREVAILING PARTY TO A CONTESTED JUDICIAL PROCEEDING UNDER SECTION 13-22-222, 13-22-223, OR 13-22-224, THE COURT MAY ADD REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF LITIGATION INCURRED IN A JUDICIAL PROCEEDING AFTER THE AWARD IS MADE TO A JUDGMENT CONFIRMING, VACATING WITHOUT DIRECTING A REHEARING, MODIFYING, OR CORRECTING AN AWARD.

**13-22-226. Jurisdiction.** (1) A COURT HAVING JURISDICTION OVER THE CONTROVERSY AND THE PARTIES MAY ENFORCE AN AGREEMENT TO ARBITRATE.

(2) AN AGREEMENT TO ARBITRATE PROVIDING FOR ARBITRATION IN THIS STATE CONFERS JURISDICTION ON THE COURT TO ENTER JUDGMENT ON AN AWARD UNDER THIS PART 2.

**13-22-227. Venue.** A MOTION PURSUANT TO SECTION 13-22-205 SHALL BE MADE IN A COURT OF THE COUNTY IN WHICH THE AGREEMENT TO ARBITRATE SPECIFIES THE ARBITRATION HEARING IS TO BE HELD OR, IF THE HEARING HAS BEEN HELD, IN A COURT OF THE COUNTY IN WHICH IT WAS HELD. OTHERWISE, A MOTION PURSUANT TO SECTION 13-22-205 MAY BE MADE IN THE COURT OF ANY COUNTY IN WHICH AN ADVERSE PARTY RESIDES OR HAS A PLACE OF BUSINESS OR, IF NO ADVERSE PARTY HAS A RESIDENCE OR PLACE OF BUSINESS IN THIS STATE, IN A COURT OF ANY COUNTY IN THIS STATE. ALL SUBSEQUENT MOTIONS MUST BE MADE IN THE COURT HEARING THE INITIAL MOTION UNLESS THE COURT OTHERWISE DIRECTS.

**13-22-228. Appeals.** (1) AN APPEAL MAY BE TAKEN FROM:

- (a) AN ORDER DENYING A MOTION TO COMPEL ARBITRATION;
- (b) AN ORDER GRANTING A MOTION TO STAY ARBITRATION;
- (c) AN ORDER CONFIRMING OR DENYING CONFIRMATION OF AN AWARD;
- (d) AN ORDER MODIFYING OR CORRECTING AN AWARD;
- (e) AN ORDER VACATING AN AWARD WITHOUT DIRECTING A REHEARING; OR
- (f) A FINAL JUDGMENT ENTERED PURSUANT TO THIS PART 2.

(2) AN APPEAL UNDER THIS SECTION SHALL BE TAKEN IN THE SAME MANNER AS AN APPEAL OF AN ORDER OR JUDGMENT IN A CIVIL ACTION.

**13-22-229. Uniformity of application and construction.** IN APPLYING AND CONSTRUING THIS PART 2, CONSIDERATION SHALL BE GIVEN

TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

**13-22-230. Savings clause.** THIS PART 2 SHALL NOT AFFECT AN ACTION OR PROCEEDING COMMENCED OR A RIGHT ACCRUED BEFORE THIS PART 2 TAKES EFFECT. EXCEPT AS OTHERWISE PROVIDED IN SECTION 13-22-203, AN ARBITRATION AGREEMENT MADE BEFORE THE EFFECTIVE DATE OF THIS PART 2 IS GOVERNED BY THE "UNIFORM ARBITRATION ACT OF 1975".

**SECTION 2.** 13-64-403 (3), Colorado Revised Statutes, is amended to read:

**13-64-403. Agreement for medical services - alternative arbitration procedures - form of agreement - right to rescind.** (3) Any such agreement shall have the following statement set forth as part of the agreement: "It is understood that any claim of medical malpractice, including any claim that medical services were unnecessary or unauthorized or were improperly, negligently, or incompetently rendered or omitted, will be determined by submission to binding arbitration in accordance with the provisions of the ~~"Uniform Arbitration Act of 1975"~~, part 2 of article 22 of ~~title 13, Colorado Revised Statutes~~ THIS TITLE, and not by a lawsuit or resort to court process except as Colorado law provides for judicial review of arbitration proceedings. The patient has the right to seek legal counsel concerning this agreement, and has the right to rescind this agreement by written notice to the physician within ninety days after the agreement has been signed and executed by both parties unless said agreement was signed in contemplation of the patient being hospitalized, in which case the agreement may be rescinded by written notice to the physician within ninety days after release or discharge from the hospital or other health care institution. Both parties to this agreement, by entering into it, have agreed to the use of binding arbitration in lieu of having any such dispute decided in a court of law before a jury."

**SECTION 3.** 14-10-128.5, Colorado Revised Statutes, is amended to read:

**14-10-128.5. Appointment of arbitrator - de novo review of award.** (1) With the consent of all parties, the court may appoint an arbitrator to resolve disputes between the parties concerning the parties' minor or dependent children, including but not limited to parenting time,

nonrecurring adjustments to child support, and disputed parental decisions. Notwithstanding any other provision of law to the contrary, all awards entered by an arbitrator appointed pursuant to this section shall be in writing. The arbitrator's award shall be effective immediately upon entry and shall continue in effect until vacated by the arbitrator pursuant to ~~section 13-22-214~~ PART 2 OF ARTICLE 22 OF TITLE 13, C.R.S., modified or corrected by the arbitrator pursuant to ~~section 13-22-215~~ PART 2 OF ARTICLE 22 OF TITLE 13, C.R.S., or modified by the court pursuant to a de novo review under subsection (2) of this section.

(2) Any party may apply to have the arbitrator's award vacated, modified, or corrected pursuant to the "~~Uniform Arbitration Act of 1975~~", part 2 of article 22 of title 13, C.R.S., or may move the court to modify the arbitrator's award pursuant to a de novo review of such award. In circumstances in which a party moves for a de novo review by the court, the court shall order the nonprevailing party to pay the fees and costs of the prevailing party and the fees of the arbitrator incurred in responding to the application or motion unless the court finds that it would be manifestly unjust.

**SECTION 4.** 33-3-203 (2) (b) (II), Colorado Revised Statutes, is amended to read:

**33-3-203. Claims procedure.** (2) (b) (II) In any case which goes to arbitration, all arbitrators chosen shall reside within fifty miles of the subject property. The arbitration proceeding shall be conducted pursuant to the "~~Uniform Arbitration Act of 1975~~", part 2 of article 22 of title 13, C.R.S. The decision of the arbitration panel shall be binding and shall be subject to judicial review only for statutory compliance with the provisions of this article and the said act. The claimant or the division may seek such review by filing an action for same in the county or district court in the county or judicial district where the subject damage is alleged to have occurred within thirty days after receipt of the arbitration panel's decision.

**SECTION 5. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item,

section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

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Lola Spradley  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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John Andrews  
PRESIDENT OF  
THE SENATE

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Judith Rodrigue  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

---

Mona Heustis  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_

---

Bill Owens  
GOVERNOR OF THE STATE OF COLORADO