

1 HB20  
2 113037-1  
3 By Representative Mitchell  
4 RFD: Judiciary  
5 First Read: 12-JAN-10  
6 PFD: 09/23/2009

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, agreements to submit  
9 future controversies to arbitration are  
10 unenforceable in certain circumstances.

11 This bill would allow agreements to  
12 arbitrate future controversies to be enforced under  
13 certain circumstances.

14 This bill would adopt a modification of the  
15 revised uniform arbitration act to allow parties  
16 the ability to voluntarily choose arbitration as an  
17 alternative to resolving their disputes in court,  
18 would regulate that process, and would provide  
19 procedural safeguards to the structure and fairness  
20 of the arbitration process in Alabama.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 To amend Section 8-1-41, Code of Alabama 1975,  
27 relating to obligations which cannot be specifically enforced,

1 to provide that agreements to arbitrate future controversies  
2 may be enforceable under certain circumstances; to repeal  
3 Division 1, Article 1, Title 6, Chapter 6, Code of Alabama  
4 1975, relating to arbitration; and to adopt a modern revised  
5 uniform arbitration act in line with other states.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known and cited as the  
8 Alabama Revised Uniform Arbitration Act.

9 Section 2. The Legislature of Alabama declares and  
10 finds as follows:

11 (1) Article IV, Section 84, of the Constitution of  
12 Alabama of 1901, now appearing as Section 84 of the Official  
13 Recompilation of the Constitution of Alabama of 1901, as  
14 amended, grants to the Legislature the power to provide for  
15 arbitration, including state regulation and insuring  
16 safeguards for Alabama citizens.

17 (2) All other states have provided for modern  
18 arbitration by adopting or modifying the Uniform Arbitration  
19 Act or a similar act to facilitate efficient resolution of  
20 certain disputes.

21 (3) In spite of the antiarbitration statute in  
22 Alabama, the counts have held that predispute arbitration  
23 agreements are enforceable in certain circumstances, such as  
24 contracts for the sale or purchase of certain consumer goods  
25 involving interstate commerce, where the Federal Arbitration  
26 Act applies and preempts Alabama law. In such cases, in the

1 absence of state law governing procedural matters, the Federal  
2 Arbitration Act has been applied.

3 (4) A large number of contracts have contained  
4 arbitration provisions and the judicial interpretation of  
5 those provision has resulted in a substantial change in  
6 arbitration law in Alabama and throughout the county  
7 necessitating that Alabama modernize its arbitration laws to  
8 more clearly define when arbitration agreements should be  
9 enforced and to allow contracting parties the ability to  
10 voluntarily choose arbitration as an alternative to resolving  
11 their disputes in court.

12 (5) It has long been public policy in Alabama to  
13 encourage dispute resolution alternatives, including  
14 arbitration for the amicable and informal settlement of  
15 differences between parties because informal dispute  
16 resolution can be beneficial to all parties and the state in  
17 that it can be less costly and less time-consuming than  
18 litigation.

19 (7) Arbitration should validly take place only if  
20 the parties have specifically agreed to this method  
21 voluntarily because forcing a citizen to arbitration  
22 effectively deprives him or her of valuable remedies under the  
23 state constitution and consumer protection laws.

24 (8) Although arbitration should not replace formal  
25 court litigation in all aspects and should not be forced upon  
26 Alabama citizens as an exclusive choice to oust or defeat the  
27 jurisdiction of all courts in all contractual matters, an

1 informed citizen should be allowed to voluntarily choose  
2 arbitration as a desirable alternative in certain  
3 circumstances where arbitration can co-exist with court  
4 procedures as an adjunct and a part of the judicial system.

5 (9) The Legislature acknowledges the trend towards  
6 arbitration agreements appearing in contracts and the public  
7 apprehension of arbitration provisions inserted in contracts  
8 where the parties may have unequal bargaining position.

9 (10) Although federal law may preempt state law  
10 regarding whether an arbitration agreement is enforceable,  
11 state law may provide for the procedure of arbitration to  
12 ensure structure and fairness to arbitration.

13 (11) The Legislature desires to promote the use of  
14 voluntary arbitration agreements in appropriate cases as a  
15 reasonable and advantageous alternative to litigation by  
16 adopting laws to validate certain arbitration agreements, to  
17 make the process effective, to provide necessary safeguards  
18 and regulations, to provide an efficient procedure when  
19 judicial assistance is necessary, and to protect the citizens  
20 from deprivation of valuable legal remedies.

21 Section 3. Section 8-1-41, Code of Alabama 1975, is  
22 amended to read as follows:

23 "§8-1-41.

24 "The following obligations cannot be specifically  
25 enforced:

26 "(1) An obligation to render personal service<sup>7.</sup>

1           "(2) An obligation to employ another in personal  
2 service~~;~~.

3           "(3) An agreement to submit a controversy to  
4 arbitration~~;~~ that does not comply with the Alabama Revised  
5 Uniform Arbitration Act.

6           "(4) An agreement to perform an act which the party  
7 has ~~not~~ no power lawfully to perform when required to do so~~;~~.

8           "(5) An agreement to procure the act or consent of  
9 the wife of the contracting party or of any other third  
10 persons~~;~~ ~~or.~~

11           "(6) An agreement, the terms of which are not  
12 sufficiently certain to make the precise act which is to be  
13 done clearly ascertainable."

14           Section 4. Sections 6-6-1, 6-6-2, 6-6-3, 6-6-4,  
15 6-6-5, 6-6-6, 6-6-7, 6-6-8, 6-6-9, 6-6-10, 6-6-11, 6-6-12,  
16 6-6-13, 6-6-14, 6-6-15, and 6-6-16, Code of Alabama 1975, are  
17 hereby repealed.

18           Section 5. As used in this act, the following terms  
19 shall have the following meanings:

20           (1) ARBITRATION INSTITUTION. Any neutral  
21 organization, association, agency, board, or commission that  
22 initiates, sponsors, or administers arbitration proceedings or  
23 is involved in the appointment of arbitrators.

24           (2) COURT. A federal or state court of competent  
25 jurisdiction.

26           (3) PERSON. An individual, corporation, business  
27 trust, estate, trust, partnership, limited liability company,

1 association, joint venture, government, governmental  
2 subdivision, agency, or instrumentality, public corporation,  
3 or any other legal or commercial entity.

4 (4) RECORD. Information that is inscribed on a  
5 tangible medium or that is stored in an electronic or other  
6 medium and is retrievable in perceivable form.

7 (5) UNLESS THE PARTIES OTHERWISE AGREE. The parties  
8 may vary the terms in this act in their arbitration agreement  
9 or in any other valid agreement between them to the extent  
10 permitted by law.

11 Section 6. Unless the parties otherwise agree or  
12 unless otherwise provided in this act, a person gives notice  
13 by taking action that is reasonably necessary to inform  
14 another party in ordinary course of the contents of the  
15 notice. A person receives notice if its contents come to the  
16 person's attention or the notice is delivered at the person's  
17 place of residence, or place of business, or any other place  
18 generally considered as the place for receipt of such  
19 communications to the person.

20 Section 7. (a) A written agreement or a contractual  
21 term contained in a record to submit to arbitration any  
22 existing or subsequent controversy arising between or among  
23 the parties is valid, enforceable, and irrevocable except upon  
24 grounds that exist at law or in equity for the revocation of  
25 any contract only if the agreement is entered into freely and  
26 knowingly by the parties to the contract. An arbitration  
27 agreement or provision of a contract is rebuttably presumed to

1 be "entered into freely and knowingly" by the parties if one  
2 or more of the following occurs:

3 (1) The arbitration agreement is entered into  
4 separately from the original contract as evidenced by a  
5 separate page of the contract devoted exclusively to the  
6 specific terms of the arbitration agreement. The separate  
7 agreement to arbitrate must include examples of the types of  
8 issues or disputes subject to arbitration and must be dated  
9 and signed by each party to the original contract.

10 (2) The party against whom the agreement is being  
11 enforced was represented by an attorney at the time of the  
12 execution of the arbitration agreement or contract and was  
13 advised that the contract included an agreement to arbitrate  
14 future controversies.

15 (3) Notice that the contract contains an agreement  
16 to arbitrate future controversies prominently appears on the  
17 face of the contract in one of the following ways:

18 a. The top half of the first page of the contract  
19 contains an underlined statement in all capital letters in at  
20 least 10-point roman boldface type or in contrasting red  
21 print, in at least 8-point roman boldface type, specifying  
22 that the contract contains a predispute binding arbitration  
23 agreement which is a waiver of the parties' access to the  
24 courts for the determination of specific, enumerated rights  
25 under the contract and referencing the page and paragraph of  
26 the contract where the specifics of the agreement appear.



1 (4) A section or paragraph is contained on any page  
2 of the contract which expressly indicates the types of issues  
3 or disputes that are subject to the arbitration agreement and  
4 specifies that the agreement may serve as a waiver of the  
5 parties' access to the courts. This section must be set off  
6 from the remainder of the contract by being boxed in  
7 contrasting red or green ink and separately executed by the  
8 date and signatures of each party to the contract within the  
9 separately enclosed section.

10 (b) Unless the parties otherwise agree:

11 (1) A court shall decide whether an agreement to  
12 arbitrate exists or whether a specific issue or controversy is  
13 subject to an arbitration agreement.

14 (2) An arbitrator, appointed in accordance with  
15 Section 12, shall decide whether any condition precedent to  
16 arbitrability has been fulfilled and whether a contract  
17 containing an arbitration agreement is enforceable.

18 (3) If a party to a judicial proceeding challenges  
19 the existence of or claims that a controversy is not subject  
20 to an agreement to arbitrate, the arbitration may proceed  
21 pending final resolution of the issue by the court, unless the  
22 court otherwise orders.

23 Section 8. (a) On application, a court may order the  
24 parties to arbitrate on motion of a party showing a valid,  
25 enforceable agreement to arbitrate and another party's refusal  
26 to arbitrate.

1 (b) If a party opposes a motion made under  
2 subsection (a), the court shall proceed immediately and  
3 summarily to determine the issue. Unless the court finds there  
4 is no arbitration agreement, it shall order the parties to  
5 arbitrate.

6 (c) On application, a court may stay an arbitration  
7 commenced or threatened, after trying the issue immediately  
8 and summarily, on a motion of a party showing that there is no  
9 agreement to arbitrate. A motion to stay arbitration need not  
10 relate to the entire proceeding but may relate only to the  
11 particular issue that a party believes not arbitrable under  
12 the agreement. If the court finds for the movant that there is  
13 no agreement to arbitrate, it shall stay the arbitration. If  
14 the court finds for the opposing party, it shall order the  
15 parties to arbitrate.

16 (d) The court may not refuse to order arbitration  
17 because a claim subject to arbitration lacks merit or a party  
18 has failed to establish grounds for the claim.

19 (e) If there is a proceeding pending in a court  
20 involving an issue referable to arbitration under an alleged  
21 agreement to arbitrate, a motion under this section must be  
22 filed in that court. Otherwise and subject to Section 29, a  
23 motion under this section may be made in any other court of  
24 competent jurisdiction.

25 (f) The court may stay a proceeding that involves a  
26 controversy subject to arbitration if an order for arbitration  
27 or a motion for that order is made under this section. The

1 stay may apply only to the issue subject to arbitration, if  
2 that issue is severable. An order compelling arbitration must  
3 include a stay of court proceedings.

4 Section 9. (a) Before an arbitrator is appointed in  
5 accordance with Section 12 and is authorized and able to act,  
6 the court, upon motion of a party, for good cause shown, may  
7 enter an order for provisional remedies to protect the  
8 effectiveness of the arbitration to the same extent and under  
9 the same conditions as if the controversy were in civil  
10 litigation.

11 (b) After an arbitrator is appointed in accordance  
12 with Section 12 and is authorized and able to act, the  
13 arbitrator may issue such orders for provisional remedies,  
14 including the issuance of interim awards, as the arbitrator  
15 finds necessary for the fair and expeditious resolution of the  
16 controversy to the same extent and under the same conditions  
17 as if the controversy were in civil litigation rather than  
18 arbitration. After the arbitrator is appointed in accordance  
19 with Section 12 and is authorized and able to act, a party may  
20 move a court for a provisional remedy only if the matter is  
21 one of urgency and the arbitrator cannot provide an adequate  
22 remedy.

23 Section 10. (a) A party desiring to arbitrate a  
24 controversy pursuant to an arbitration agreement shall provide  
25 in a record notice to all parties to the arbitration of the  
26 commencement of an arbitration proceeding. Unless the parties  
27 otherwise agree, the notice must describe the nature of the

1 controversy and include any amount in controversy and the  
2 remedy sought.

3 (b) The notice in a record commencing the  
4 arbitration proceeding must be served upon the other parties  
5 in the manner in which the parties agree or, in the absence of  
6 such an agreement, either by mail registered or certified,  
7 return receipt requested, or by personal service as authorized  
8 in a civil action.

9 (c) If a party fails to commence an arbitration  
10 proceeding in compliance with subsections (a) and (b), the  
11 court may refuse to confirm an arbitration award under Section  
12 23 or may vacate an arbitration award under Section 24. Unless  
13 the other party interposes a timely objection no later than  
14 the commencement of the hearing, any objection as to lack of  
15 or insufficiency of notice under this section is waived.

16 Section 11. (a) Upon motion of a party to an  
17 arbitration agreement, the court may order consolidation of  
18 separate arbitration proceedings upon showing of all of the  
19 following:

20 (1) There are separate arbitration agreements or  
21 proceedings between the same parties or one party is a party  
22 to a separate arbitration agreement or proceeding with a third  
23 party.

24 (2) The controversies arise in substantial part from  
25 the same transaction or series of related transactions.

26 (3) There is a common issue of law or fact creating  
27 the possibility of conflicting rulings by more than one

1 arbitrator or panel of arbitrators. However, the court may not  
2 order consolidation of separate proceedings if doing so would  
3 be contrary to the express terms of an applicable arbitration  
4 agreement or would substantially prejudice the rights of, or  
5 would result in undue delay or hardship to, a party opposing  
6 consolidation.

7 (b) If the court orders consolidation under  
8 subsection (a), it may order consolidated arbitration as to  
9 certain issues, leaving other issues to be resolved in  
10 separate proceedings.

11 Section 12. If the parties have agreed on a method  
12 for appointing an arbitrator that provides the parties with  
13 substantially equal voice in the selection of the arbitrators,  
14 that method must be followed. If there is no agreed method or  
15 the agreed method fails or if the agreed method is determined  
16 by a court to be based on an unequal bargaining position of  
17 the parties, or the agreed method cannot be followed, or an  
18 arbitrator appointed fails or is unable to act and a successor  
19 has not been duly appointed, the court on motion of a party  
20 may appoint one or more arbitrators. An arbitrator so  
21 appointed has all the powers of an arbitrator designated in  
22 the agreement or appointed pursuant to the agreed method.

23 Section 13. (a) Before accepting appointment, a  
24 person who is requested to serve as an arbitrator shall make a  
25 reasonable inquiry and disclose any facts learned that a  
26 reasonable person would consider likely to affect the

1 impartiality of the arbitrator, including either of the  
2 following:

3 (1) Financial or personal interest in the outcome of  
4 the arbitration.

5 (2) Existing or past relationships with the parties,  
6 their counsel or representatives, witnesses, or other  
7 arbitrators.

8 (b) The obligation to disclose under subsection (a)  
9 is a continuing one that extends throughout the period of  
10 appointment as arbitrator and the entire arbitration process.

11 (c) Unless the parties have otherwise agreed to  
12 procedures for disclosure, disclosure must be made directly to  
13 all parties and to other arbitrators.

14 (d) Objections based on any undisclosed interests,  
15 relationships, or facts described in subsections (a) and (b)  
16 or any unwaived objections of a party based on any of those  
17 interests, relationships, or facts disclosed in accordance  
18 with subsection (c) may be grounds for vacation of an award  
19 under Section 24(a)(2). The failure of an arbitrator to make a  
20 significant disclosure required under this section creates a  
21 presumption of evident partiality prejudicing the rights of a  
22 party under Section 24(a)(2).

23 (e) If the parties have agreed to the procedures of  
24 an arbitration institution or any other procedures for  
25 pre-award challenges to arbitrators, substantial compliance  
26 with those procedures is a condition precedent to a motion to  
27 vacate on those grounds under Section 24(a)(2).

1           Section 14. The powers of arbitrators may be  
2 exercised by a majority unless the parties otherwise agree or  
3 otherwise provided by this act.

4           Section 15. (a) An arbitrator, when acting in that  
5 capacity, is immune from civil liability to the same extent as  
6 a judge of a court in Alabama when acting in a judicial  
7 capacity.

8           (b) A neutral arbitration institution that  
9 administers the arbitration is immune from liability to the  
10 same extent as an arbitrator.

11           (c) The immunity afforded by this section  
12 supplements, but does not supplant, any other applicable  
13 common-law or statutory immunity.

14           (d) If immunity is asserted by an arbitrator under  
15 subsection (a) or (b), the arbitrator is not competent to  
16 testify in any civil proceeding as to any statement, conduct,  
17 decision, or ruling occurring during an arbitration under this  
18 act. However, this subsection does not apply if a party files  
19 a motion to vacate an award under Section 24(a)(1) or (2)  
20 establishing prima facie that the grounds for vacation exist.

21           (e) If a party commences an action against an  
22 arbitrator or an arbitration institution arising from the  
23 services of the arbitrator or arbitration institution or if a  
24 party seeks to compel the arbitrator to testify in violation  
25 of subsection (d) and the court determines that the arbitrator  
26 or the arbitration institution is immune from suit or that the  
27 arbitrator is incompetent to testify, the court shall award to

1 the arbitrator or the arbitration institution reasonable and  
2 necessary attorney's fees, costs, and expenses of defending  
3 the litigation including fees, costs, and expenses, on appeal.

4 Section 16. Unless the parties otherwise agree:

5 (a) An arbitrator may manage all aspects of an  
6 arbitration. The arbitrator may hold conferences with the  
7 parties before the hearing to act upon any matters that may  
8 aid in the fair and expeditious disposition of the  
9 arbitration.

10 (b) An arbitrator may decide a request for summary  
11 disposition of a claim or particular issue, either by  
12 agreement of all interested parties or upon request of one  
13 party, provided all other interested parties have reasonable  
14 notice and an opportunity to respond.

15 (c) If an arbitrator has not made a final decision  
16 on a matter subject to summary disposition under subsection  
17 (b), the arbitrator shall set a time and place for a hearing  
18 and issue notice of the hearing to be received by the parties  
19 not less than 30 days before the hearing. Unless a party  
20 interposes timely objection at the commencement of the hearing  
21 to insufficiency of notice, the party's appearance at the  
22 hearing waives the objection. Upon request of a party and for  
23 good cause shown, or upon the arbitrator's own initiative, the  
24 arbitrator may adjourn the hearing from time to time as  
25 necessary but may not postpone the hearing to a time later  
26 than the date fixed by the agreement for making the award  
27 unless the parties consent to a later date. The arbitrator may



1 hear and determine the controversy upon the evidence produced  
2 notwithstanding the failure of a party duly notified to  
3 appear. A court, on request, may direct the arbitrator to  
4 proceed promptly with the hearing and determination of the  
5 controversy.

6 (d) If the arbitrator orders a hearing under  
7 subsection (c), the parties are entitled to be heard, to  
8 present evidence material to the controversy, and to  
9 cross-examine witnesses appearing at the hearing.

10 (e) The hearing must be conducted by all the  
11 arbitrators but a majority may determine any question and  
12 render a final award. If an arbitrator for any reason ceases  
13 or is unable to act during the course of the hearing, the  
14 remaining arbitrator or arbitrators, if appointed to act as  
15 neutrals, may continue with the hearing and proceed to a  
16 determination of the controversy. If the hearing cannot  
17 continue because none of the remaining arbitrators are  
18 neutral, then a sufficient number of replacement arbitrators  
19 must be appointed in accordance with Section 12 to continue  
20 the hearing and proceed to a determination of the controversy.

21 Section 17. A party has the right to be represented  
22 by an attorney at any proceeding or hearing under this act. A  
23 waiver of representation before the proceeding or hearing is  
24 ineffective.

25 Section 18. (a) An arbitrator may issue subpoenas  
26 for the attendance of witnesses and for the production of  
27 books, records, documents, and other evidence at any hearing

1 and may administer oaths. Subpoenas so issued must be served  
2 and, upon request to the court by a party or the arbitrator,  
3 enforced in the manner provided by law for service and  
4 enforcement of subpoenas in a civil action.

5 (b) On application of a party, the arbitrator may  
6 permit discovery as the arbitrator determines is appropriate  
7 in the circumstances, taking into account the needs of the  
8 parties and the desirability of making the arbitration fair,  
9 expeditious, and cost-effective. Discovery may include  
10 document production, interrogatories, and depositions.

11 (c) An arbitrator may order the parties to comply  
12 with the arbitrator's discovery-related orders and may take  
13 actions against parties who do not comply to the extent  
14 permitted by law as if the subject matter were pending in a  
15 civil action.

16 (d) An arbitrator may issue protective orders to  
17 prevent the disclosure of privileged information, confidential  
18 information, and trade secrets.

19 (e) An arbitrator, on request of a party, may permit  
20 a deposition of a witness who cannot be subpoenaed or is  
21 unable to attend the hearing to be taken in the manner  
22 designated by the arbitrator for use as evidence.

23 (f) All provisions of law compelling a person under  
24 subpoena to testify are applicable to an arbitration.

25 (g) Fees for attending an arbitration as a witness  
26 are the same as those for a witness in a civil action.

1           Section 19. If an arbitrator makes a pre-award  
2 ruling in favor of a party, that party may apply to the court  
3 for an expedited, summary order to enforce the pre-award  
4 ruling. The court may issue an order to enforce the pre-award  
5 ruling, unless the ruling of the arbitrator is vacated,  
6 modified, or corrected under the standards prescribed in  
7 Sections 24 and 25.

8           Section 20. (a) Arbitrators are expressly empowered  
9 to award reasonable punitive damages and any provision in an  
10 arbitration agreement attempting to withdraw or restrict that  
11 power is void. Upon determining an award, the arbitrator shall  
12 make a record of the award which must be signed by the  
13 arbitrator joining in the award. The arbitrator or the  
14 arbitration institution shall give notice of the award to each  
15 party.

16           (b) An award must be made within the time specified  
17 by the agreement or, if not specified, within the time, on  
18 motion of a party, the court orders. The court may extend or  
19 the parties may agree in a record to extend the time before or  
20 after the time period expires. A party waives any objection  
21 that an award was not made within the time required unless the  
22 party gives notice of the objection to the arbitrator before  
23 the delivery of the award to the party.

24           Section 21. (a) On motion of a party to an  
25 arbitrator, the arbitrator may modify or correct an award as  
26 follows:

1                   (1) Upon the grounds stated in Section 25(a) (1) or  
2                   (3).

3                   (2) If the arbitrator has not made a mutual, final,  
4 and definite award upon any or all of the issues submitted by  
5 the parties.

6                   (3) For the purpose of clarifying the award.

7                   (b) A motion under subsection (a) must be made to  
8 the arbitrator within 20 days after delivery of the award to  
9 the movant. The movant shall give notice in a record forthwith  
10 to the opposing party stating that the opposing party must  
11 serve any objections within 10 days after receipt of the  
12 notice.

13                   (c) If a motion to a court is pending under Sections  
14 23, 24, or 25, the court may submit the matter to the  
15 arbitrator to consider whether to modify or correct the award  
16 under any of the following:

17                   (1) Upon the grounds stated in Section 25(c) (1) or  
18                   (3).

19                   (2) If the arbitrator so imperfectly executed the  
20 arbitrator's powers that a mutual, final, and definite award  
21 upon any or all of the issues submitted was not made.

22                   (3) For the purpose of clarifying the award.

23                   (d) An award modified or corrected under this  
24 section is subject to Sections 23, 24, and 25.

25                   Section 22. Unless the parties otherwise agree:

26                   (1) An arbitrator may award attorney's fees or  
27 punitive damages or other exemplary relief if such an award is

1 authorized by law in a civil action involving the same subject  
2 matter or by the agreement of the parties.

3 (2) As to all remedies other than those provided by  
4 subdivision (1), an arbitrator may order such remedies as the  
5 arbitrator considers just and appropriate under the  
6 circumstances of the case. The fact that such relief could not  
7 or would not be granted by a court of law or equity is not  
8 grounds for vacating or refusing to confirm an award under  
9 Section 23 or 24.

10 (3) An arbitrator's expenses and fees, together with  
11 other expenses, must be paid as provided in the award.

12 (4) If an arbitrator awards punitive damages or  
13 other exemplary relief under subdivision (1), the arbitrator  
14 shall set out the award in a record and shall specify the  
15 basis in law or the provisions in the agreement authorizing  
16 the award and state separately the amount of the punitive  
17 damages or other exemplary relief.

18 Section 23. After receipt of notice of an award, a  
19 party to an arbitration may apply to the court for an order  
20 confirming the award, at which time the court shall issue such  
21 an order unless the award is modified or corrected pursuant to  
22 Section 21 or the award is vacated, modified, or corrected  
23 pursuant to Sections 24 and 25.

24 Section 24. (a) Upon motion of a party, the court  
25 shall vacate an award upon any of the following:

26 (1) The award was procured by corruption, fraud, or  
27 other undue means.

1           (2) There was evident partiality by an arbitrator  
2 appointed as a neutral or corruption or misconduct by any of  
3 the arbitrators prejudicing the rights of a party.

4           (3) An arbitrator refused to postpone the hearing  
5 upon sufficient cause being shown for postponement, refused to  
6 consider evidence material to the controversy, or otherwise so  
7 conducted the hearing, contrary to the provisions of Section  
8 16, as to prejudice substantially the rights of a party.

9           (4) An arbitrator exceeded the arbitrator's powers.

10          (5) There was no arbitration agreement, unless the  
11 party participated in the arbitration proceeding without  
12 having raised the objection not later than the commencement of  
13 the arbitration hearing.

14          (b) In addition to the grounds to vacate an award  
15 set forth in subsection (a), the parties may contract for any  
16 other standard of review of the award not prohibited by  
17 applicable law. If they have so contracted, the court shall  
18 vacate an award made by an arbitrator if the arbitrator  
19 violates this standard of review.

20          (c) A motion under this section must be made within  
21 90 days after delivery of a copy of the award to the movant  
22 unless the motion is predicated upon corruption, fraud, or  
23 other undue means, in which case it must be made within 90  
24 days after those grounds are known or should have been known  
25 to the moving party.

26          (d) In vacating an award on a ground other than that  
27 stated in subsection (a) (5), a court may order a rehearing

1 before new arbitrators appointed in accordance with Section  
2 12. If the award is vacated on grounds stated in subsection  
3 (a) (3) or (4), the court may order a rehearing before the  
4 arbitrator who made the award or the arbitrator's successor  
5 appointed in accordance with Section 12. The time within which  
6 the agreement requires the award to be made applies to the  
7 rehearing and commences after the date of the order.

8 (e) If a motion to vacate is denied and no motion to  
9 modify or correct the award is pending, the court may confirm  
10 the award.

11 Section 25. (a) Upon motion made within 90 days  
12 after the applicant receives in a record notice of the award,  
13 the court shall modify or correct the award upon any of the  
14 following grounds:

15 (1) There was an evident miscalculation of figures  
16 or an evident mistake in the description of a person, thing,  
17 or property referred to in the award.

18 (2) The arbitrator has awarded upon a matter not  
19 submitted to the arbitrator and the award may be corrected  
20 without affecting the merits of the decision upon the issues  
21 submitted.

22 (3) The award is imperfect in a matter of form, not  
23 affecting the merits of the controversy.

24 (b) If a motion made under subsection (a) is  
25 granted, the court shall modify or correct the award so as to  
26 effect its intent and shall confirm the award as so modified

1 or corrected. Otherwise, the court shall confirm the award as  
2 made.

3 (c) A motion to modify or correct an award may be  
4 joined, in the alternative, with a motion to vacate the award.

5 Section 26. (a) Upon granting an order confirming,  
6 modifying, or correcting an award, the court shall enter a  
7 judgment or decree in conformity therewith. The judgment or  
8 decree may be enforced as any other judgment or decree in a  
9 civil action.

10 (b) A court may award costs of the application and  
11 subsequent proceedings and disbursements.

12 (c) On application of the prevailing party, a court  
13 may add to a judgment or decree confirming an award,  
14 reasonable attorney's fees, and litigation expenses incurred  
15 in post-award litigation, if the other party unsuccessfully  
16 resisted a motion to confirm or sought unsuccessfully to  
17 vacate, modify, or correct the award.

18 (d) Subsection (c) does not apply if the parties  
19 have contracted for judicial review of errors of law under  
20 Section 24(b).

21 Section 27. (a) Upon entry of a judgment or decree,  
22 the clerk shall prepare the judgment roll consisting, to the  
23 extent filed, of all of the following:

24 (1) The agreement and each written extension of the  
25 time within which to make the award.

26 (2) The award.



1                   (3) A copy of the order confirming, modifying, or  
2                   correcting the award.

3                   (4) A copy of the judgment or decree.

4                   (b) A judgment or decree under this section may be  
5                   docketed as if rendered in a civil action.

6                   Section 28. An agreement pursuant to Section 7  
7                   providing for arbitration in Alabama confers the discretionary  
8                   jurisdiction on the court to enforce the agreement and to  
9                   enter judgment on an award under this act.

10                  Section 29. An initial motion must be made to the  
11                  court of the county in which the agreement specifies the  
12                  arbitration hearing is to be held or, if the hearing has been  
13                  held, in the county in which it was held. Otherwise, the  
14                  motion must be made in the county in which the adverse party  
15                  resides or has a place of business or, if the adverse party  
16                  has no residence or place of business in Alabama, to the court  
17                  of any county. All subsequent motions must be made to the  
18                  court hearing the initial motion unless the court otherwise  
19                  directs.

20                  Section 30. (a) An appeal may be taken from any of  
21                  the following:

22                   (1) An order denying a motion to compel arbitration  
23                   made under Section 7.

24                   (2) An order granting a motion to stay arbitration  
25                   made under Section 7(b).

26                   (3) An order confirming or denying confirmation of  
27                   an award.

1 (4) An order modifying or correcting an award.

2 (5) An order vacating an award without directing a  
3 rehearing.

4 (6) A final judgment or decree entered pursuant to  
5 this act.

6 (b) The appeal must be taken in the manner and to  
7 the same extent as from an order or a judgment in a civil  
8 action.

9 Section 31. (a) Except as otherwise provided in  
10 subsection (b) or unless otherwise provided by law, an  
11 arbitration between the parties is governed by the arbitration  
12 agreement. To the extent the arbitration agreement does not  
13 otherwise provide, this act governs the arbitration between  
14 the parties.

15 (b) The parties may not:

16 (1) Waive Section 7(a); Section 8; Section 9;  
17 Section 19; Section 21(b) and (c); Section 19; Sections 23;  
18 Section 24(a), (c), (d), and (e); Section 25; Section 26(a)  
19 and (b); Section 27; Section 28; Section 29; Section 30;  
20 Section 31; Section 32; or Section 33.

21 (2) Unreasonably restrict the right to notice of the  
22 commencement of an arbitration proceeding under Section 10.

23 (3) Waive the right of a party under Section 17 to  
24 be represented by an attorney at any proceeding or hearing  
25 under this act before the proceeding or hearing.

26 Section 32. In applying and construing this act,  
27 consideration must be given to its general purpose to promote

1 uniformity of the law with respect to its subject matter among  
2 states that enact it.

3 Section 33. This act governs arbitration agreements  
4 entered into on or after the effective date of this act. All  
5 parties to the arbitration agreement may agree in the record  
6 for agreements made prior to the effective date of this act,  
7 to be governed by this act.

8 Section 34. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.