



LAWS OF ALASKA

1968

Source

HB 212 am FCC

Chapter No.

232

AN ACT

Establishing a uniform arbitration law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 09 is amended by adding a new chapter to read:

CHAPTER 43. UNIFORM ARBITRATION LAW.

Sec. 09.43.010. ARBITRATION AGREEMENTS VALID. A written agreement to submit an existing controversy to arbitration or a provision in a written contract to submit to arbitration a subsequent controversy between the parties is valid, enforceable and irrevocable, except upon grounds which exist at law or in equity for the revocation of a contract. However, this chapter does not apply to a labor-management contract unless it is incorporated into the contract by reference.

Sec. 09.43.020. PROCEEDINGS TO COMPEL OR STAY ARBITRATION. (a) On application of a party showing an agreement described in sec. 10 of this chapter, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue and if the agreement is found to exist shall order arbitration.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. The issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the stay ordered if no agreement is found to exist. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue subject to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under (a) of this section, the application shall be made in that court. Otherwise the application may be made in any court of competent jurisdiction.

(d) An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for the order has been made under this section or, if the issue is severable, the stay may be with respect to the issue only.

(e) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or because a fault or ground for the claims sought to be arbitrated has not been shown.

Sec. 09.43.030. APPOINTMENT OF ARBITRATORS BY COURT. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

Sec. 09.43.040. MAJORITY ACTION BY ARBITRATORS. The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this chapter.

Sec. 09.43.050. HEARING. Unless otherwise provided by the agreement,

(1) the arbitrators shall set a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing; appearance at the hearing waives the notice; the arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date; the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a properly notified party to appear;

(2) the parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing;

(3) the hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award; if, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals shall continue with the hearing and determination of the controversy.

Sec. 09.43.060. REPRESENTATION BY ATTORNEY. A party

has the right to be represented by an attorney at a proceeding or hearing under this chapter. A waiver of the right before the proceeding or hearing is ineffective.

Sec. 09.43.070. WITNESSES, SUBPOENAS, DEPOSITIONS.

(a) The arbitrators may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence, and have the power to administer oaths. Subpoenas shall be served, and upon application to the court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

(b) On application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(c) All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees for attendance as a witness shall be the same as for a witness in the superior court.

Sec. 09.43.080. AWARD. (a) The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally or by registered mail, or as provided in the agreement.

(b) An award shall be made within the time fixed by the agreement or, if not so fixed, within the time the court orders on application of a party. The parties may extend the time in writing either before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection before the delivery of the award to him.

Sec. 09.43.090. MODIFICATION OF AWARD BY ARBITRATORS.

On application to the arbitrators by a party or, if an application to the court by a party is pending under secs. 110, 120, or 130 of this chapter on submission to the arbitrators by the court under the conditions the court may order, the arbitrators may modify or correct the award upon the grounds stated in sec. 130(a)(1) and (3) of this chapter, or for the purpose of clarifying the award. An application to the arbitrators by a party shall be made within 20 days after delivery of the award to the applicant. Written notice of the application shall be given promptly to the opposing party, stating that he must serve his objections to the application within 10 days from the notice. A modified or corrected award is subject to the provisions of secs. 110, 120, and 130 of this chapter.

Sec. 09.43.100. FEES AND EXPENSES OF ARBITRATION.

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, shall be paid as provided in the award.

Sec. 09.43.110. CONFIRMATION OF AN AWARD. Upon application of a party, the court shall confirm an award unless within the time limits imposed by secs. 120 and 130 of this chapter grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in secs. 120 and 130 of this chapter.

Sec. 09.43.120. VACATING AN AWARD. (a) On application of a party, the court shall vacate an award if

- (1) the award was procured by fraud or other undue means;
- (2) there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of a party;
- (3) the arbitrators exceeded their powers;
- (4) the arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of sec. 50 of this chapter as to prejudice substantially the rights of a party; or
- (5) there was no arbitration agreement and the issue was not adversely determined in proceedings under sec. 20 of this chapter and the party did not participate in the arbitration hearing without raising the objection.

(b) The fact that the relief is 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.

(c) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. However, if the application is predicated upon corruption, fraud or other undue means by either the opposing party or an arbitrator, it shall be made within 90 days after the grounds are known or should have been known.

(d) In vacating the award on grounds other than those stated in (a)(5) of this section the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence of a provision in the agreement, by the court in accordance with sec. 30 of this chapter, or, if the award is vacated on grounds set out in (a)(3) or (4) of this section, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with sec. 30 of this chapter. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

(e) If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

Sec. 09.43.130. MODIFICATION OR CORRECTION OF AWARD

BY COURT. (a) On application made within 90 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award if

(1) there was an evident miscalculation of figures or an evident mistake in the description of a person, thing or property referred to in the award;

(2) the arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

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

(b) If the application is granted, the court shall modify and correct the award to effect its intent and shall confirm the award as modified and corrected. Otherwise, the court shall confirm the award as made.

(c) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

Sec. 09.43.140. JUDGMENT OR DECREE ON AWARD. Upon the granting of an order confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the award and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent to the application, and disbursements may be awarded by the court.

Sec. 09.43.150. APPLICATIONS TO COURT. An application to the court under this chapter 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 action.

Sec. 09.43.160. APPEALS. (a) An appeal may be taken from

(1) an order denying an application to compel arbitration made under sec. 20 of this chapter;

(2) an order granting an application to stay arbitration made under sec. 30(b) of this chapter;

(3) an order confirming or denying confirmation of an award;

(4) an order modifying or correcting an award;

(5) an order vacating an award without directing a rehearing; or

(6) a judgment or decree entered under the provisions of this chapter.

(b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

Sec. 09.43.170. COURT, JURISDICTION. In this chapter, the term "court" means the superior court of this state. The making of an agreement described in sec. 10 of this chapter providing for arbitration in this state confers jurisdiction on the superior court to enforce the agreement under this chapter and to enter judgment on an award under the agreement.

Sec. 09.43.180. SHORT TITLE. This chapter may be cited as the Uniform Arbitration Act.