

# MAINE STATE LEGISLATURE

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EIGHTY-FIFTH LEGISLATURE

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Legislative Document

No. 636

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S. P. 472

In Senate, Feb. 18, 1931.

Referred to Committee on Judiciary and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Murchie of Washington.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THIRTY-ONE

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AN ACT Concerning Arbitration, and to Make Uniform the  
Law with Reference Thereto.

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Be it enacted by the People of the State of Maine, as follows:

Section 1. Two or more parties may agree in writing to submit to arbitration, in conformity with the provisions of this act, any controversy existing between them at the time of the agreement to submit. Such an agreement shall be valid and enforceable, and neither party shall have the power to revoke the submission without the consent of the other party or parties to the submission save upon such grounds as exist in law or equity for the rescision or revocation of any contract.

Sec. 2. The arbitration agreement must state the question or questions in controversy with sufficient definiteness to present one or more issues or questions upon which an award may be based.

Sec. 3. The term "court" when used in this act means a court having jurisdiction of the parties and of the subject matter.

Sec. 4. Upon the application in writing of any party to the arbitration agreement and upon notice to the other parties thereto, the court shall appoint an arbitrator or arbitrators in any of the following cases:

(a) When the arbitration agreement does not prescribe a

method for the appointment of arbitrators, in which case the arbitration shall be by three arbitrators.

(b) When the arbitration agreement does prescribe a method for the appointment of arbitrators, and the arbitrators, or any of them, have not been appointed and the time within which they should have been appointed has expired.

(c) When any arbitrator fails or is otherwise unable to act, and his successor has not been appointed in the manner in which he was appointed.

Arbitrators appointed by the court shall have the same power as though their appointment had been made in accordance with the agreement to arbitrate.

Sec. 5. Any application made under authority of this act shall be made in writing and heard in a summary way in the manner and upon the notice provided by law or rules of court for the making and hearing of motions except as otherwise herein expressly provided.

Sec. 6. The arbitrators shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party, and for good cause may, postpone the hearing to a time not extending beyond the date fixed for making the award.

Sec. 7. If any party neglects to appear before the arbitrators after reasonable notice the arbitrators may nevertheless proceed to hear and determine the controversy upon the evidence which is produced before them.

Sec. 8. If the time within which the award shall be made is not fixed in the arbitration agreement, the award must be made within sixty days from the time of the appointment of the arbitrators, and an award made after the lapse of sixty days shall have no legal effect unless the parties extend the time in which said award may be made, which extension or ratification shall be in writing.

Sec. 9. No one other than a party to said arbitration, or a person regularly employed by such party for other purposes, or a practicing attorney-at-law, shall be permitted by the arbitrator or arbitrators to represent before him or them any party to the arbitration.

Sec. 10. The arbitrator or arbitrators, or a majority of

them may require any person to attend before him or them as a witness, and to bring with him any book or writing or other evidence.

The fees for such attendance shall be the same as the fees of witnesses in courts of general jurisdiction.

Summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and shall be signed by the arbitrator or arbitrators, or a majority of them, and shall be directed to the person and shall be served in the same manner as summons to testify before a court of records in this State; if any person so summoned to testify shall refuse or neglect to obey such summons, upon petition the court may compel the attendance of such person before the said arbitrator or arbitrators, or punish said person for contempt in the same manner now provided for the attendance of witnesses or the punishment of them in the courts of this State.

Sec. 11. Depositions may be taken with or without a commission in the same manner and for the same reasons as provided by law for the taking of depositions in suits pending in the courts of record in this State.

Sec. 12. At any time before final determination of the arbitration the court may upon application of a party to the submission make such order or decree or take such proceeding as it may deem necessary for the preservation of the property or for securing satisfaction of the award.

Sec. 13. The arbitrators may, on their own motion, and shall by request of a party to the arbitration,

(a) At any stage of the proceedings submit any question of law arising in the course of the hearing for the opinion of the Court, stating the facts upon which the question arises, and such opinion when given shall bind the arbitrators in the making of their award;

(b) State their final award in the form of a conclusion of fact for the opinion of the court on the questions of law arising on the hearing.

Sec. 14. The award of the arbitrators, or of a majority of them, shall be drawn up in writing and signed by the arbitrators or a majority of them; the award shall definitely deal with all matters of difference in the submission requiring settlement, but the arbitrators may, in their discretion, first make a

partial award which shall be enforceable in the same manner as the final award; upon the making of an award, the arbitrators shall deliver a true copy thereof to each of the parties thereto, or their attorneys, without delay.

Sec. 15. At any time within three months after the award is made, unless the parties shall extend the time in writing, any party to the arbitration may apply to the court for an order confirming the award, and the court shall grant such an order unless the award is vacated, modified, or corrected, as provided in the next two sections. Notice in writing of the motion must be served upon the adverse party, or his attorney, five days before the hearing thereof.

Sec. 16. In any of the following cases the court shall after notice and hearing make an order vacating the award, upon the application of any party to the arbitration:

(a) Where the award was procured by corruption, fraud, or other undue means.

(b) Where there was evident partiality or corruption in the arbitrators, or either of them.

(c) Where the arbitrators were guilty of misconduct, in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence, pertinent and material to the controversy; or of any other misbehavior, by which the rights of any party have been prejudiced.

(d) Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award, upon the subject matter submitted was not made.

Where an award is vacated and the time, within which the agreement required the award to be made, has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.

Sec. 17. In any of the following cases, the court shall after notice and hearing make an order modifying or correcting the award, upon the application of any party to the arbitration:

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

(b) Where the arbitrators have awarded upon a matter not submitted to them.

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

The order must modify and correct the award, so as to effect the intent thereof.

Sec. 18. Notice of a motion to vacate, modify or correct an award shall be served upon the adverse party, or his attorney, within three months after an award is filed or delivered, as prescribed by law for service of notice of a motion in an action. For the purposes of the motion any judge who might make an order to stay the proceedings, in an action brought in the same court, may make an order to be served with the notice of motion, staying the proceedings of the adverse party to enforce the award.

Sec. 19. Upon the granting of an order, confirming, modifying, correcting or vacating an award, judgment or decree shall be entered in conformity therewith.

Sec. 20. The party moving for an order confirming, modifying, correcting or vacating an award, shall at the time such motion is filed with the clerk, file, unless the same have theretofore been filed, the following papers with the clerk:

(a) The written contract or a verified copy thereof containing the agreement for the submission; the selection or appointment of the arbitrator or arbitrators, and each written extension of the time, if any, within which to make the award.

(b) The award.

(c) Every notice, affidavit and other paper used upon an application to confirm, modify, correct or vacate the award, and each order made upon such an application.

The judgment or decree shall be entered (or docketed) as if it were rendered in an action.

Sec. 21. The judgment or decree so entered (or docketed) shall have the same force and effect, in all respects, as, and be subject to all the provisions of law relating to, a judgment or decree; and it may be enforced, as if it had been rendered in the court in which it is entered.

Sec. 22. An appeal may be taken from the final judgment or decree entered by the court.

Sec. 23. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states, which enact it.

Sec. 24. This act may be cited as the Uniform Arbitration Act.

Sec. 25. All acts or parts of acts inconsistent with this act are hereby repealed.