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SENATE BILL NO. 307

Offered January 9, 2002

Prefiled January 9, 2002

A BILL to amend the Code of Virginia by adding in Chapter 21 of Title 8.01 an article numbered 3, consisting of sections numbered 8.01-581.017 through 8.01-581.046 and to repeal Article 2 of Chapter 21 of Title 8.01 consisting of sections 8.01-581.01 through 8.01-581.016, relating to the Uniform Arbitration Act.

Patron—Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 21 of Title 8.01 an article numbered 3, consisting of sections numbered 8.01-581.017 through 8.01-581.046 as follows:

*Article 3.**Uniform Arbitration Act.**§ 8.01-581.017. Definitions.*

As used in this article, unless the context requires otherwise:

"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.

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

"Court" means a court of competent jurisdiction in the Commonwealth.

"Knowledge" means actual knowledge.

"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.

"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.

§ 8.01-581.018. Notice.

A. Except as otherwise provided in this Act, 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.

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

C. 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.

§ 8.01-581.019. Applicability.

A. This Act governs an agreement to arbitrate made on or after July 1, 2003.

B. This Act governs an agreement to arbitrate made before July 1, 2003, if all the parties to the agreement or to the arbitration proceeding so agree in a record.

C. On or after July 1, 2005, this Act governs an agreement to arbitrate whenever made.

§ 8.01-581.020. Effect of agreement to arbitrate; nonwaivable provisions.

A. Except as otherwise provided in subsections B and C, 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 Act to the extent permitted by law.

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

1. Waive or agree to vary the effect of the requirements of subsection A of § 8.01-581.021, subsection A of § 8.01-581.022, § 8.01-581.024, subsection A or B of § 8.01-581.033, §§ 8.01-581.042, or 8.01-581.044;

2. Agree to unreasonably restrict the right under § 8.01-581.025 to notice of the initiation of an arbitration proceeding;

3. Agree to unreasonably restrict the right under § 8.01-581.028 to disclosure of any facts by a neutral arbitrator; or

4. Waive the right under § 8.01-581.032 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this Act, but an employer and a labor organization may

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SB307

59 *waive the right to representation by a lawyer in a labor arbitration.*

60 *C. A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may*
61 *not vary the effect of, the requirements of this section or subsections A or C of § 8.01-581.019,*
62 *§§ 8.01-581.023, 8.01-581.030, 8.01-581.034, subsection C or D of § 8.01-581.036, §§ 8.01-581.038,*
63 *8.01-581.039, 8.01-581.040, subsection A or B of § 8.01-581.041, § 8.01-581.045 or § 8.01-581.046.*

64 *§ 8.01-581.021. Application for judicial relief.*

65 *A. Except as otherwise provided in § 8.01-581.044, an application for judicial relief under this Act*
66 *must be made by motion to the court and heard in the manner provided by law or rule of court for*
67 *making and hearing motions.*

68 *B. Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to*
69 *the court under this Act must be served in the manner provided by law for the service of a summons in*
70 *a civil action. Otherwise, notice of the motion must be given in the manner provided by law or rule of*
71 *court for serving motions in pending cases.*

72 *§ 8.01-581.022. Validity of agreement to arbitrate.*

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

76 *B. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an*
77 *agreement to arbitrate.*

78 *C. An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled and*
79 *whether a contract containing a valid agreement to arbitrate is enforceable.*

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

83 *§ 8.01-581.023. Motion to compel or stay arbitration.*

84 *A. On motion of a person showing an agreement to arbitrate and alleging another person's refusal to*
85 *arbitrate pursuant to the agreement:*

86 *1. If the refusing party does not appear or does not oppose the motion, the court shall order the*
87 *parties to arbitrate; and*

88 *2. If the refusing party opposes the motion, the court shall proceed summarily to decide the issue*
89 *and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.*

90 *B. On motion of a person alleging that an arbitration proceeding has been initiated or threatened*
91 *but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue. If the*
92 *court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.*

93 *C. If the court finds that there is no enforceable agreement, it may not, pursuant to subsection A or*
94 *B, order the parties to arbitrate.*

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

97 *E. If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate*
98 *is pending in court, a motion under this section must be made in that court. Otherwise a motion under*
99 *this section may be made in any court as provided in § 8.01-581.043.*

100 *F. If a party makes a motion to the court to order arbitration, the court on just terms shall stay any*
101 *judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders*
102 *a final decision under this section.*

103 *G. If the court orders arbitration, the court on just terms shall stay any judicial proceeding that*
104 *involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court*
105 *may limit the stay to that claim.*

106 *§ 8.01-581.024. Provisional remedies.*

107 *A. Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a*
108 *party to an arbitration proceeding and for good cause shown, may enter an order for provisional*
109 *remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the*
110 *same conditions as if the controversy were the subject of a civil action.*

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

112 *1. The arbitrator may issue such orders for provisional remedies, including interim awards, as the*
113 *arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the*
114 *fair and expeditious resolution of the controversy, to the same extent and under the same conditions as*
115 *if the controversy were the subject of a civil action; and*

116 *2. A party to an arbitration proceeding may move the court for a provisional remedy only if the*
117 *matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an*
118 *adequate remedy.*

119 *C. A party does not waive a right of arbitration by making a motion under subsection A or B.*

120 *§ 8.01-581.025. Initiation of arbitration.*

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

126 B. Unless a person objects for lack or insufficiency of notice under subsection C of § 8.01-581.031
127 not later than the beginning of the arbitration hearing, the person by appearing at the hearing waives
128 any objection to lack of or insufficiency of notice.

129 § 8.01-581.026. Consolidation of separate arbitration proceedings.

130 A. Except as otherwise provided in subsection C, upon motion of a party to an agreement to
131 arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration
132 proceedings as to all or some of the claims if:

133 1. There are separate agreements to arbitrate or separate arbitration proceedings between the same
134 persons or one of them is a party to a separate agreement to arbitrate or a separate arbitration
135 proceeding with a third person;

136 2. The claims subject to the agreements to arbitrate arise in substantial part from the same
137 transaction or series of related transactions;

138 3. The existence of a common issue of law or fact creates the possibility of conflicting decisions in
139 the separate arbitration proceedings; and

140 4. Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or
141 prejudice to the rights of or hardship to parties opposing consolidation.

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

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

146 § 8.01-581.027. Appointment of arbitrator; service as a neutral arbitrator.

147 A. If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that
148 method must be followed, unless the method fails. If the parties have not agreed on a method, the
149 agreed method fails, or an appointed arbitrator fails or is unable to act and a successor has not been
150 appointed, the court, on motion of a party to the arbitration proceeding, shall appoint the arbitrator. An
151 arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or
152 appointed pursuant to the agreed method.

153 B. An individual who has a known, direct, and material interest in the outcome of the arbitration
154 proceeding or a known, existing, and substantial relationship with a party may not serve as an
155 arbitrator required by an agreement to be neutral.

156 § 8.01-581.028. Disclosure by arbitrator.

157 A. Before accepting appointment, an individual who is requested to serve as an arbitrator, after
158 making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration
159 proceeding and to any other arbitrators any known facts that a reasonable person would consider likely
160 to affect the impartiality of the arbitrator in the arbitration proceeding, including:

161 1. A financial or personal interest in the outcome of the arbitration proceeding; and

162 2. An existing or past relationship with any of the parties to the agreement to arbitrate or the
163 arbitration proceeding, their counsel or representatives, a witness, or another arbitrators.

164 B. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate
165 and arbitration proceeding and to any other arbitrators any facts that the arbitrator learns after
166 accepting appointment that a reasonable person would consider likely to affect the impartiality of the
167 arbitrator.

168 C. If an arbitrator discloses a fact required by subsection A or B to be disclosed and a party timely
169 objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the
170 objection may be a ground under subdivision A. 2. of § 8.01-581.039 for vacating an award made by
171 the arbitrator.

172 D. If the arbitrator did not disclose a fact as required by subsection A or B, upon timely objection
173 by a party, the court under subdivision A. 2. of § 8.01-581.039 may vacate an award.

174 E. An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and
175 material interest in the outcome of the arbitration proceeding or a known, existing, and substantial
176 relationship with a party is presumed to act with evident partiality under subdivision A. 2. of
177 § 8.01-581.039.

178 F. If the parties to an arbitration proceeding agree to the procedures of an arbitration organization
179 or any other procedures for challenges to arbitrators before an award is made, substantial compliance
180 with those procedures is a condition precedent to a motion to vacate an award on that ground under
181 subdivision A. 2. of § 8.01-581.039.

§ 8.01-581.029. *Action by majority.*

If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under subsection C of § 8.01-581.031.

§ 8.01-581.030. *Immunity of arbitrator; competency to testify; attorney's fees and costs.*

A. An arbitrator or an arbitration organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of the Commonwealth acting in a judicial capacity.

B. The immunity afforded by this section supplements any immunity under other law.

C. The failure of an arbitrator to make a disclosure required by § 8.01-581.028 does not cause any loss of immunity under this section.

D. In a judicial, administrative, or similar proceeding, an arbitrator or representative of an arbitration organization is not competent to testify, and may not be required to produce records as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to the same extent as a judge of a court of the Commonwealth acting in a judicial capacity. This subsection does not apply:

1. 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

2. To a hearing on a motion to vacate an award under subdivision A. 1. or A. 2. of § 8.01-581.039 if the movant establishes prima facie that a ground for vacating the award exists.

E. 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 D, 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's fees and other reasonable expenses of litigation.

§ 8.01-581.031. *Arbitration process.*

A. An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

B. An arbitrator may decide a request for summary disposition of a claim or particular issue:

1. If all interested parties agree; or

2. Upon request of one party 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.

C. 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 waives the objection. Upon 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 although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

D. At a hearing under subsection C, 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.

E. If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with § 8.01-581.027 to continue the proceeding and to resolve the controversy.

§ 8.01-581.032. *Representation by lawyer.*

A party to an arbitration proceeding may be represented by a lawyer.

§ 8.01-581.033. *Witnesses; subpoenas; depositions; discovery.*

A. 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 must 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 the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

B. In order to make the proceedings fair, expeditious, and cost-effective, upon request of a party to 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 or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

C. 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.

D. If an arbitrator permits discovery under subsection C, 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 noncomplying party to the extent a court could if the controversy were the subject of a civil action in the Commonwealth.

E. 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 in the Commonwealth.

F. All laws compelling a person under subpoena to testify and all fees for attending a judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration proceeding as if the controversy were the subject of a civil action in the Commonwealth.

G. The court may enforce a subpoena or discovery-related order for the attendance of a witness within the Commonwealth 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 must be served in the manner provided by law for service of subpoenas in a civil action in the Commonwealth 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 in the Commonwealth.

§ 8.01-581.034. Judicial enforcement of preaward ruling by arbitrator.

If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under § 8.01-581.035. A prevailing party may make a motion to the court for an expedited order to confirm the award under § 8.01-581.038, 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 §§ 8.01-581.039 or 8.01-581.040.

§ 8.01-581.035. Award.

A. An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by any 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.

B. 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 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 waives 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.

§ 8.01-581.036. Change of award by arbitrator.

A. On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may modify or correct an award:

1. Upon a ground stated in subdivision A. 1. or A. 3. of § 8.01-581.040;
2. Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
3. To clarify the award.

B. A motion under subsection A must be made and notice given to all parties within twenty days after the movant receives notice of the award.

C. A party to the arbitration proceeding must give notice of any objection to the motion within ten days after receipt of the notice.

D. If a motion to the court is pending under § 8.01-581.038, § 8.01-581.039, or § 8.01-581.040, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

1. Upon a ground stated in subdivision A. 1 or A. 3. of § 8.01-581.040;
2. Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or
3. To clarify the award.

E. An award modified or corrected pursuant to this section is subject to subsection A of § 8.01-581.035, §§ 8.01-581.038, 8.01-581.039, and 8.01-581.040.

305 § 8.01-581.037. Remedies; fees and expenses of arbitration proceeding.

306 A. An arbitrator may award punitive damages or other exemplary relief if such an award is
307 authorized by law in a civil action involving the same claim and the evidence produced at the hearing
308 justifies the award under the legal standards otherwise applicable to the claim.

309 B. An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration
310 if such an award is authorized by law in a civil action involving the same claim or by the agreement of
311 the parties to the arbitration proceeding.

312 C. As to all remedies other than those authorized by subsections A and B, an arbitrator may order
313 such remedies as the arbitrator considers just and appropriate under the circumstances of the
314 arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is
315 not a ground for refusing to confirm an award under § 8.01-581.038 or for vacating an award under
316 § 8.01-581.039.

317 D. An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the
318 award.

319 E. If an arbitrator awards punitive damages or other exemplary relief under subsection A, the
320 arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the
321 award and state separately the amount of the punitive damages or other exemplary relief.

322 § 8.01-581.038. Confirmation of award.

323 After a party to an arbitration proceeding receives notice of an award, the party may make a motion
324 to the court for an order confirming the award at which time the court shall issue a confirming order
325 unless the award is modified or corrected pursuant to § 8.01-581.036 or § 8.01-581.040 or is vacated
326 pursuant to § 8.01-581.039.

327 § 8.01-581.039. Vacating award.

328 A. Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an
329 award made in the arbitration proceeding if:

330 1. The award was procured by corruption, fraud, or other undue means;

331 2. There was (i) evident partiality by an arbitrator appointed as a neutral arbitrator, (ii) corruption
332 by an arbitrator, or (iii) misconduct by an arbitrator prejudicing the rights of a party to the arbitration
333 proceeding;

334 3. An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement,
335 refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to
336 § 8.01-581.031, so as to prejudice substantially the rights of a party to the arbitration proceeding;

337 4. An arbitrator exceeded the arbitrator's powers;

338 5. There was no agreement to arbitrate, unless the person participated in the arbitration proceeding
339 without raising the objection under subsection C of § 8.01-581.031 not later than the beginning of the
340 arbitration hearing; or

341 6. The arbitration was conducted without proper notice of the initiation of an arbitration as required
342 in § 8.01-581.025 so as to prejudice substantially the rights of a party to the arbitration proceeding.

343 B. A motion under this section must be filed within ninety days after the movant receives notice of
344 the award pursuant to § 8.01-581.035 or within ninety days after the movant receives notice of a
345 modified or corrected award pursuant to § 8.01-581.036, unless the movant alleges that the award was
346 procured by corruption, fraud, or other undue means, in which case the motion must be made within
347 ninety days after the ground is known or by the exercise of reasonable care would have been known by
348 the movant.

349 C. If the court vacates an award on a ground other than that set forth in subdivision A. 5., it may
350 order a rehearing. If the award is vacated on a ground stated in subdivision A. 1. or A. 2., the
351 rehearing must be before a new arbitrator. If the award is vacated on a ground stated in subdivision A.
352 3., A. 4., or A. 6., the rehearing may be before the arbitrator who made the award or the arbitrator's
353 successor. The arbitrator must render the decision in the rehearing within the same time as that
354 provided in subsection B of § 8.01-581.035 for an award.

355 D. If the court denies a motion to vacate an award, it shall confirm the award unless a motion to
356 modify or correct the award is pending.

357 § 8.01-581.040. Modification or correction of award.

358 A. Upon motion made within ninety days after the movant receives notice of the award pursuant to
359 § 8.01-581.035 or within ninety days after the movant receives notice of a modified or corrected award
360 pursuant to § 8.01-581.036, the court shall modify or correct the award if:

361 1. There was an evident mathematical miscalculation or an evident mistake in the description of a
362 person, thing, or property referred to in the award;

363 2. The arbitrator has made an award on a claim not submitted to the arbitrator and the award may
364 be corrected without affecting the merits of the decision upon the claims submitted; or

365 3. The award is imperfect in a matter of form not affecting the merits of the decision on the claims
366 submitted.

B. If a motion made under subsection A 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.

C. A motion to modify or correct an award pursuant to this section may be joined with a motion to vacate the award.

§ 8.01-581.041. Judgment on award; attorney's fees and litigation expenses.

A. 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.

B. A court may allow reasonable costs of the motion and subsequent judicial proceedings.

C. On application of a prevailing party to a contested judicial proceeding under § 8.01-581.038, 8.01-581.039, or 8.01-581.040, the court may add reasonable attorney's 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.

§ 8.01-581.042. Jurisdiction.

A. A court of the Commonwealth having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

B. An agreement to arbitrate providing for arbitration in the Commonwealth confers exclusive jurisdiction on the court to enter judgment on an award under this Act.

§ 8.01-581.043. Venue.

A motion pursuant to § 8.01-581.021 must be made in the court of the jurisdiction in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the jurisdiction in which it was held. Otherwise, the motion may be made in the court of any jurisdiction 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 the Commonwealth, in the court of any jurisdiction in the Commonwealth. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

§ 8.01-581.044. Appeals.

A. An appeal may be taken from:

- 1. An order denying a motion to compel arbitration;*
- 2. An order granting a motion to stay arbitration;*
- 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 final judgment entered pursuant to this Act.*

B. An appeal under this section must be taken as from an order or a judgment in a civil action.

§ 8.01-581.045. Uniformity of application and construction.

In applying and construing this Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 8.01-581.046. Electronic Signatures in Global and National Commerce Act.

The provisions of this Act governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

2. That the provisions of this act do not affect an action or proceeding commenced or right accrued before this act takes effect. Subject to § 8.01-581.019 of this act, an arbitration agreement made before the effective date of this act is governed by the Uniform Arbitration Act (§ 8.01-581.01 et seq.) as it was in effect immediately before the effective date of this act.

3. That Article 2 of Chapter 21 consisting of §§ 8.01-581.01 through 8.01-581.016 of the Code of Virginia is repealed.