

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2186

By Committee on Judiciary

1-26

1 AN ACT concerning arbitration; enacting the uniform arbitration act of
2 2000; amending K.S.A. 50-6,100 and 66-1712 and repealing the
3 existing sections; also repealing K.S.A. 5-401, 5-402, 5-403, 5-404, 5-
4 405, 5-406, 5-407, 5-408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-
5 415, 5-416, 5-417, 5-418, 5-419, 5-420, 5-421 and 5-422.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. As used in sections 1 through 31, and amendments
9 thereto:

10 (a) "Arbitration organization" means an association, agency, board,
11 commission or other entity that is neutral and initiates, sponsors or
12 administers an arbitration proceeding or is involved in the appointment of
13 an arbitrator;

14 (b) "arbitrator" means an individual appointed to render an award,
15 alone or with others, in a controversy that is subject to an agreement to
16 arbitrate;

17 (c) "court" means a court of competent jurisdiction in this state;

18 (d) "knowledge" means actual knowledge;

19 (e) "person" means an individual, corporation, business trust, estate,
20 trust, partnership, limited liability company, association, joint venture,
21 government, governmental subdivision, agency, instrumentality, public
22 corporation or any other legal or commercial entity; and

23 (f) "record" means information that is inscribed on a tangible medium
24 or that is stored in an electronic or other medium and is retrievable in
25 perceivable form.

26 New Sec. 2. (a) Except as otherwise provided in sections 1 through
27 31, and amendments thereto, a person gives notice to another person by
28 taking action that is reasonably necessary to inform the other person in
29 ordinary course, whether or not the other person acquires knowledge of the
30 notice.

31 (b) A person has notice if the person has knowledge of the notice or
32 has received notice.

33 (c) A person receives notice when it comes to the person's attention or
34 the notice is delivered at the person's place of residence or place of
35 business, or at another location held out by the person as a place of
36 delivery of such communications.

1 New Sec. 3. (a) Sections 1 through 31, and amendments thereto,
2 govern an agreement to arbitrate made on or after July 1, 2017.

3 (b) Sections 1 through 31, and amendments thereto, govern an
4 agreement to arbitrate made before July 1, 2017, if all parties to the
5 agreement or to the arbitration proceeding so agree in the record.

6 New Sec. 4. (a) Except as otherwise provided in subsections (b) and
7 (c), a party to an agreement to arbitrate or to an arbitration proceeding may
8 waive or the parties may vary the effect of, the requirements of sections 1
9 through 31, and amendments thereto, to the extent permitted by law.

10 (b) Before a controversy arises that is subject to an agreement to
11 arbitrate, a party to the agreement may not:

12 (1) Waive or agree to vary the effect of the requirements of sections
13 5(a), 6(a), 8, 17(a) or (b), 26 or 28, and amendments thereto;

14 (2) agree to unreasonably restrict the right under section 9, and
15 amendments thereto, to notice of the initiation of an arbitration
16 proceeding;

17 (3) agree to unreasonably restrict the right under section 12, and
18 amendments thereto, to disclosure of any facts by a neutral arbitrator; or

19 (4) waive the right under section 16, and amendments thereto, of a
20 party to an agreement to arbitrate to be represented by a lawyer at any
21 proceeding or hearing under sections 1 through 31, and amendments
22 thereto, but an employer and a labor organization may waive the right to
23 representation by a lawyer in a labor arbitration.

24 (c) A party to an agreement to arbitrate or arbitration proceeding may
25 not waive, or the parties may not vary the effect of, the requirements of
26 this section or section 3~~(a) or (e)~~, 7, 14, 18, 20(d) or (e), 22, 23, 24, 25(a)
27 or (b), 29, 30 or 31, and amendments thereto.

28 New Sec. 5. (a) Except as otherwise provided in section 28, and
29 amendments thereto, an application for judicial relief under sections 1
30 through 31, and amendments thereto, must be made by motion to the court
31 and heard in the manner provided by law or rule of court for making and
32 hearing motions.

33 (b) Unless a civil action involving the agreement to arbitrate is
34 pending, notice of an initial motion to the court under this act must be
35 served in the manner provided by law for the service of a summons in a
36 civil action. Otherwise, notice of the motion must be given in the manner
37 provided by law or rule of court for serving motions in pending cases.

38 New Sec. 6. (a) An agreement contained in a record to submit to
39 arbitration any existing or subsequent controversy arising between the
40 parties to the agreement is valid, enforceable and irrevocable, except upon
41 a ground that exists at law or in equity for the revocation of a contract.

42 (b) The court shall decide whether an agreement to arbitrate exists or
43 a controversy is subject to an agreement to arbitrate.

1 (c) An arbitrator shall decide whether a condition precedent to
2 arbitrability has been fulfilled and whether a contract containing a valid
3 agreement to arbitrate is enforceable.

4 (d) If a party to a judicial proceeding challenges the existence of, or
5 claims that a controversy is not subject to, an agreement to arbitrate, the
6 arbitration proceeding may continue, pending final resolution of the issue
7 by the court, unless the court otherwise orders.

8 New Sec. 7. (a) On motion of a person showing an agreement to
9 arbitrate and alleging another person's refusal to arbitrate, pursuant to the
10 agreement:

11 (1) If the refusing party does not appear or does not oppose the
12 motion, the court shall order the parties to arbitrate; and

13 (2) if the refusing party opposes the motion, the court shall proceed
14 summarily to decide the issue and order the parties to arbitrate, unless it
15 finds that there is no enforceable agreement to arbitrate.

16 (b) On motion of a person alleging that an arbitration proceeding has
17 been initiated or threatened, but that there is no agreement to arbitrate, the
18 court shall proceed summarily to decide the issue. If the court finds that
19 there is an enforceable agreement to arbitrate, it shall order the parties to
20 arbitrate.

21 (c) If the court finds that there is no enforceable agreement, it may
22 not, pursuant to subsections (a) or (b), order the parties to arbitrate.

23 (d) The court may not refuse to order arbitration because the claim
24 subject to arbitration lacks merit or grounds for the claim have not been
25 established.

26 (e) If a proceeding involving a claim referable to arbitration under an
27 alleged agreement to arbitrate is pending in court, a motion under this
28 section must be made in that court. Otherwise, a motion under this section
29 may be made in any court as provided in section 27, and amendments
30 thereto.

31 (f) If a party makes a motion to the court to order arbitration, the
32 court on just terms shall stay any judicial proceeding that involves a claim
33 alleged to be subject to the arbitration until the court renders a final
34 decision under this section.

35 (g) If the court orders arbitration, the court on just terms shall stay
36 any judicial proceeding that involves a claim subject to the arbitration. If a
37 claim subject to the arbitration is severable, the court may limit the stay to
38 that claim.

39 New Sec. 8. (a) Before an arbitrator is appointed and is authorized
40 and able to act, the court, upon motion of a party to an arbitration
41 proceeding and for good cause shown, may enter an order for provisional
42 remedies to protect the effectiveness of the arbitration proceeding to the
43 same extent and under the same conditions as if the controversy were the

1 subject of a civil action.

2 (b) After an arbitrator is appointed and is authorized and able to act:

3 (1) The arbitrator may issue such orders for provisional remedies,
4 including interim awards, as the arbitrator finds necessary to protect the
5 effectiveness of the arbitration proceeding and to promote the fair and
6 expeditious resolution of the controversy, to the same extent and under the
7 same conditions as if the controversy were the subject of a civil action; and

8 (2) a party to an arbitration proceeding may move the court for a
9 provisional remedy only if the matter is urgent and the arbitrator is not
10 able to act timely or the arbitrator cannot provide an adequate remedy.

11 (c) A party does not waive a right of arbitration by making a motion
12 under subsection (a) or (b).

13 New Sec. 9. (a) A person initiates an arbitration proceeding by giving
14 notice in a record to the other parties to the agreement to arbitrate in the
15 agreed manner between the parties or, in the absence of agreement, by
16 certified or registered mail, return receipt requested and obtained, or by
17 service as authorized for the commencement of a civil action. The notice
18 must describe the nature of the controversy and the remedy sought.

19 (b) Unless a person objects for lack or insufficiency of notice under
20 section 15(c), and amendments thereto, not later than the beginning of the
21 arbitration hearing, the person, by appearing at the hearing, waives any
22 objection to lack of or insufficiency of notice.

23 New Sec. 10. (a) Except as otherwise provided in subsection (c),
24 upon motion of a party to an agreement to arbitrate or to an arbitration
25 proceeding, the court may order consolidation of separate arbitration
26 proceedings as to all or some of the claims if:

27 (1) There are separate agreements to arbitrate or separate arbitration
28 proceedings between the same persons or one of them is a party to a
29 separate agreement to arbitrate or a separate arbitration proceeding with a
30 third person;

31 (2) the claims subject to the agreements to arbitrate arise in
32 substantial part from the same transaction or series of related transactions;

33 (3) the existence of a common issue of law or fact creates the
34 possibility of conflicting decisions in the separate arbitration proceedings;
35 and

36 (4) prejudice resulting from a failure to consolidate is not outweighed
37 by the risk of undue delay or prejudice to the rights of or hardship to
38 parties opposing consolidation.

39 (b) The court may order consolidation of separate arbitration
40 proceedings as to some claims and allow other claims to be resolved in
41 separate arbitration proceedings.

42 (c) The court may not order consolidation of the claims of a party to
43 an agreement to arbitrate if the agreement prohibits consolidation.

1 New Sec. 11. (a) If the parties to an agreement to arbitrate agree on a
2 method for appointing an arbitrator, that method must be followed, unless
3 the method fails. If the parties have not agreed on a method, the agreed
4 method fails or an arbitrator appointed fails or is unable to act and a
5 successor has not been appointed, the court, on motion of a party to the
6 arbitration proceeding, shall appoint the arbitrator. An arbitrator so
7 appointed has all the powers of an arbitrator designated in the agreement
8 to arbitrate or appointed pursuant to the agreed method.

9 (b) An individual who has a known, direct and material interest in the
10 outcome of the arbitration proceeding or a known, existing and substantial
11 relationship with a party may not serve as an arbitrator required by an
12 agreement to be neutral.

13 New Sec. 12. (a) Before accepting appointment, an individual who is
14 requested to serve as an arbitrator, after making a reasonable inquiry, shall
15 disclose to all parties to the agreement to arbitrate and arbitration
16 proceeding and to any other arbitrators any known facts that a reasonable
17 person would consider likely to affect the impartiality of the arbitrator in
18 the arbitration proceeding, including:

19 (1) A financial or personal interest in the outcome of the arbitration
20 proceeding; and

21 (2) an existing or past relationship with any of the parties to the
22 agreement to arbitrate or the arbitration proceeding, their counsel or
23 representatives, a witness or other arbitrators.

24 (b) An arbitrator has a continuing obligation to disclose to all parties
25 to the agreement to arbitrate and arbitration proceeding and to any other
26 arbitrators any facts that the arbitrator learns after accepting appointment
27 that a reasonable person would consider likely to affect the impartiality of
28 the arbitrator.

29 (c) If an arbitrator discloses a fact required by subsection (a) or (b) to
30 be disclosed and a party timely objects to the appointment or continued
31 service of the arbitrator based upon the fact disclosed, the objection may
32 be a ground under section 23(a)(2), and amendments thereto, for vacating
33 an award made by the arbitrator.

34 (d) If the arbitrator did not disclose a fact as required by subsection
35 (a) or (b), upon timely objection by a party, the court under section 23(a)
36 (2), and amendments thereto, may vacate the award.

37 (e) An arbitrator appointed as a neutral arbitrator who does not
38 disclose a known, direct and material interest in the outcome of the
39 arbitration proceeding or a known, existing and substantial relationship
40 with a party is presumed to act with evident partiality under section 23(a)
41 (2), and amendments thereto.

42 (f) If the parties to an arbitration proceeding agree to the procedures
43 of an arbitration organization or any other procedures for challenges to

1 arbitrators before an award is made, substantial compliance with those
2 procedures is a condition precedent to a motion to vacate an award on that
3 ground under section 23(a)(2), and amendments thereto.

4 New Sec. 13. If there is more than one arbitrator, the powers of an
5 arbitrator must be exercised by a majority of the arbitrators, but all of them
6 shall conduct the hearing under section 15(c), and amendments thereto.

7 New Sec. 14. (a) An arbitration organization acting in that capacity is
8 immune from civil liability to the same extent as a judge of a court of this
9 state acting in a judicial capacity.

10 (b) The immunity afforded by this section supplements any immunity
11 under other law.

12 (c) The failure of an arbitrator to make a disclosure required by
13 section 12, and amendments thereto, does not cause any loss of immunity
14 under this section.

15 (d) In a judicial, administrative or similar proceeding, an arbitrator or
16 representative of an arbitration organization is not competent to testify, and
17 may not be required to produce records as to any statement, conduct,
18 decision or ruling occurring during the arbitration proceeding, to the same
19 extent as a judge of a court of this state acting in a judicial capacity. This
20 subsection does not apply:

21 (1) To the extent necessary to determine the claim of an arbitrator,
22 arbitration organization or representative of the arbitration organization
23 against a party to the arbitration proceeding; or

24 (2) to a hearing on a motion to vacate an award under section 23(a)(1)
25 or (2), and amendments thereto, if the movant establishes prima facie that
26 a ground for vacating the award exists.

27 (e) If a person commences a civil action against an arbitrator,
28 arbitration organization or representative of an arbitration organization
29 arising from the services of an arbitrator, organization or representative or
30 if a person seeks to compel an arbitrator or a representative of an
31 arbitration organization to testify or produce records in violation of
32 subsection (d), and the court decides that the arbitrator, arbitration
33 organization or representative of an arbitration organization is immune
34 from civil liability or that the arbitrator or representative of the
35 organization is not competent to testify, the court shall award to the
36 arbitrator, organization or representative reasonable attorney fees and other
37 reasonable expenses of litigation.

38 New Sec. 15. (a) An arbitrator may conduct an arbitration in such
39 manner as the arbitrator considers appropriate for a fair and expeditious
40 disposition of the proceeding. The authority conferred upon the arbitrator
41 includes the power to hold conferences with the parties to the arbitration
42 proceeding before the hearing and, among other matters, determine the
43 admissibility, relevance, materiality and weight of any evidence.

1 (b) An arbitrator may decide a request for summary disposition of a
2 claim or particular issue:

3 (1) If all interested parties agree; or

4 (2) upon request of one party to the arbitration proceeding, if that
5 party gives notice to all other parties to the proceeding and the other
6 parties have a reasonable opportunity to respond.

7 (c) If an arbitrator orders a hearing, the arbitrator shall set a time and
8 place and give notice of the hearing not less than five days before the
9 hearing begins. Unless a party to the arbitration proceeding makes an
10 objection to lack or insufficiency of notice not later than the beginning of
11 the hearing, the party's appearance at the hearing waives the objection.
12 Upon request of a party to the arbitration proceeding and for good cause
13 shown, or upon the arbitrator's own initiative, the arbitrator may adjourn
14 the hearing from time to time as necessary but may not postpone the
15 hearing to a time later than that fixed by the agreement to arbitrate for
16 making the award unless the parties to the arbitration proceeding consent
17 to a later date. The arbitrator may hear and decide the controversy upon the
18 evidence produced, although a party who was duly notified of the
19 arbitration proceeding did not appear. The court, on request, may direct the
20 arbitrator to conduct the hearing promptly and render a timely decision.

21 (d) At a hearing under subsection (c), a party to the arbitration
22 proceeding has a right to be heard, to present evidence material to the
23 controversy, and to cross-examine witnesses appearing at the hearing.

24 (e) If an arbitrator ceases or is unable to act during the arbitration
25 proceeding, a replacement arbitrator must be appointed in accordance with
26 section 11, and amendments thereto, to continue the proceeding and to
27 resolve the controversy.

28 New Sec. 16. A party to an arbitration proceeding may be represented
29 by a lawyer.

30 New Sec. 17. (a) An arbitrator may issue a subpoena for the
31 attendance of a witness and for the production of records and other
32 evidence at any hearing and may administer oaths. A subpoena must be
33 served in the manner for service of subpoenas in a civil action and, upon
34 motion to the court by a party to the arbitration proceeding or the
35 arbitrator, enforced in the manner for enforcement of subpoenas in a civil
36 action.

37 (b) In order to make the proceedings fair, expeditious and most cost
38 effective, upon request of a party to or a witness in an arbitration
39 proceeding, an arbitrator may permit a deposition of any witness to be
40 taken for use as evidence at the hearing, including a witness who cannot be
41 subpoenaed for or is unable to attend a hearing. The arbitrator shall
42 determine the conditions under which the deposition is taken.

43 (c) An arbitrator may permit such discovery as the arbitrator decides

1 is appropriate in the circumstances, taking into account the needs of the
2 parties to the arbitration proceeding and other affected persons and the
3 desirability of making the proceeding fair, expeditious and cost effective.

4 (d) If an arbitrator permits discovery under subsection (c), the
5 arbitrator may order a party to the arbitration proceeding to comply with
6 the arbitrator's discovery-related orders, issue subpoenas for the attendance
7 of a witness and for the production of records and other evidence at a
8 discovery proceeding, and take action against a noncomplying party to the
9 extent a court could, if the controversy were the subject of a civil action in
10 this state.

11 (e) An arbitrator may issue a protective order to prevent the
12 disclosure of privileged information, confidential information, trade
13 secrets and other information protected from disclosure to the extent a
14 court could, if the controversy were the subject of a civil action in this
15 state.

16 (f) All laws compelling a person under subpoena to testify and all
17 fees for attending a judicial proceeding, a deposition or a discovery
18 proceeding as a witness apply to an arbitration proceeding as if the
19 controversy were the subject of a civil action in this state.

20 (g) The court may enforce a subpoena or discovery-related order for
21 the attendance of a witness within this state and for the production of
22 records and other evidence issued by an arbitrator in connection with an
23 arbitration proceeding in another state upon conditions determined by the
24 court as to make the arbitration proceeding fair, expeditious and cost
25 effective. A subpoena or discovery-related order issued by an arbitrator in
26 another state must be served in the manner provided by law for service of
27 subpoenas in a civil action in this state and, upon motion to the court by a
28 party to the arbitration proceeding or the arbitration, enforced in the
29 manner provided by law for enforcement of subpoenas in a civil action in
30 this state.

31 New Sec. 18. If an arbitrator makes a pre-award ruling in favor of a
32 party to the arbitration proceeding, the party may request the arbitrator to
33 incorporate the ruling into an award under section 19, and amendments
34 thereto. A prevailing party may make a motion to the court for an
35 expedited order to confirm the award under section 22, and amendments
36 thereto, in which case the court shall summarily decide the motion. The
37 court shall issue an order to confirm the award, unless the court vacates,
38 modifies or corrects the award under section 23 or 24, and amendments
39 thereto.

40 New Sec. 19. (a) An arbitrator shall make a record of an award. The
41 record must be signed or otherwise authenticated by an arbitrator who
42 concurs with the award. The arbitrator or the arbitration organization shall
43 give notice of the award, including a copy of the award, to each party to

1 the arbitration proceeding.

2 (b) An award must be made within the time specified by the
3 agreement to arbitrate or, if not specified therein, within the time ordered
4 by the court. The court may extend or the parties to the arbitration
5 proceeding may agree in a record to extend the time. The court or the
6 parties may do so within or after the time specified or ordered. A party
7 waives any objection that an award was not timely made unless the party
8 gives notice of the objection to the arbitrator before receiving notice of the
9 award.

10 New Sec. 20. (a) On motion to an arbitrator by a party to an
11 arbitration proceeding, the arbitrator may modify or correct an award:

12 (1) Upon a ground stated in section 24(a)(1) or (3), and amendments
13 thereto;

14 (2) because the arbitrator has not made a final and definite award
15 upon a claim submitted by the parties to the arbitration proceeding; or

16 (3) to clarify the award.

17 (b) A motion under subsection (a) must be made and notice given to
18 all parties within 20 days after the movant receives notice of the award.

19 (c) A party to the arbitration proceeding must give notice of any
20 objection to the motion within 10 days after receipt of the notice.

21 (d) If a motion to the court is pending under section 22, 23 or 24, and
22 amendments thereto, the court may submit the claim to the arbitrator to
23 consider whether to modify or correct the award:

24 (1) Upon a ground stated in section 24(a)(1) or (3), and amendments
25 thereto;

26 (2) because the arbitrator has not made a final and definite award
27 upon a claim submitted by the parties to the arbitration proceedings; or

28 (3) to clarify the award.

29 (e) An award modified or corrected pursuant to this section is subject
30 to sections 19(a), 22, 23 and 24, and amendments thereto.

31 New Sec. 21. (a) An arbitrator may award punitive damages or other
32 exemplary relief if such an award is authorized by law in a civil action
33 involving the same claim and the evidence produced at the hearing
34 justifies the award under the legal standards otherwise applicable to the
35 claim.

36 (b) An arbitrator may award reasonable attorney fees and other
37 reasonable expenses of arbitration if such an award is authorized by law in
38 a civil action involving the same claim or by the agreement of the parties
39 to the arbitration proceeding.

40 (c) As to all remedies other than those authorized by subsections (a)
41 and (b), an arbitrator may order such remedies as the arbitrator considers
42 just and appropriate under the circumstances of the arbitration proceeding.
43 The fact that such a remedy could not or would not be granted by the court

1 is not a ground for refusing to confirm an award under section 22, and
2 amendments thereto, or for vacating an award under section 23, and
3 amendments thereto.

4 (d) An arbitrator's expenses and fees, together with other expenses,
5 must be paid as provided in the award.

6 (e) If an arbitrator awards punitive damages or other exemplary relief
7 under subsection (a), the arbitrator shall specify in the award the basis in
8 fact justifying and the basis in law authorizing the award and state
9 separately the amount of punitive damages or other exemplary relief.

10 New Sec. 22. After a party to an arbitration proceeding receives
11 notice of an award, the party may make a motion to the court for an order
12 confirming the award, at which time the court shall issue a confirming
13 order, unless the award is modified or corrected pursuant to section 20 or
14 24, and amendments thereto, or is vacated pursuant to section 23, and
15 amendments thereto.

16 New Sec. 23. (a) Upon motion to the court by a party to an arbitration
17 proceeding, the court shall vacate an award made in the arbitration
18 proceeding if:

19 (1) The award was procured by corruption, fraud or other undue
20 means;

21 (2) there was:

22 (A) Evident partiality by an arbitrator appointed as a neutral
23 arbitrator;

24 (B) corruption by an arbitrator; or

25 (C) misconduct by an arbitrator prejudicing the rights of a party to the
26 arbitration proceeding;

27 (3) an arbitrator refused to postpone the hearing upon showing of
28 sufficient cause for postponement, refused to consider evidence material to
29 the controversy, or otherwise conducted the hearing contrary to section 15,
30 and amendments thereto, so as to prejudice substantially the rights of a
31 party to the arbitration proceeding;

32 (4) an arbitrator exceeded the arbitrator's powers;

33 (5) there was no agreement to arbitrate, unless the person participated
34 in the arbitration proceeding without raising the objection under section
35 15(c), and amendments thereto, not later than the beginning of the
36 arbitration hearing; or

37 (6) the arbitration was conducted without proper notice of the
38 initiation of an arbitration as required in section 9, and amendments
39 thereto, so as to prejudice substantially the rights of a party to the
40 arbitration proceeding.

41 (b) A motion under this section must be filed within 90 days after the
42 movant receives notice of the award pursuant to section 19, and
43 amendments thereto, or within 90 days after the movant receives notice of

1 the award pursuant to section 20, and amendments thereto, unless the
2 movant alleges that the award was procured by corruption, fraud or other
3 undue means, in which case, the motion must be made within 90 days after
4 the ground is known or, by the exercise of reasonable care, would have
5 been known by the movant.

6 (c) If the court vacates an award on a ground other than that set forth
7 in subsection (a)(5), it may order a rehearing. If the award is vacated on a
8 ground stated in subsection (a)(1) or (2), the rehearing must be before a
9 new arbitrator. If the award is vacated on a ground stated in subsection (a)
10 (3), (4) or (6), the rehearing must be before the arbitrator who made the
11 award or the arbitrator's successor. The arbitrator must render the decision
12 in the rehearing within the same time as that provided in section 19(b), and
13 amendments thereto, for an award.

14 (d) If the court denies a motion to vacate an award, it shall confirm
15 the award unless a motion to modify or correct the award is pending.

16 New Sec. 24. (a) Upon motion made within 90 days after the movant
17 receives notice of the award pursuant to section 19, and amendments
18 thereto, or within 90 days after the movant receives notice of a modified or
19 corrected award pursuant to section 20, and amendments thereto, the court
20 shall modify or correct the award if:

21 (1) There was an evident mathematical miscalculation or an evident
22 mistake in the description of a person, thing or property referred to in the
23 award;

24 (2) the arbitrator has made an award on a claim not submitted to the
25 arbitrator and the award may be corrected without affecting the merits of
26 the decision upon the claims submitted; or

27 (3) the award is imperfect in a matter of form not affecting the merits
28 of the decision on the claims submitted.

29 (b) If a motion made under subsection (a) is granted, the court shall
30 modify or correct and confirm the award as modified or corrected.
31 Otherwise, unless a motion to vacate is pending, the court shall confirm
32 the award.

33 (c) A motion to modify or correct an award pursuant to this section
34 may be joined with a motion to vacate the award.

35 New Sec. 25. (a) Upon granting an order confirming, vacating
36 without directing a rehearing, modifying or correcting an award, the court
37 shall enter a judgment in conformity therewith. The judgment may be
38 recorded, docketed and enforced as any other judgment in a civil action.

39 (b) A court may allow reasonable costs of the motion and subsequent
40 judicial proceedings.

41 (c) On application of a prevailing party to a contested judicial
42 proceeding under section 22, 23 or 24, and amendments thereto, the court
43 may add reasonable attorney fees and other reasonable expenses of

1 litigation incurred in a judicial proceeding after the award is made to a
2 judgment confirming, vacating without directing a rehearing, modifying or
3 correcting an award.

4 New Sec. 26. (a) A court of this state having jurisdiction over the
5 controversy and the parties may enforce an agreement to arbitrate.

6 (b) An agreement to arbitrate providing for arbitration in this state
7 confers exclusive jurisdiction on the court to enter judgment on an award
8 under sections 1 through 31, and amendments thereto.

9 New Sec. 27. A motion pursuant to section 5, and amendments
10 thereto, must be made in the court of the county in which the agreement to
11 arbitrate specifies the arbitration hearing is to be held or, if the hearing has
12 been held, in the court of the county in which it was held. Otherwise, the
13 motion may be made in the court of any county in which an adverse party
14 resides or has a place of business or, if no adverse party has a residence or
15 place of business in this state, in the court of any county in this state. All
16 subsequent motions must be made in the court hearing the initial motion
17 unless the court otherwise directs.

18 New Sec. 28. (a) An appeal may be taken from:

19 (1) An order denying a motion to compel arbitration;

20 (2) an order granting a motion to stay arbitration;

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

22 (4) an order modifying or correcting an award;

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

24 (6) a final judgment entered pursuant to sections 1 through 31, and
25 amendments thereto.

26 (b) An appeal under this section must be taken as from an order or
27 judgment in a civil action.

28 New Sec. 29. In applying and construing this uniform act,
29 consideration must be given to the need to promote uniformity of the law
30 with respect to its subject matter among states that enact it.

31 New Sec. 30. The provisions of sections 1 through 31, and
32 amendments thereto, governing the legal effect, validity and enforceability
33 of electronic records or electronic signatures and of contracts performed
34 with the use of such records or signatures conform to the requirements of
35 section 102 of the electronic signatures in global and national commerce
36 act.

37 New Sec. 31. Sections 1 through 31, and amendments thereto, do not
38 affect an action or proceeding commenced or right accrued before sections
39 1 through 31, and amendments thereto, take effect. Subject to section 3,
40 and amendments thereto, an arbitration agreement made before the
41 effective date of sections 1 through 31, and amendments thereto, is
42 governed by article 4 of chapter 5 of the Kansas Statutes Annotated, prior
43 to its repeal.

1 Sec. 32. K.S.A. 50-6,100 is hereby amended to read as follows: 50-
2 6,100. (a) Each consumer shall have the option of submitting any dispute
3 arising under this act to arbitration. Upon application of the consumer all
4 ~~manufactures~~ *manufacturers* shall submit to such arbitration.

5 (b) Such arbitration shall be conducted in accordance with the
6 provisions of the uniform arbitration act (~~K.S.A. 5-401 et seq., sections 1~~
7 *through 31*, and amendments thereto). Any agreement to arbitrate entered
8 into under this section shall ensure the personal objectivity of the
9 arbitrators and the right of each party to present its case, to be in
10 attendance during any presentation made by the other party and to rebut or
11 refute such presentation.

12 Sec. 33. K.S.A. 66-1712 is hereby amended to read as follows: 66-
13 1712. (a) When any person desires to carry out temporarily any function or
14 activity in closer proximity to any high voltage overhead line than is
15 permitted by this act, the person or persons responsible for the function or
16 activity shall notify the public utility which owns or operates the high
17 voltage overhead line of the function or activity and shall make
18 appropriate arrangements with the public utility for temporary barriers,
19 temporary deenergization and grounding of the conductors, temporary
20 rerouting of electric current or temporary relocating of the conductors
21 before proceeding with any function or activity which would impair the
22 clearances required by this act.

23 (b) A person or persons requesting a public utility to provide
24 temporary clearances or other safety precautions shall be responsible for
25 payment of only those costs incurred by such utility in the temporary
26 rerouting of electric current or the temporary relocating of the conductors.
27 Upon request, a public utility shall provide a written costs estimate for the
28 work needed to provide temporary rerouting of electric current or
29 temporary relocating of the conductors. Unless otherwise agreed to, or
30 unless circumstances require a longer period of time before work
31 commences in order to assure continuity of service to electric customers, a
32 public utility shall commence work on such temporary rerouting of electric
33 current, temporary relocating of the conductors, temporary barriers or
34 temporary deenergization and grounding of the conductors as may be
35 appropriate, within seven working days after such notification has been
36 made in accordance with ~~subsection (a) of~~ K.S.A. 66-1712(a).

37 (c) If a person requesting a public utility to provide temporary
38 rerouting of electric current or the temporary relocating of the conductors
39 disagrees with the reasonableness of the written costs estimate or the
40 description of the work to be performed, the following options are
41 available to such person:

42 (1) Such person under protest may pay the utility for the work in
43 accordance with the written cost estimate, but shall be entitled to seek

1 recovery of all or any part of the money so paid in an arbitration
2 proceeding as hereinafter provided; or

3 (2) prior to directing the work to be performed, the person or persons
4 may submit to binding arbitration, as hereinafter provided, to resolve the
5 issue of the reasonableness of the written cost estimate or the description
6 or extent of the work to be performed by the public utility under such
7 estimate.

8 (d) Disputes submitted to binding arbitration under this section shall
9 be submitted in accordance with the procedures set forth in ~~K.S.A. 5-401 et~~
10 ~~seq. sections 1 through 31~~, and amendments thereto. The decision of the
11 arbitrator or arbitrators as to the reasonableness of the costs or the
12 necessity of the work to be performed shall be final and binding upon the
13 parties.

14 Sec. 34. K.S.A. 5-401, 5-402, 5-403, 5-404, 5-405, 5-406, 5-407, 5-
15 408, 5-409, 5-410, 5-411, 5-412, 5-413, 5-414, 5-415, 5-416, 5-417, 5-418,
16 5-419, 5-420, 5-421, 5-422, 50-6,100 and 66-1712 are hereby repealed.

17 Sec. 35. This act shall take effect and be in force from and after its
18 publication in the statute book.