AN ACT

Codification District of Columbia Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 16 of the District of Columbia Official Code to enact the Revised Uniform Arbitration Act, to provide for the regulation of arbitration organizations, and to require that a party drafting a consumer arbitration agreement disclose the costs associated with the arbitration; and to repeal Chapter 43 of Title 16 of the District of Columbia Official Code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Arbitration Act of 2007".

Sec. 2. Title 16 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended to add a new chapter heading to read as follows:

"44. Arbitration; Revised Uniform Act . . . §§ 16-4401 through 16-4432.".

(b) A new chapter 44 is added to read as follows:

Chapter 44, Title 16

"CHAPTER 44. ARBITRATION; REVISED UNIFORM ACT

"Sec.

"16-4401. Definitions.

"16-4402. Notice.

"16-4403. When chapter applies.

"16-4404. Effect of agreement to arbitrate; nonwaivable provisions.

"16-4405. Application for judicial relief.

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"16-4412. Disclosure by arbitrator.

"16-4413. Action by majority.

"16-4414. Immunity of arbitrator; competency to testify; attorney's fees and costs.

"16-4415. Arbitration process.

“§ 16-4401. Definitions.

“For the purposes of this chapter, the term:

“(1) “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.

“(2) “Arbitrator” means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

“(3) “Consumer” means a party to an arbitration agreement who, in the context of that arbitration agreement, is an individual, not a business, who seeks or acquires, including by lease, any goods or services primarily for personal, family, or household purposes including, but not limited to, financial services, healthcare services, or real property.

“(4) “Consumer arbitration agreement” means a standardized contract, written by one party, with a provision requiring that disputes arising after the contract’s signing shall be submitted to binding arbitration, and the other party is a consumer.

“(5) “Court” means the Superior Court of the District of Columbia.

“(6) “Financial interest” means :

(A) Holding a position in a business as officer, director, trustee, or partner, or holding any position in management of the business; or

“(B) Ownership of more than 5% interest in a business.

“(7) “Knowledge” means actual knowledge.

“(8) “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.

"(9) "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.

"§ 16-4402. Notice.

"(a) Except as otherwise provided in this chapter, 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.

"§ 16-4403. When chapter applies.

"(a) This chapter governs an agreement to arbitrate made on or after the effective date of this chapter.

"(b) This chapter governs an agreement to arbitrate made before the effective date of this chapter if all the parties to the agreement or to the arbitration proceeding so agree in a record.

"(c)(1) Any provision in an insurance policy with a consumer that requires binding arbitration is void and unenforceable.

"(2) An insurance policy with a consumer may permit the resolution of disputes through arbitration; provided, that:

"(A) The decision to arbitrate is made by the parties at the time a dispute arises; and

"(B) The decision whether to arbitrate is not a condition for continued policy coverage under the same terms that otherwise would apply.

"(3) If the parties to an insurance policy with a consumer elect to arbitrate, the provisions of this chapter shall apply.

"(d) A provision for mandatory binding arbitration within a consumer arbitration agreement is void and unenforceable except to the extent federal law provides for its enforceability.

"(e) On or after July 1, 2009, this chapter governs an agreement to arbitrate whenever made.

"(f)(1) This chapter does not apply to any arbitrator or any arbitration organization in an arbitration proceeding governed by rules adopted by a securities self-regulatory organization; provided, that the rules are approved by the United States Securities and Exchange Commission under federal law.

"(2) For the purposes of this paragraph, the term "securities self-regulatory

organization" means:

"(A) A securities exchange registered under the federal Securities Exchange Act of 1934, approved June 6, 1934 (48 Stat. 881; 15 U.S.C. § 78a *et seq.*)("Securities Exchange Act");

"(B) A national securities association of broker-dealers registered under the Securities Exchange Act;

"(C) A clearing agency registered under the Securities Exchange Act; or

"(D) The Municipal Securities Rulemaking Board established under the Securities Exchange Act.

"§ 16-4404. Effect of agreement to arbitrate; nonwaivable provisions.

"(a) Except as otherwise provided in subsections (b) and (c) of his section, 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 chapter 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 §§ 16-4403(d) and (e), 16-4405, 16-4406(a) or (c), 16-4408, 16-4409, 16-4412, 16-4417(a), 16-4417(b), 16-4421, 16-4426, or 16-4427; or

"(2) Waive the right under § 16-4416 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under this chapter, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

"(c) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or §§ 16-4403(a) or (c), 16-4407, 16-4414, 16-4418, 16-4419, 16-4420(d) or (e), 16-4422, 16-4423, 16-4424, 16-4425, and 16-4429, except that, if there is an agreement to arbitrate disputes over insurance obligations by and between 2 or more insurers, reinsurers, self-insurers, or reinsurance intermediaries, or any combination of them, the parties to the agreement may waive the right to vacatur under § 16-4423.

"§ 16-4405. Application for judicial relief.

"(a) Except as otherwise provided in § 16-4427, an application for judicial relief under this chapter shall be made by motion to the court and heard in the manner provided by law or rule of court for making and hearing motions.

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

"§ 16-4406. Validity of agreement to arbitrate.

"(a) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable, and

irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

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

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

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

"§ 16-4407. Motion to compel or stay arbitration.

"(a) On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

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

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

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

"(c) If the court finds that there is no enforceable agreement, it may not, pursuant to subsection (a) or (b) of this section, order the parties to arbitrate.

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

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

"(f) If the court orders arbitration, the court, on just terms, shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

"§ 16-4408. Provisional remedies.

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

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

"(1) The arbitrator may issue such orders for provisional remedies, including interim awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same

extent and under the same conditions as if the controversy were the subject of a civil action; and

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

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

"§ 16-4409. Initiation of arbitration.

"(a) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice shall describe the nature of the controversy and the remedy sought.

"(b) Unless a person objects for lack or insufficiency of notice under § 16-4415(c) not later than the beginning of the arbitration hearing, the person, by appearing at the hearing, waives any objection to lack of or insufficiency of notice.

"§ 16-4410. Consolidation of separate arbitration proceedings.

"(a) Except as otherwise provided in subsection (c) of this section, upon motion of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

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

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

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

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

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

"(c) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation; provided, that nothing in this section is intended to prevent a party's participation in a class action lawsuit or arbitration.

"§ 16-4411. Appointment of arbitrator; service as a neutral arbitrator.

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

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

"§ 16-4412. Disclosure by arbitrator.

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

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

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

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

"(c) If an arbitrator discloses a fact required by subsection (a) or (b) of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under § 16-4423(a)(2) for vacating an award made by the arbitrator.

"(d) If the arbitrator did not disclose a fact as required by subsection (a) or (b) of this section, upon timely objection by a party, the court, under § 16-4423(a)(2), may vacate an award.

"(e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and material interest in the outcome of the arbitration proceeding or a known, existing, and substantial relationship with a party is presumed to act with evident partiality under § 16-4423(a)(2).

"(f) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under § 16-4423(a)(2).

"§ 16-4413. Action by majority.

" If there is more than one arbitrator, the powers of an arbitrator shall be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under § 16-4415(c).

"§ 16-4414. Immunity of arbitrator; competency to testify; attorney's fees and costs.

"(a) An arbitrator is immune from civil liability to the same extent as a judge of a court of the District of Columbia 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 § 16-4412 does not cause any loss of immunity under this section.

"(d) In a judicial, administrative, or similar proceeding, an arbitrator 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 District of Columbia acting in a judicial capacity. This subsection does not apply:

"(1) To the extent necessary to determine the claim of an arbitrator against a party to the arbitration proceeding; or

"(2) To a hearing on a motion to vacate an award under § 16-4423(a)(1) or (2) 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 arising from the services of the arbitrator or if a person seeks to compel an arbitrator to testify or produce records in violation of subsection (d) of this section, and the court decides that the arbitrator is immune from civil liability or that the arbitrator is not competent to testify, the court shall award to the arbitrator reasonable attorney's fees and other reasonable expenses of litigation.

"§ 16-4415. 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)(1) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than 5 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.

"(2) 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.

"(3) 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.

"(4) 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) of this section, 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 shall be appointed in accordance with § 16-4411 to continue the proceeding and to resolve the controversy.

"§ 16-4416. Representation by lawyer.

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

§ 16-4417. 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 shall 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) 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) of this section, the arbitrator may:

"(1) Order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders;

"(2) Issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding; and

"(3) Take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in the District of Columbia.

"(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 District of Columbia.

"(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 District of Columbia.

"(g)(1) The court may enforce a subpoena or discovery-related order for the attendance of a witness within the District of Columbia 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.

"(2) A subpoena or discovery-related order issued by an arbitrator in another state shall be served in the manner provided by law for service of subpoenas in a civil action in the District of Columbia 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 District of Columbia.

§ 16-4418. 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 § 16-4419. A prevailing party may make a motion to the court for an expedited order to confirm the award under § 16-4422, 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 § 16-4423 or 16-4424.

§ 16-4419. Award.

"(a) An arbitrator shall make a record of an award. The record shall be signed or otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the arbitration organization shall give notice, as provided for in § 16-4409, of the award, including a copy of the award, to each party to the arbitration proceeding.

"(b) An award shall 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.

"§ 16-4420. 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 § 16-4424(a)(1) or (3);

"(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) of this section shall be made and notice given to all parties within 20 days after the movant receives notice of the award.

"(c) A party to the arbitration proceeding shall give notice of any objection to the

motion within 10 days after receipt of the notice.

"(d) If a motion to the court is pending under § 16-4422, 16-4423, or 16-4424, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

"(1) Upon a ground stated in § 16-4424(a)(1) or (3);

"(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 §§ 16-4419(a), 16-4422, 16-4423, and 16-4424.

"§ 16-4421. Remedies; fees and expenses of arbitration proceeding.

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

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

"(c) As to all remedies other than those authorized by subsections (a) and (b) of this section, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under § 16-4422 or for vacating an award under § 16-4423.

"(d) An arbitrator's reasonable expenses and fees, together with other expenses, shall be paid as provided in the award.

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

"§16-4422. Confirmation of award.

"After a party to an arbitration proceeding receives notice of an award, the party may make a motion to the court for an order confirming the award at which time the court shall issue a confirming order unless the award is modified or corrected pursuant to § 16-4420 or 16-4424 or is vacated pursuant to § 16-4423.

"§ 16-4423. Vacating award.

"(a) Upon motion to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

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

"(2) There was:

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

"(B) Corruption by an arbitrator; or

"(C) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

"(3) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to § 16-4415, so as to prejudice substantially the rights of a party to the arbitration proceeding;

"(4) An arbitrator exceeded the arbitrator's powers;

"(5) There was no agreement to arbitrate; or

"(6) The arbitration was conducted without proper notice of the initiation of an arbitration as required in § 16-4409 so as to prejudice substantially the rights of a party to the arbitration proceeding.

"(b) The court may vacate an award made in the arbitration proceeding on other reasonable ground.

"(c) A motion under this section shall be filed within 90 days after the movant receives notice of the award pursuant to § 16-4419 or within 90 days after the movant receives notice of a modified or corrected award pursuant to § 16-4420, unless the movant alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion shall be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

"(d) If the court vacates an award on a ground other than that set forth in subsection (a)(5) of this section, it may order a rehearing. If the award is vacated on a ground stated in subsection (a)(1) or (2) of this section, the rehearing shall be before a new arbitrator. If the award is vacated on a ground stated in subsection (a)(3), (4), or (6) of this section, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator shall render the decision in the rehearing within the same time as that provided in § 16-4419(b) for an award.

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

"§ 16-4424. Modification or correction of award.

"(a) Upon motion made within 90 days after the movant receives notice of the award pursuant to § 16-4419 or within 90 days after the movant receives notice of a modified or corrected award pursuant to § 16-4420, the court shall modify or correct the award if:

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

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

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

"(b) If a motion made under subsection (a) of this section 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.

"(d) Irrespective of the time periods established in subsection (a) of this section and § 16-4423(c), a consumer may also seek to modify or vacate an award issued pursuant to a consumer arbitration agreement within 30 days of receiving notice of a motion to confirm the award.

"§ 16-4425. 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 § 16-4422, 16-4423, or 16-4424, 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.

"§ 16-4426. Jurisdiction.

"(a) A court of the District of Columbia having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

"(b) An agreement to arbitrate providing for arbitration in the District of Columbia confers exclusive jurisdiction on the court to enter judgment on an award under this chapter.

"§ 16-4427. Appeals.

"(a) An appeal may be taken from:

"(1) An order denying or granting 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 chapter.

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

"§ 16-4428. Uniformity of application and construction.

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

"§ 16-4429. Relationship to Electronic Signatures in Global and National Commerce

Act.

"This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 467; 15 U.S.C. § 7001 *et. seq.*), but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. § 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. § 7003(b)).

"§ 16-4430. Regulation of arbitration organizations.

"(a) Any arbitration organization that administers or otherwise is involved in 50 or more consumer arbitrations a year shall collect, publish at least quarterly, and make available to the public in a computer-searchable database that permits searching with multiple search terms in the same search, and is accessible at the Internet website of the arbitration organization, if any, and on paper, upon request, all of the following information regarding each consumer arbitration it has administered or otherwise been involved in within the preceding 5 years:

"(1) The name of any corporation or other business entity that is party to the arbitration.

"(2) The type of dispute involved, including goods, banking, insurance, health care, debt collection, employment, and, if it involves employment, the amount of the employee's
annual wage divided into the following ranges:

"(A) Less than $100,000;

"(B) From $100,000 to $250,000, inclusive; and

"(C) More than $250,000;

"(3) Whether the consumer was the prevailing party;

"(4) The number of occasions, if any, a business entity that is a party to an arbitration has previously been a party in an arbitration or mediation administered by the arbitration organization;

"(5) Whether the consumer party was represented by an attorney and, if so, the identifying information for that attorney, including the attorney's name, the name of the attorney's firm, and the city in which the attorney's office is located;

"(6) The date the arbitration organization received the demand for arbitration, the date the arbitrator was appointed, and the date of disposition by the arbitrator or arbitration organization;

"(7) The type of disposition of the dispute, if known, including withdrawal, abandonment, settlement, award after hearing, award without hearing, default, or dismissal without hearing;

"(8) The amount of the claim, the amount of the award, and any other relief granted, if any; and

"(9) The name of the arbitrator, the arbitrator's fee for the case, and the percentage of the arbitrator's fee allocated to each party.

"(b) If the information required by subsection (a) of this section is provided by the arbitration organization in a computer-searchable format at the company's Internet website and may be downloaded without any fee, the company may charge the actual cost of copying to any person who requests the information on paper. If the required information is not accessible by the Internet, the company shall provide that information without charge to any person who requests the information on paper.

"(c) No arbitration organization shall have any liability for collecting, publishing, or distributing the information in accordance with this section.

"(d)(1) All fees and costs charged to or assessed in the District of Columbia upon a consumer by an arbitration organization in a consumer arbitration shall be waived for any person having a gross monthly income that is less than 300% of the federal poverty guidelines issued annually by the United States Department of Health and Human Services.

"(2) Any consumer requesting a waiver of fees or costs may establish eligibility by making a declaration under oath on a form provided by the arbitration organization indicating the
consumer's monthly income and the number of persons living in the household. No arbitration organization may require a consumer to provide any further statement or evidence of indigence. The form, and the information contained therein, shall be confidential and shall not be disclosed to any adverse party or any nonparty to the arbitration.

"(3) An arbitration organization shall not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.

"(e) Nothing in the section shall affect the ability of an arbitration organization to shift fees that would otherwise be charged or assessed upon a consumer party to another party.

"(f) Before requesting or obtaining any fee, an arbitration organization shall provide written notice of the right to obtain a waiver of fees in a manner calculated to bring the matter to the attention of a reasonable consumer, including, but not limited to, prominently placing a notice
in its first written communication to a consumer and in any invoice, bill, submission form, fee schedule, rules, or code of procedure.

"(g) No neutral arbitrator or arbitration organization shall administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration
pay the fees and costs incurred by any opposing party if the consumer does not prevail in the arbitration, including, but not limited to, the fees and costs of the arbitrator, provider organization, attorney, or witnesses.

"(h) No arbitration organization may administer a consumer arbitration to be conducted in the District of Columbia, or provide any other services related to such a consumer arbitration, if:

"(1) The arbitration organization has, or within the preceding year has had, a

financial interest in any party or attorney for a party; or

"(2) Any party or attorney for a party has, or within the preceding year has had, any type of financial interest in the arbitration organization.

"(i) Where this section is violated, any affected person or entity, including the Attorney General of the District of Columbia, can request a court to enjoin the arbitration organization from violating the section and order such restitution as appropriate. The arbitration organization shall be liable for that person or entity's reasonable attorney fees and costs where that person or entity prevails or where, after the action is commenced, the arbitration organization voluntarily complies with the section.

"§ 16-4431. Disclosure of arbitration costs.

"(a) A party drafting a consumer arbitration agreement shall clearly and conspicuously disclose in regard to any arbitration:

"(1) The filing fee;

"(2) The average daily cost for an arbitrator and hearing room if the consumer elects to appear in person;

"(3) Other charges that the arbitrator or arbitration organization will assess in conjunction with an arbitration where the consumer appears in person; and

"(4) The proportion of these costs which each party bears in the event that the consumer prevails, and in the event that the consumer does not prevail.

"(b) The costs specified in subsection (a) of this section need not include attorney fees, and, to the extent that, with regard to the disclosures required by subsection (a) of this section, a precise amount is not known, the disclosures may be based on reasonable, good-faith estimates. A party providing a reasonable, good-faith cost estimate shall not be liable in any manner for the fact that the actual cost of a particular arbitration varies from the estimate provided.

"(c)(1) Failure to comply with this section is not grounds to refuse to enforce an arbitration agreement, but may constitute a violation of § 28-3904.

"(2) The information provided in the disclosure can be considered in a determination of whether an arbitration agreement is unconscionable or otherwise is not enforceable under other law.

"(d) Where this section is violated, any person or entity, including the Attorney General of the District of Columbia, can request a court to enjoin the drafting party from violating this section as to agreements it enters into in the future. The drafting party shall be liable to the person or entity bringing such an action for that person or entity's reasonable attorney fees and costs where the court issues an injunction or where, after the action is commenced, the drafting party voluntarily complies with the section.

"§ 16-4432. Savings clause.

"This chapter does not affect an action or proceeding commenced or right accrued before the effective date of this chapter. Subject to § 16-4403, an arbitration agreement made before the effective date of this chapter is governed by §§ 16-4301 to 16-4319.".

Sec. 3. Repeal.

Effective July 1, 2009, Chapter 43 of Title 16 of the District of Columbia Official Code is repealed.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of a veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman
Council of the District of Columbia

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Mayor
District of Columbia