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States' Alternative Dispute Resolution Statutes
State of New Hampshire

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States' Alternative Dispute Resolution Statutes

STATE OF NEW HAMPSHIRE

Index

Arbitration of Disputes

2

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Title LV, Chapter 542.

Current through End of 2008 Regular and Special Sessions

542:1 Validity of Arbitration Agreements.

A provision in any written contract to settle by arbitration a controversy thereafter arising out of such contract, or an agreement in writing to submit to arbitration any controversy existing at the time of the agreement to submit, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract. The provisions of this chapter shall not apply to any arbitration agreement between employers and employees, or between employers and associations of employees unless such agreement specifically provides that it shall be subject to the provisions of this chapter.

542:2 Stay of Proceedings Brought in Violation of Arbitration Agreements.

If any suit or proceeding be brought upon any issue referable to arbitration under such an agreement in writing for arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration.

542:3 Remedy in Case of Default; Jurisdiction; Proceedings.

The party aggrieved by the alleged failure, neglect, or refusal of another to perform under such a written agreement for arbitration may petition the superior court for an order directing that such arbitration proceed in the manner provided for in such agreement. If the making of the arbitration agreement or the failure, neglect, or refusal to perform the same be in issue, the court shall proceed to the trial thereof. If it is found that no agreement in writing for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed, otherwise the court shall make an

order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.

542:3-a Stipulation to Arbitrate.

A stipulation filed prior to trial in any civil case pending in the superior court, in which all of the parties or their attorneys agree to submit the case to arbitration, shall, upon approval of the court, be considered an agreement in writing to submit to arbitration, within the scope of RSA 542:1. Filing of the stipulation shall stay the trial of the suit until arbitration has been had in accordance with the terms of the stipulation. Arbitration proceedings shall be governed by applicable provisions of this chapter except as otherwise provided in the stipulation. In any case submitted to arbitration under this section, there shall be either one or three arbitrators, whose fees and expenses shall be fixed and paid by the court. However, if the court is of the opinion that the case only warrants one arbitrator, but the parties elect to have three, then the court shall pay the fees and expenses of only one arbitrator, and the parties shall pay the fees and expenses of the other two, as ordered by the court.

542:4 Appointment of Arbitrators.

If no method of naming arbitrators be provided, or if for any other reason there shall be a lapse in the naming of arbitrators, then upon the application of either party to the controversy the court aforesaid or the court in and for the county in which the arbitration is to be held shall designate and appoint an arbitrator or arbitrators as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and, unless otherwise provided in the agreement, the arbitration shall be by a single arbitrator.

542:5 Witnesses; Summoning; Compelling Attendance.

When more than one arbitrator is agreed to, all the arbitrators shall sit at the hearing of the case unless, by consent in writing, all parties shall agree to proceed with the hearing with a less number. Any person may be summoned as provided in RSA 516, to attend before the arbitrators as a witness and the fees for such attendance shall be the same as the fees of witnesses in the superior court. If any person or persons so summoned to testify shall refuse or neglect to attend, upon petition the court in and for the county in which such arbitrators are sitting may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner now provided in RSA 516.

542:6 Depositions.

In any proceeding hereunder, depositions may be taken as provided by RSA 517.

542:7 Award.

The award must be in writing and must be signed by the arbitrators or by a majority of those sitting.

542:8 Jurisdiction of Court to Confirm, Modify, or Vacate Award.

At any time within one year after the award is made any party to the arbitration may apply to the superior court for an order confirming the award, correcting or modifying the award for plain mistake, or vacating the award for fraud, corruption, or misconduct by the parties or by the arbitrators, or on the ground that the arbitrators have exceeded their powers. Where an award is vacated and the time within which the agreement required the award to be made has not expired, the court may in its discretion,

direct a rehearing by the arbitrators or by new arbitrators appointed by the court.

542:9 Judgment Upon Award.

Upon the granting of an order confirming, modifying, or correcting an award, judgment may be entered in conformity therewith in the court wherein the order was granted.

542:10 Appeal.

An appeal may be taken from an order confirming, modifying, correcting, or vacating an award, or from a judgment entered upon an award as in the case of appeals from the superior to the supreme court.

542:11 Arbitration of Domestic Relations Cases.

I. The parties to any contested issues in a domestic relations case in superior court may file a stipulation prior to trial in which the parties and their attorneys, if any, agree to submit the case to arbitration. Upon the approval of the court, said stipulation shall be considered an agreement in writing to submit to arbitration within the scope of RSA 542:1. Filing of the stipulation shall stay the trial of the suit until arbitration has been had in accordance with the terms of the stipulation.

II. The parties shall select an arbitrator who shall be an attorney licensed to practice law in the state of New Hampshire. The stipulation to submit to arbitration shall include the name of the arbitrator.

III. The parties shall be solely responsible for all fees and costs of arbitration.

IV. The stipulation to submit to arbitration shall include all outstanding issues which have not been resolved by prior court order or court approved stipulation.

V. The arbitrators shall issue written findings on all issues of law and fact.

VI. The arbitrator's decision and findings shall be submitted to the superior court and shall have the same effect as the report of a marital master.

VII. RSA 542:1, relative to validity of arbitration agreements, shall apply to this section when such agreements have been approved by the superior court.

VIII. The following provisions shall apply to arbitration under this section:

(a) RSA 542:2, relative to stay of proceedings brought in violation of arbitration agreements.

(b) RSA 542:3, relative to remedy in case of default; jurisdiction; proceedings.

(c) RSA 542:6, relative to depositions.

IX. RSA 542:5, relative to witnesses, and RSA 542:7, relative to awards, shall apply to this section, except that there shall be only one arbitrator appointed.

X. Any arbitration under this section may be terminated by the written agreement of all parties or at the written request of the arbitrator, in which case the matter shall be returned to the superior court.

XI. Unless inconsistent with this section, all provisions of law relative to domestic relations shall apply to a proceeding under this section.

XII. Nothing in this section shall restrict the court from enforcing existing orders, or granting and enforcing emergency orders.