Article 45B.

International Commercial Arbitration and Conciliation.

Part 1. General Provisions.

§ 1-567.30. Preamble and short title.

It is the policy of the State of North Carolina to promote and facilitate international trade and commerce, and to provide a forum for the resolution of disputes that may arise from participation therein. Pursuant to this policy, the purpose of this Article is to encourage the use of arbitration or conciliation as a means of resolving such disputes, to provide rules for the conduct of arbitration or conciliation proceedings, and to assure access to the courts of this State for legal proceedings ancillary to such arbitration or conciliation. This Article shall be known as the North Carolina International Commercial Arbitration and Conciliation Act. (1991, c. 292, s. 1; 1997-368, ss. 1, 2, 5.)

§ 1-567.31. Scope of application.

(a) This Article applies to international commercial arbitration and conciliation, subject to any applicable international agreement in force between the United States of America and any other nation or nations, and any federal law.

(b) The provisions of this Article, except G.S. 1-567.38, 1-567.39, and 1-567.65, apply only if the place of arbitration is in this State.

(c) An arbitration or conciliation is international if any of the following are true:

(1) The parties to the arbitration or conciliation agreement have their places of business in different nations when the agreement is concluded.

(2) One or more of the following places is situated outside the nations in which the parties have their places of business:

a. The place of arbitration or conciliation if determined pursuant to the arbitration agreement.

b. Any place where a substantial part of the obligations of the commercial relationship is to be performed.

c. The place with which the subject matter of the dispute is most closely connected.

(3) The parties have expressly agreed in a record that the subject matter of the arbitration or conciliation agreement relates to more than one nation.

(d) For the purposes of subsection (c) of this section:

(1) If a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration or conciliation agreement.

(2) If a party does not have a place of business, reference is to be made to the party's domicile.

(e) An arbitration or conciliation, respectively, is deemed commercial for the purposes of this Article if it arises out of a relationship of a commercial nature, including, but not limited to any of the following:

(1) A transaction for the exchange of goods or services.

(2) A distribution agreement.

(3) A commercial representation or agency.

(4) An exploitation agreement or concession.

(5) A joint venture or other related form of industrial or business cooperation.

(6) The carriage of goods or passengers by air, sea, water, land, or road.
(7) A contract or agreement relating to construction, insurance, licensing, factoring, leasing, consulting, engineering, financing, or banking.
(8) The transfer of data or technology.
(9) The use or transfer of intellectual or industrial property, including trade secrets, trademarks, trade names, patents, copyrights, plant variety protection, and software programs.
(10) A contract for the provision of any type of professional service, whether provided by an employee or an independent contractor.

(f) This Article shall not affect any other law in force by virtue of which certain disputes may not be submitted to arbitration, conciliation, or mediation, or may be submitted to arbitration, conciliation, or mediation only according to provisions other than those of this Article.

(g) This Article shall not apply to any agreement providing explicitly that it shall not be subject to the North Carolina International Commercial Arbitration and Conciliation Act. This Article shall not apply to any agreement executed prior to June 13, 1991.

(h) This Article does not govern arbitrations under Article 1H of Chapter 90 of the General Statutes. (1991, c. 292, s. 1; 1997-141, s. 1; 1997-368, s. 6; 2017-171, s. 1.)

§ 1-567.32. Definitions and rules of interpretation.

(a) The following definitions apply in this Article:
(1) Arbitral award. – Any decision of an arbitral tribunal on the substance of a dispute submitted to it, and includes an interlocutory or partial award.
(2) Arbitral tribunal. – A sole arbitrator or a panel of arbitrators.
(3) Arbitration. – Any arbitration, whether or not administered by a permanent arbitral institution.
(3a) Court. – A court of competent jurisdiction in this State.
(4) Party. – A party to an arbitration agreement.
(5) Repealed by Session Laws 2017-171, s. 1, effective October 1, 2017, and applicable to agreements entered into, renewed, or modified on or after that date.
(6) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in a perceivable form.

(b) Where a provision of this Article, except G.S. 1-567.58, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination.

(c) Where a provision of this Article refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement.

(d) Where a provision of this Article, other than in G.S. 1-567.55(1) and G.S. 1-567.62(b)(1), refers to a claim, it also applies to a counterclaim or setoff, and where it refers to a defense, it also applies to a defense to a counterclaim or setoff. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.33. Receipt of written communications or submissions.

(a) Unless otherwise agreed in a record by the parties, any written communication or submission is deemed to have been received if it is delivered to the addressee personally or if it is

delivered at the addressee's place of business, domicile, or mailing address, and the communication or submission is deemed to have been received on the day it is delivered. Unless otherwise agreed in a record by the parties, delivery by facsimile transmission or electronic transmission, if in a record, shall constitute valid receipt if the communication or submission is in fact received, and the receipt is in a record.

(b) If none of the places referred to in subsection (a) can be found after making reasonable inquiry, a written communication or submission is deemed to have been received if it is sent to the addressee's last known place of business, domicile, or mailing address by registered mail, certified mail, or any other means that provide a record of the attempt to deliver it.

(c) The provisions of this Article do not apply to a written communication or submission relating to a court, administrative, or special proceeding. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.33A. Severability.

In the event any provision of this act is held to be invalid, the court's holding as to that provision shall not affect the validity or operation of other provisions of the act; and to that end the provisions of the act are severable. (1991, c. 292, s. 1; 1997-368, s. 3.)

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§ 1-567.34. Waiver of right to object.

A party who knows that any provision of this Article or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating an objection to such noncompliance without undue delay or, if a time limit is provided therefor, within that period of time, shall be deemed to have waived any right to object. (1991, c. 292.)

§ 1-567.35. Extent of court intervention.

In matters governed by this Article, no court shall intervene except where so provided in this Article or applicable federal law or any applicable international agreement in force between the United States of America and any other nation or nations. (1991, c. 292.)

§ 1-567.36. Venue and jurisdiction of courts.

(a) The functions referred to in G.S. 1-567.41(c) and (d), 1-567.44(b), 1-567.46(c), and 1-567.57 shall be performed by the court in the following county:

(1) The county where the arbitration agreement is to be performed or was made.

(2) If the arbitration agreement does not specify a county where the agreement is to be performed and the agreement was not made in any county in North Carolina, the county where any party to the court proceeding resides or has a place of business.

(3) In any case not covered by subdivision (1) or (2) of this subsection, in any county in North Carolina.

(b) All other functions assigned by this Article to the court shall be performed by the court of the county in which the place of arbitration is located. (1991, c. 292, s. 1; 2017-171, s. 1; 2023-46, s. 1.)

§ 1-567.37. Definition and form of arbitration agreement.

(a) An "arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal

relationship, whether or not contractual. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(b) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams, facsimile transmission, or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defense in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

(c) Such arbitration agreement shall be valid, enforceable and irrevocable, except with the consent of all the parties, without regard to the justiciable character of the controversy. (1991, c. 292.)

§ 1-567.38. Arbitration agreement and substantive claim before court.

(a) When a party to an international commercial arbitration agreement commences judicial proceedings seeking relief with respect to a matter covered by the agreement to arbitrate, any other party to the agreement may apply to the court for an order to stay the proceedings and compel arbitration.

(b) Arbitration proceedings may begin or continue, and an award may be made, while an action described in subsection (a) is pending before the court. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.39. Interim relief and the enforcement of interim measures.

(a) In the case of an arbitration where the arbitrator or arbitrators have not been appointed, or where the arbitrator or arbitrators are unavailable, a party may seek interim relief directly from the court as provided in subsection (c). Enforcement shall be granted as provided by the law applicable to the type of interim relief sought.

(b) In all other cases, a party shall seek interim relief under G.S. 1-567.47.

(c) In connection with an agreement to arbitrate or a pending arbitration, the court may grant, pursuant to subsection (a) of this section, any of the following:

(1) An order of attachment or garnishment.
(2) A temporary restraining order or preliminary injunction.
(3) An order for claim and delivery.
(4) The appointment of a receiver.
(5) Delivery of money or other property into court.
(6) Any other order that may be necessary to ensure the preservation or availability either of assets or of documents, the destruction or absence of which would be likely to prejudice the conduct or effectiveness of the arbitration.

(d) In considering a request for interim relief or the enforcement of interim measures, the court shall give preclusive effect to any finding of fact of the arbitral tribunal in the proceeding, including the probable validity of the claim that is the subject of the interim relief sought or the interim measures granted.

(e) Where the arbitral tribunal has not ruled on an objection to its jurisdiction, the court shall not grant preclusive effect to the tribunal's findings until the court has made an independent finding as to the jurisdiction of the arbitral tribunal. If the court rules that the arbitral tribunal did not have jurisdiction, the application for interim relief or the enforcement of interim measures shall

be denied. Such a ruling by the court that the arbitral tribunal lacks jurisdiction is not binding on the arbitral tribunal or subsequent judicial proceedings.

(f) The availability of interim relief under this section may be limited by prior written agreement of the parties in a record. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.40. Number of arbitrators.

There shall be one arbitrator unless the parties agree on a greater number of arbitrators. (1991, c. 292.)

§ 1-567.41. Appointment of arbitrators.

(a) A person of any nationality may be an arbitrator.

(b) The parties may agree on a procedure of appointing the arbitral tribunal subject to the provisions of subsections (d) and (e) of this section.

(c) (1) If an agreement is not made under subsection (b) of this section, in an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon request of a party, by the court.

(2) In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator, a sole arbitrator shall be appointed, upon request of a party, by the court.

(3) In an arbitration involving more than two parties, if no agreement is reached under subsection (b) of this section, the court, on request of a party, shall appoint one or more arbitrators, as provided in G.S. 1-567.40.

(d) The court, on request of any party, may take the necessary measures, unless the agreement on the appointment procedure provides other means for securing the appointment, if, under an appointment procedure agreed upon by the parties, any of the following events occur:

(1) A party fails to act as required under the procedure.

(2) The parties, or two arbitrators, are unable to reach an agreement expected of them under the procedure.

(3) A third party, including an institution, fails to perform any function entrusted to it under the procedure.

(e) A decision of the court on a matter entrusted by subsection (c) or (d) of this section shall be final and not subject to appeal.

(f) The court, in appointing an arbitrator, shall consider all of the following:

(1) Any qualifications required of the arbitrator by the agreement of the parties.

(2) Such other considerations as are likely to secure the appointment of an independent and impartial arbitrator.

(3) In the case of a sole or third arbitrator, the advisability of appointing an arbitrator of a nationality other than those of the parties.

(g) The parties may agree to employ an established arbitration institution to conduct the arbitration. If they do not so agree, the court may in its discretion designate an established arbitration institution to conduct the arbitration.

(h) Unless otherwise agreed, an arbitrator is entitled to compensation at an hourly or daily rate that reflects the size and complexity of the case, and the experience of the arbitrator. If the parties are unable to agree on a rate, the rate shall be determined by the arbitral institution chosen pursuant to subsection (g) of this section or by the arbitral tribunal, in either case subject to the review of the court upon the motion of any dissenting party. (1991, c. 292, s. 1; 1993, c. 553, s. 6; 2017-171, s. 1.)

§ 1-567.42: Repealed by Session Laws 2017-171, s. 1, effective October 1, 2017, and applicable to agreements entered into, renewed, or modified on or after that date.

§ 1-567.43: Repealed by Session Laws 2017-171, s. 1, effective October 1, 2017, and applicable to agreements entered into, renewed, or modified on or after that date.

§ 1-567.43A. 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 to the 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 the following:

(1) A financial or personal interest in the outcome of the arbitration proceeding.

(2) An existing or past relationship with any of the parties to the agreement to arbitrate or to 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 to the arbitration and to any other arbitrators any facts that the arbitrator learns after accepting appointment that 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 makes a timely objection to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under G.S. 1-567.64 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 G.S. 1-567.64 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 G.S. 1-567.64.

(f) If the parties to an arbitration proceeding agree to the procedures of an institution 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 G.S. 1-567.64. (2017-171, s. 1.)

§ 1-567.44. Failure or impossibility to act.

(a) The mandate of an arbitrator terminates on any of the following grounds:

(1) The arbitrator becomes unable to perform the arbitrator's functions or for other reasons fails to act without undue delay.

(2) The arbitrator withdraws.

(3) The parties agree to the termination.

(b) If a controversy remains concerning any of the grounds referred to in subsection (a) of this section, a party may request the court to decide on the termination of the mandate. The decision of the court is final and not subject to appeal.

(c) If an arbitrator withdraws or otherwise agrees to the termination of the arbitrator's mandate, no acceptance of the validity of any ground referred to in this section is implied in consequence of the action. (1991, c. 292, s. 1; 2017-171, s. 1; 2023-46, s. 2.)

§ 1-567.45. Appointment of substitute arbitrator.

(a) Where the mandate of an arbitrator terminates for any reason, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

(b) Unless otherwise agreed by the parties:

(1) Where the number of arbitrators is less than three and an arbitrator is replaced, any hearings previously held shall be repeated;

(2) Where the presiding arbitrator is replaced, any hearings previously held shall be repeated;

(3) Where the number of arbitrators is three or more and an arbitrator other than the presiding arbitrator is replaced, any hearings previously held may be repeated at the discretion of the arbitral tribunal.

(c) Unless otherwise agreed by the parties, an order or ruling of the arbitral tribunal made prior to the replacement of an arbitrator under this section is not invalid because there has been a change in the composition of the tribunal. (1991, c. 292.)

§ 1-567.46. Competence of arbitral tribunal to rule on its jurisdiction.

(a) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms a part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause, unless the arbitral tribunal finds that the arbitration clause was obtained by fraud, whether in the inducement or in the factum.

(b) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defense. However, a party is not precluded from raising such a plea by the fact that the party has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. In either case, the arbitral tribunal may admit a later plea if it considers the delay justified.

(c) The arbitral tribunal may rule on a plea referred to in subsection (b) of this section either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, after having received notice of that ruling, any party may request the court to decide the matter. The decision of the court shall be final and not subject to appeal. While the request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.47. Power of arbitral tribunal to order interim measures.

(a) Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject matter of the dispute, including an interim measure analogous to any type of interim relief specified in G.S. 1-567.39(c). The arbitral tribunal may require any party to provide appropriate security, including security for costs as provided in G.S. 1-567.61(h)(2), in connection with the measure.

(b) A court has the same power to issue an interim measure in an arbitration proceeding, irrespective of whether the arbitration proceeding is in the territory of this State, as it has in a court proceeding. The court shall exercise this power in accordance with its own procedures in consideration of the specific features of international arbitration. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.48. Equal treatment of parties; representation by attorney.

(a) The parties shall be treated with equality and each party shall be given a full opportunity to present its case.

(b) A party has the right to be represented by an attorney at any proceeding or hearing under this Article. A waiver of this right prior to the proceeding or hearing is ineffective. (1991, c. 292, s. 1; 1997-141, s. 2.)

§ 1-567.49. Determination of rules of procedure.

(a) Subject to the provisions of this Article, the parties may agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

(b) If there is no agreement under subsection (a) of this section, subject to the provisions of this Article, the tribunal shall select the rules for conducting the arbitration after hearing all the parties and taking particular reference to model rules developed by arbitration institutions or similar sources. If the tribunal is unable to decide on rules for conducting the arbitration, upon application by a party, the court may order use of rules for conducting the arbitration, taking particular reference to model rules developed by arbitration institutions or similar sources. In other matters not covered by rules, the tribunal shall conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to order such discovery as it deems necessary and to determine the admissibility, relevance, materiality, and weight of any evidence. Evidence need not be limited by the rules of evidence applicable in judicial proceedings, except as to immunities and privilege. Each party shall have the burden of proving the facts relied on to support its claim, counterclaim, setoff, or defense. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.50. Place of arbitration.

(a) The parties may agree on the place of arbitration. If the parties do not agree, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(b) Notwithstanding the provisions of subsection (a) of this section, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property, or documents. (1991, c. 292.)

§ 1-567.50A. Consolidation.

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

(1) There are separate arbitration agreements or separate arbitral proceedings between the same parties or one of the parties is a party to a separate agreement to arbitrate or a separate arbitration with a third person.

(2) The claims subject to the arbitration agreements 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 arbitral proceedings.

(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 arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.

(c) The court shall not order consolidation of the claims of a party to an arbitration agreement if the agreement prohibits consolidation. (2017-171, s. 1.)

§ 1-567.51. Commencement of arbitral proceedings.

Unless otherwise agreed by the parties or otherwise provided in the rules and procedures upon which the parties have agreed, the arbitral proceedings in respect of a particular dispute shall commence on the date on which a request for that dispute to be referred to arbitration is received by a party as provided in G.S. 1-567.33. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.52. Language.

(a) The parties may agree on the language or languages to be used in the arbitral proceedings. If the parties do not agree, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision, or other communication by the arbitral tribunal.

(b) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

(c) The arbitral tribunal may employ one or more translators at the expense of the parties. (1991, c. 292.)

§ 1-567.53. Statements of claim and defense.

(a) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting its claim, the points at issue and the relief or remedy sought, and the respondent shall state its defenses, counterclaims, or setoffs in respect of these particulars, unless the parties have otherwise agreed as to the required elements of these statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence the party will submit.

(b) Unless otherwise agreed by the parties, either party may amend or supplement a claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow the amendment, having regard to the delay in making it.

(c) If there are more than two parties to the arbitration, each party shall state its claims, defenses, counterclaims, or setoffs, as provided in subsection (a) of this section. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.54. Hearings and written proceedings.

(a) Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. Unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(b) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purposes of inspection of goods, other property, or documents.

(c) All statements, documents, or other information supplied to the arbitral tribunal by one party shall be served on the other party and any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be served on the parties. The arbitral tribunal shall direct the timing of such service to protect the parties from undue surprise.

(d) Unless otherwise agreed by the parties, all oral hearings and meetings in arbitral proceedings shall be held in camera. Confidential information disclosed during the proceedings by the parties or by witnesses shall not be divulged by the arbitrator or arbitrators. Unless otherwise agreed by the parties, or required by applicable law, the arbitral tribunal and the parties shall keep confidential all matters relating to the arbitration and the award.

(e) The parties may agree on:

(1) The attendance of a court reporter,

(2) The creation of a transcript of proceedings, or

(3) The making of an audio or video record of proceedings, at the expense of the parties.

Any party may provide for any of the actions specified in subdivisions (1) through (3) of this subsection at that party's own expense.

(f) After asking the parties if they have any further testimony or evidentiary submissions and upon receiving negative replies or being satisfied that the record is complete, the arbitral tribunal may declare the hearings closed. The arbitral tribunal may reopen the hearings, upon terms it considers just, at any time before the award is made. (1991, c. 292.)

§ 1-567.55. Default of a party.

Unless otherwise agreed by the parties, where, without showing sufficient cause:

(1) The claimant fails to submit a statement of claim in accordance with G.S. 1-567.53(a), the arbitral tribunal shall terminate the proceedings;

(2) The respondent fails to submit a statement of defense in accordance with G.S. 1-567.53(c), the arbitral tribunal shall continue to conduct the proceedings without treating such failure in itself as an admission of the claimant's allegations;

(3) Any party fails to appear at a hearing or to produce documentary evidence as directed by the arbitral tribunal, the arbitral tribunal may continue to conduct the proceedings and make the award on the evidence before it. (1991, c. 292.)

§ 1-567.56. Expert appointed by arbitral tribunal.

(a) Unless otherwise agreed by the parties, the arbitral tribunal:

(1) May appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;

(2) May require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods, or other property for the expert's inspection.

(b) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in an oral hearing where the parties have the opportunity to question the expert and to present expert witnesses on the points at issue. (1991, c. 292.)

§ 1-567.57. Court assistance in obtaining discovery and taking evidence.

(a) The arbitral tribunal or a party with the approval of the arbitral tribunal may request from the court assistance in obtaining discovery and taking evidence. The court may execute the request within its competence and according to its rules on discovery and taking evidence, and may impose sanctions for failure to comply with its orders. A subpoena may be issued as provided by G.S. 8-59, in which case the witness compensation provisions of G.S. 6-51, 6-53, and 7A-314 shall apply.

(b) Repealed by Session Laws 2017-171, s. 1, effective October 1, 2017, and applicable to agreements entered into, renewed, or modified on or after that date. (1991, c. 292, s. 1; 1999-185, s. 2; 2017-171, s. 1.)

§ 1-567.58. Rules applicable to substance of dispute.

(a) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of a given country or political subdivision thereof shall be construed, unless otherwise expressed, as directly referring to the substantive law of that country or political subdivision and not to its conflict of laws rules.

(b) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(c) The arbitral tribunal shall decide ex aequo et bono (on the basis of fundamental fairness), or as amiable compositeur (as an "amicable compounder"), only if the parties have expressly authorized it to do so.

(d) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction. (1991, c. 292, c. 761, s. 1.)

§ 1-567.59. Decision making by panel of arbitrators.

Unless otherwise agreed by the parties, in arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if authorized by the parties or all members of the arbitral tribunal. (1991, c. 292, s. 1.)

§ 1-567.60. Settlement.

(a) An arbitral tribunal may encourage settlement of the dispute and, with the agreement of the parties, may use mediation, conciliation, or other procedures at any time during the arbitral proceedings to encourage settlement.

(b) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(c) An award on agreed terms shall be made in accordance with the provisions of G.S. 1-567.61 and shall state that it is an arbitral award. Such an award shall have the same status and effect as any other award on the substance of the dispute. (1991, c. 292.)

§ 1-567.61. Form and contents of award.

(a) The award shall be made in writing in a record and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated in the record of the award.

(a1) An award shall be made within the time specified by the agreement to arbitrate or the arbitration institution, or, if not so specified, 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. A party waives any objection that an award was not timely made unless that party gives notice of the objection to the arbitral tribunal before receiving notice of the award.

(b) The award shall not state the reasons upon which it is based, unless the parties have agreed that reasons are to be given.

(c) The award shall state its date and the place of arbitration as determined in accordance with G.S. 1-567.50. The award shall be considered to have been made at that place.

(d) After the award is made, a copy signed by the arbitrator or arbitrators in accordance with subsection (a) of this section shall be delivered to each party.

(e) The award may be denominated in foreign currency, by agreement of the parties or in the discretion of the arbitral tribunal if the parties are unable to agree.

(f) Unless otherwise agreed by the parties, the arbitral tribunal may award interest.

(g) The arbitral tribunal may award specific performance in its discretion to a party requesting an award of specific performance.

(h) (1) Unless otherwise agreed by the parties, the awarding of costs of an arbitration shall be at the discretion of the arbitral tribunal.

(2) In making an order for costs, the arbitral tribunal may include any of the following as costs:

a. The fees and expenses of the arbitrator or arbitrators, expert witnesses, and translators.

b. Fees and expenses of counsel and of the institution supervising the arbitration, if any.

c. Any other expenses incurred in connection with the arbitral proceedings.

(3) In making an order for costs, the arbitral tribunal may specify any of the following:

a. The party entitled to costs.

b. The party who shall pay the costs.

c. The amount of costs or method of determining that amount.

d. The manner in which the costs shall be paid.

(i) The arbitral tribunal may award punitive damages or other exemplary relief if all of the following are true:

(1) The arbitration agreement provides for an award of punitive damages or exemplary relief.

(2) An award for punitive damages or other exemplary relief is authorized by law in a civil action involving the same claim.

(3) The evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(j) If the arbitral tribunal awards punitive damages or other exemplary relief under subsection (i) of this section, the arbitral tribunal shall specify in the award the basis in fact justifying and the basis in law authorizing the award and shall state separately the amount of the punitive damages or other exemplary relief. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.62. Termination of proceedings.

(a) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with subsection (b) of this section.

(b) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings if:

(1) The claimant withdraws the claim, unless the respondent objects to the order and the arbitral tribunal recognizes a legitimate interest on the respondent's part in obtaining a final settlement of the dispute;

(2) The parties agree on the termination of the proceedings; or

(3) The arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

(c) Subject to the provisions of G.S. 1-567.63, the mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings. (1991, c. 292.)

§ 1-567.63. Correction and interpretation of awards; additional awards.

(a) Within 30 days of receipt of the award, unless another period of time has been agreed upon by the parties:

(1) A party may request the arbitral tribunal to correct in the award any computation, clerical or typographical errors or other errors of a similar nature;

(2) A party may request the arbitral tribunal to give an interpretation of a specific point or part of the award.

If the arbitral tribunal considers such request to be justified, it shall make the correction or give the interpretation within 30 days of receipt of the request. Such correction or interpretation shall become part of the award.

(b) The arbitral tribunal may correct any error of the type referred to in subsection (a) on its own initiative within 30 days of the date of the award.

(c) Unless otherwise agreed by the parties, within 30 days of receipt of the award, a party may request the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within 60 days after the date of receipt of the request.

(d) The arbitral tribunal may extend, if necessary, the period within which it shall make a correction, interpretation, or an additional award under subsection (a) or (c).

(e) The provisions of G.S. 1-567.61 shall apply to a correction or interpretation of the award or to an additional award made under this section. (1991, c. 292.)

§ 1-567.64. Modifying or vacating of awards.

Subject to the relevant provisions of federal law and any applicable international agreement in force between the United States of America and any other nation or nations, an arbitral award may be vacated by a court only upon a showing that the award is tainted by illegality, or substantial unfairness in the conduct of the arbitral proceedings. In determining whether an award is tainted, the court shall consider the provisions of this Article, but shall not engage in de novo review of the subject matter of the dispute giving rise to the arbitration proceedings. (1991, c. 292, s. 1; 2003-345, s. 3; 2017-171, s. 1.)

§ 1-567.65. Confirmation and enforcement of awards.

(a) Subject to the relevant provisions of federal law and any applicable international agreement in force between the United States of America and any other nation or nations, upon application of a party, the court shall confirm an arbitral award, unless it finds grounds for modifying or vacating the award under G.S. 1-567.64. An award shall not be confirmed unless the time for correction and interpretation of awards prescribed by G.S. 1-567.63 has expired or has been waived by all the parties. Upon the granting of an order confirming, modifying, or correcting an award, a judgment or decree shall be entered in conformity therewith and enforced as any other judgment or decree. The court may award costs of the application and of the subsequent proceedings.

(b) Notwithstanding G.S. 7A-109, 7A-276.1, 132-1, or any other provision of law, the court may seal or redact, in whole or in part, an order, judgment, or arbitral award issued under this Article. Upon good cause shown, the court may do any of the following:

(1) Open a sealed or redacted order, judgment, or arbitral award.

(2) Seal or redact an opened order, judgment, or arbitral award. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.66. Applications to court.

Except as otherwise provided, an application to the court under this Article shall be by motion and shall be heard in the manner and upon the notice provided by law or rule of court for the making and hearing of motions. Unless the parties have agreed otherwise, notice of an initial application for an order shall be served in the manner provided by law for the service of a summons in a civil action. (1991, c. 292, s. 1; 2017-171, s. 1.)

§ 1-567.67. Appeals.

(a) An appeal may be taken from:

(1) An order denying an application to compel arbitration made under G.S. 1-567.38;

(2) An order granting an application to stay arbitration made under G.S. 1-567.38;

(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 judgment or decree entered pursuant to the provisions of this Article.

(b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action. (1991, c. 292, s. 1.)

§ 1-567.68: Recodified as § 1-567.33A by Session Laws 1997-368, s. 3.

§ 1-567.69. Reserved for future codification purposes.

§ 1-567.70. Reserved for future codification purposes.

§ 1-567.71. Reserved for future codification purposes.

§ 1-567.72. Reserved for future codification purposes.

§ 1-567.73. Reserved for future codification purposes.

§ 1-567.74. Reserved for future codification purposes.

§ 1-567.75. Reserved for future codification purposes.

§ 1-567.76. Reserved for future codification purposes.

§ 1-567.77. Reserved for future codification purposes.

Part 3. International Commercial Conciliation.

§ 1-567.78. Appointment of conciliators.

(a) The parties may select or permit an arbitral tribunal or other third party to select one or more persons to serve as the conciliators.

(b) The conciliator shall assist the parties in an independent and impartial manner in the parties' attempt to reach an amicable settlement of their dispute. The conciliator shall be guided by principles of objectivity, fairness, and justice and shall give consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned, and the circumstances surrounding the dispute, including any previous practices between the parties.

(c) The conciliator may conduct the conciliation proceedings in a manner that the conciliator considers appropriate, considering the circumstances of the case, the wishes of the parties, and the desirability of a prompt settlement of the dispute. Except as otherwise provided by this Article, other provisions of the law of this State governing procedural matters do not apply to conciliation proceedings brought under this Part. (1997-368, s. 7.)

§ 1-567.79. Representation.

The parties may appear in person or be represented or assisted by any person of their choice. (1997-368, s. 7.)

§ 1-567.80. Report of conciliators.

(a) At any time during the proceedings, a conciliator may prepare a draft conciliation agreement and send copies to the parties, specifying the time within which the parties must signify

their approval. The draft conciliation agreement may include the assessment and apportionment of costs between the parties.

(b) A party is not required to accept a settlement proposed by the conciliator. (1997-368, s. 7.)

§ 1-567.81. Confidentiality.

(a) Evidence of anything said or of an admission made in the course of a conciliation is not admissible, and disclosure of that evidence shall not be compelled in any arbitration or civil action in which, under law, testimony may be compelled to be given. This subsection does not limit the admissibility of evidence when all parties participating in conciliation consent to its disclosure.

(b) If evidence is offered in violation of this section, the arbitral tribunal or the court shall make any order it considers appropriate to deal with the matter, including an order restricting the introduction of evidence or dismissing the case.

(c) Unless the document otherwise provides, a document prepared for the purpose of, in the course of, or pursuant to the conciliation, or a copy of such document, is not admissible in evidence, and disclosure of the document shall not be compelled in any arbitration or civil action in which, under law, testimony may be compelled. (1997-368, s. 7.)

§ 1-567.82. Stay of arbitration; resort to other proceedings.

(a) The agreement of the parties to submit a dispute to conciliation is considered an agreement between or among those parties to stay all judicial or arbitral proceedings from the beginning of conciliation until the termination of conciliation proceedings.

(b) All applicable limitation periods, including periods of prescription, are tolled or extended on the beginning of conciliation proceedings under this Part as to all parties to the conciliation proceedings until the tenth day following the date of termination of the proceedings. For purposes of this section, conciliation proceedings are considered to have begun when the parties have all agreed to participate in the conciliation proceedings. (1997-368, s. 7.)

§ 1-567.83. Termination of conciliation.

(a) A conciliation proceeding may be terminated as to all parties by any one of the following means:

(1) On the date of the declaration, a written declaration of the conciliators that further efforts at conciliation are no longer justified.
(2) On the date of the declaration, a written declaration of the parties addressed to the conciliators that the conciliation proceedings are terminated.
(3) On the date of the agreement, a conciliation agreement signed by all of the parties.
(4) On the date of the order, order of the court when the matter submitted to conciliation is in litigation in the courts of this State.

(b) A conciliation proceeding may be terminated as to particular parties by any one of the following means:

(1) On the date of the declaration, a written declaration of the particular party to the other parties and the conciliators that the conciliation proceedings are to be terminated as to that party.
(2) On the date of the agreement, a conciliation agreement signed by some of the parties.

(3) On the date of the order, order of the court when the matter submitted to conciliation is in litigation in the courts of this State. (1997-368, s. 7.)

§ 1-567.84. Enforceability of decree.

If the conciliation proceeding settles the dispute and the result of the conciliation is in writing and signed by the conciliators and the parties or their representatives, the written agreement shall be treated as an arbitral award rendered by an arbitral tribunal under this Article and has the same force and effect as a final award in arbitration. (1997-368, s. 7.)

§ 1-567.85. Costs.

(a) On termination of the conciliation proceeding, the conciliators shall set the costs of the conciliation and give written notice of the costs to the parties. For purposes of this section, "costs" includes all of the following:

(1) A reasonable fee to be paid to the conciliators.
(2) Travel and other reasonable expenses of the conciliators.
(3) Travel and other reasonable expenses of witnesses requested by the conciliators, with the consent of the parties.
(4) The cost of any expert advice requested by the conciliators, with the consent of the parties.
(5) The cost of any court.

(b) Costs shall be borne equally by the parties unless a conciliation agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party. (1997-368, s. 7.)

§ 1-567.86. Effect on jurisdiction.

Requesting conciliation, consenting to participate in the conciliation proceedings, participating in conciliation proceedings, or entering into a conciliation agreement does not constitute consenting to the jurisdiction of any court in this State if conciliation fails. (1997-368, s. 7.)

§ 1-567.87. Immunity of conciliators and parties.

(a) A conciliator, party, or representative of a conciliator or party, while present in this State for the purpose of arranging for or participating in conciliation under this Part, is not subject to service of process on any civil matter related to the conciliation.

(b) A person who serves as a conciliator shall have the same immunity as judges from civil liability for their official conduct in any proceeding subject to this Part. This qualified immunity does not apply to acts or omissions which occur with respect to the operation of a motor vehicle. (1997-368, s. 7.)

§ 1-567.88. Uniformity of application and construction.

In applying and construing this Article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states of the United States that have enacted the Revised Uniform Arbitration Act, and particular consideration shall be given to the Revised Uniform Arbitration Act as enacted in this State. (2017-171, s. 1.)

§ 1-567.89. Relationship to federal Electronic Signatures in Global and National Commerce Act.

The provisions of this Article governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of these records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001, et seq., or as otherwise authorized by federal or State law governing these electronic records or electronic signatures. (2017-171, s. 1.)

§ 1-568: Repealed by Session Laws 1951, c. 760, s. 2.

§§ 1-568.1 through 1-568.27. Repealed by Session Laws 1967, c. 954, s. 4.

§ 1-569. Repealed by Session Laws 1951, c. 760, s. 2.