

Senate Bill No. 336—Committee on Judiciary

CHAPTER.....

AN ACT relating to arbitration; adopting the revision of the Uniform Arbitration Act that was adopted in 2000; providing for the transition from the present act to the act as revised; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 38, inclusive, of this act.

Sec. 2. *This act may be cited as the Uniform Arbitration Act of 2000.*

Sec. 3. *As used in sections 2 to 37, inclusive, of this act, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Arbitral organization” means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitral proceeding or is involved in the appointment of an arbitrator.*

Sec. 5. *“Arbitrator” means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.*

Sec. 6. *“Court” means the district court.*

Sec. 7. *“Knowledge” means actual knowledge.*

Sec. 8. *“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.*

Sec. 9. *1. Except as otherwise provided in sections 2 to 37, inclusive, of this act, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.*

2. A person has notice if he has knowledge of the notice or has received notice.

3. A person receives notice when it comes to his attention or the notice is delivered at his place of residence or place of business, or at another location held out by him as a place of delivery of such communications.

Sec. 10. *1. Sections 2 to 37, inclusive, of this act govern an agreement to arbitrate made on or after October 1, 2001.*

2. Sections 2 to 37, inclusive, of this act govern an agreement to arbitrate made before October 1, 2001, if all the parties to the agreement or to the arbitral proceeding so agree in a record.

3. On or after October 1, 2003, sections 2 to 37, inclusive, of this act govern an agreement to arbitrate whenever made.

Sec. 11. *1. Except as otherwise provided in subsections 2 and 3, a party to an agreement to arbitrate or to an arbitral proceeding may waive, or the parties may vary the effect of, the requirements of sections 2 to 37, inclusive, of this act to the extent permitted by law.*

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

(a) Waive or agree to vary the effect of the requirements of subsection 1 of section 12, subsection 1 of section 13, section 15, subsection 1 or 2 of section 24, section 33, or section 35 of this act;

(b) Agree to unreasonably restrict the right under section 16 of this act to notice of the initiation of an arbitral proceeding;

(c) Agree to unreasonably restrict the right under section 19 of this act to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under section 23 of this act of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under sections 2 to 37, inclusive, of this act, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

3. A party to an agreement to arbitrate or arbitral proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or subsection 1 or 3 of section 10, section 14, 21, 25, subsection 3 or 4 of section 27, section 29, 30, 31, subsection 1 or 2 of section 32, section 36, 37, 38 or 39 of this act.

Sec. 12. 1. Except as otherwise provided in section 35 of this act, an application for judicial relief under sections 2 to 37, inclusive, of this act must be made by motion to the court and heard in the manner provided by rule of court for making and hearing motions.

2. Unless a civil action involving the agreement to arbitrate is pending, notice of an initial motion to the court under sections 2 to 37, inclusive, of this act must be served in the manner provided by rule of court for the service of a summons in a civil action. Otherwise, notice of the motion must be given in the manner provided by rule of court for serving motions in pending cases.

Sec. 13. 1. 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.

2. The court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

3. 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.

4. 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 arbitral proceeding may continue pending final resolution of the issue by the court, unless the court otherwise orders.

Sec. 14. 1. On motion of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

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

(b) 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.

2. *On motion of a person alleging that an arbitral 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.*

3. *If the court finds that there is no enforceable agreement, it may not, pursuant to subsection 1 or 2, order the parties to arbitrate.*

4. *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.*

5. *If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a motion under this section must be made in that court. Otherwise a motion under this section may be made in any court as provided in section 34 of this act.*

6. *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.*

7. *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.*

Sec. 15. 1. *Before an arbitrator is appointed and is authorized and able to act, the court, upon motion of a party to an arbitral proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitral proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.*

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

(a) *The arbitrator may issue such orders for provisional remedies, including interim awards, as he finds necessary to protect the effectiveness of the arbitral 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*

(b) *A party to an arbitral 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.*

3. *A party does not waive a right of arbitration by making a motion under subsection 1 or 2.*

Sec. 16. 1. *A person initiates an arbitral proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified or registered mail, return receipt requested and obtained, or by service as authorized for the commencement of a civil action. The notice must describe the nature of the controversy and the remedy sought.*

2. *Unless a person objects for lack or insufficiency of notice under subsection 3 of section 22 of this act not later than the beginning of the arbitration hearing, by appearing at the hearing he waives any objection to lack of or insufficiency of notice.*

Sec. 17. *1. Except as otherwise provided in subsection 3, upon motion of a party to an agreement to arbitrate or to an arbitral proceeding, the court may order consolidation of separate arbitral proceedings as to all or some of the claims if:*

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

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

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

(d) 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.

2. The court may order consolidation of separate arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.

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

Sec. 18. *1. If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must 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 arbitral 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.*

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

Sec. 19. *1. 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 arbitral 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 proceeding, including:*

(a) A financial or personal interest in the outcome of the arbitral proceeding; and

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitral proceeding, their counsel or representatives, a witness or another arbitrators.

2. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any facts that he learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

3. *If an arbitrator discloses a fact required by subsection 1 or 2 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 paragraph (b) of subsection 1 of section 30 of this act for vacating an award made by the arbitrator.*

4. *If the arbitrator did not disclose a fact as required by subsection 1 or 2, upon timely objection by a party, the court under paragraph (b) of subsection 1 of section 30 of this act may vacate an award.*

5. *An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality for the purposes of paragraph (b) of subsection 1 of section 30 of this act.*

6. *If the parties to an arbitral proceeding agree to the procedures of an arbitral 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 paragraph (b) of subsection 1 of section 30 of this act.*

Sec. 20. *If there are two or more arbitrators, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under subsection 3 of section 22 of this act.*

Sec. 21. 1. *An arbitrator or an arbitral organization acting in that capacity is immune from civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.*

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

3. *The failure of an arbitrator to make a disclosure required by section 19 of this act does not cause any loss of immunity under this section.*

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

(a) To the extent necessary to determine the claim of an arbitrator, arbitral organization or representative of the arbitral organization against a party to the arbitral proceeding; or

(b) To a hearing on a motion to vacate an award under paragraph (a) or (b) of subsection 1 of section 30 of this act if the movant establishes prima facie that a ground for vacating the award exists.

5. *If a person commences a civil action against an arbitrator, arbitral organization or representative of an arbitral organization arising from the services of the arbitrator, organization or representative or if a person seeks to compel an arbitrator or a representative of an arbitral organization to testify or produce records in violation of subsection 4, and the court decides that the arbitrator, arbitral organization or representative is immune from civil liability or that the arbitrator or representative is not competent to testify, the court shall award to the*

arbitrator, organization or representative reasonable attorney's fees and other reasonable expenses of litigation.

Sec. 22. 1. An arbitrator may conduct an arbitration in such manner as he 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 arbitral proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

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

(a) If all interested parties agree; or

(b) Upon request of one party to the arbitral proceeding if that party gives notice to all other parties to the proceeding, and the other parties have a reasonable opportunity to respond.

3. If an arbitrator orders a hearing, he 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 arbitral proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, his appearance at the hearing waives the objection. Upon request of a party to the arbitral proceeding and for good cause shown, or upon his 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 arbitral proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitral proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

4. At a hearing held under subsection 3, a party to the arbitral proceeding has a right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

5. If an arbitrator ceases or is unable to act during an arbitral proceeding, a replacement arbitrator must be appointed in accordance with section 18 of this act to continue the proceeding and to resolve the controversy.

Sec. 23. A party to an arbitral proceeding may be represented by a lawyer.

Sec. 24. 1. An arbitrator may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing and may administer oaths. A subpoena must be served in the manner for service of subpoenas in a civil action and, upon motion to the court by a party to the arbitral proceeding or the arbitrator, enforced in the manner for enforcement of subpoenas in a civil action.

2. To make the proceedings fair, expeditious and cost effective, upon request of a party to or a witness in an arbitral 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.

3. *An arbitrator may permit such discovery as he decides is appropriate in the circumstances, taking into account the needs of the parties to the arbitral proceeding and other affected persons and the desirability of making the proceeding fair, expeditious and cost effective.*

4. *If an arbitrator permits discovery under subsection 3, he may order a party to the arbitral proceeding to comply with the arbitrator's orders related to discovery, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a proceeding for discovery, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.*

5. *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 this state.*

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

7. *The court may enforce a subpoena or order related to discovery for the attendance of a witness within this state and for the production of records and other evidence issued by an arbitrator in connection with an arbitral proceeding in another state upon conditions determined by the court so as to make the arbitral proceeding fair, expeditious and cost effective. A subpoena or order related to discovery issued by an arbitrator in another state must be served in the manner provided by rule of court for service of subpoenas in a civil action in this state and, upon motion to the court by a party to the arbitral proceeding or the arbitrator, enforced in the manner provided by rule of court for enforcement of subpoenas in a civil action in this state.*

Sec. 25. *If an arbitrator makes a pre-award ruling in favor of a party to an arbitral proceeding, the party may request the arbitrator to incorporate the ruling into an award under section 26 of this act. A prevailing party may make a motion to the court for an expedited order to confirm the award under section 29 of this act, 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 section 30 or 31 of this act.*

Sec. 26. 1. *An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by an arbitrator who concurs with the award. The arbitrator or the arbitral organization shall give notice of the award, including a copy of the award, to each party to the arbitral proceeding.*

2. *An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitral 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 he gives*

notice of the objection to the arbitrator before receiving notice of the award.

Sec. 27. *1. On motion to an arbitrator by a party to an arbitral proceeding, the arbitrator may modify or correct an award:*

(a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of section 31 of this act;

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or

(c) To clarify the award.

2. A motion under to subsection 1 must be made and notice given to all parties within 20 days after the movant receives notice of the award.

3. A party to the arbitral proceeding must give notice of any objection to the motion within 10 days after receipt of the notice.

4. If a motion to the court is pending under section 29, 30 or 31 of this act, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in paragraph (a) or (c) of subsection 1 of section 31 of this act;

(b) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitral proceeding; or

(c) To clarify the award.

5. An award modified or corrected pursuant to this section is subject to subsection 1 of section 26 of this act and to sections 29, 30 and 31 of this act.

Sec. 28. *1. 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 arbitral proceeding.*

2. As to all remedies other than those authorized by subsection 1, an arbitrator may order such remedies as he considers just and appropriate under the circumstances of the arbitral 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 section 29 of this act or for vacating an award under section 30 of this act.

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

Sec. 29. *After a party to an arbitral proceeding receives notice of an award, he 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 section 27 or 31 of this act or is vacated pursuant to section 30 of this act.*

Sec. 30. *1. Upon motion to the court by a party to an arbitral proceeding, the court shall vacate an award made in the arbitral proceeding if:*

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

(b) There was:

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

(2) Corruption by an arbitrator; or

(3) *Misconduct by an arbitrator prejudicing the rights of a party to the arbitral proceeding;*

(c) *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 section 22 of this act, so as to prejudice substantially the rights of a party to the arbitral proceeding;*

(d) *An arbitrator exceeded his powers;*

(e) *There was no agreement to arbitrate, unless the movant participated in the arbitral proceeding without raising the objection under subsection 3 of section 22 of this act not later than the beginning of the arbitral hearing; or*

(f) *The arbitration was conducted without proper notice of the initiation of an arbitration as required in section 16 of this act so as to prejudice substantially the rights of a party to the arbitral proceeding.*

2. *A motion under this section must be made within 90 days after the movant receives notice of the award pursuant to section 26 of this act or within 90 days after he receives notice of a modified or corrected award pursuant to section 27 of this act, unless he alleges that the award was procured by corruption, fraud, or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.*

3. *If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection 1, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection 1, the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d) or (f) of subsection 1, the rehearing may be before the arbitrator who made the award or his successor. The arbitrator must render the decision in the rehearing within the same time as that provided in subsection 2 of section 26 of this act for an award.*

4. *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.*

Sec. 31. 1. *Upon motion made within 90 days after the movant receives notice of the award pursuant to section 26 of this act or within 90 days after he receives notice of a modified or corrected award pursuant to section 27 of this act, the court shall modify or correct the award if:*

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

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

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

2. *If a motion made under subsection 1 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.*

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

Sec. 32. *1. 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.*

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

3. On application of a prevailing party to a contested judicial proceeding under section 29, 30 or 31 of this act, 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.

Sec. 33. *1. A court of this state having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.*

2. An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under sections 2 to 37, inclusive, of this act.

Sec. 34. *A motion pursuant to section 12 of this act must be made in the court of the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court of the county in which it was held. Otherwise, the motion may be made in the court of any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.*

Sec. 35. *1. An appeal may be taken from:*

- (a) An order denying a motion to compel arbitration;*
- (b) An order granting a motion to stay arbitration;*
- (c) An order confirming or denying confirmation of an award;*
- (d) An order modifying or correcting an award;*
- (e) An order vacating an award without directing a rehearing; or*
- (f) A final judgment entered pursuant to sections 2 to 37, inclusive, of this act.*

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

Sec. 36. *In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*

Sec. 37. *Sections 2 to 36, inclusive, of this act do not affect an action or proceeding commenced or right accrued before October 1, 2001. Subject to section 10 of this act, an agreement to arbitrate made before October 1, 2001, is governed by the provisions of NRS 38.015 to 38.205, inclusive, as they existed on that date.*

Sec. 38. *NRS 38.015 to 38.205, inclusive, do not apply to arbitration under an agreement to arbitrate made on or after October 1, 2001.*

Sec. 39. NRS 38.330 is hereby amended to read as follows:

38.330 1. If all parties named in a written claim filed pursuant to NRS 38.320 agree to have the claim submitted for mediation, the parties shall reduce the agreement to writing and shall select a mediator from the list of mediators maintained by the division pursuant to NRS 38.340. Any mediator selected must be available within the geographic area. If the parties fail to agree upon a mediator, the division shall appoint a mediator from the list of mediators maintained by the division. Any mediator appointed must be available within the geographic area. Unless otherwise provided by an agreement of the parties, mediation must be completed within 60 days after the parties agree to mediation. Any agreement obtained through mediation conducted pursuant to this section must, within 20 days after the conclusion of mediation, be reduced to writing by the mediator and a copy thereof provided to each party. The agreement may be enforced as any other written agreement. Except as otherwise provided in this section, the parties are responsible for all costs of mediation conducted pursuant to this section.

2. If all the parties named in the claim do not agree to mediation, the parties shall select an arbitrator from the list of arbitrators maintained by the division pursuant to NRS 38.340. Any arbitrator selected must be available within the geographic area. If the parties fail to agree upon an arbitrator, the division shall appoint an arbitrator from the list maintained by the division. Any arbitrator appointed must be available within the geographic area. Upon appointing an arbitrator, the division shall provide the name of the arbitrator to each party.

3. The division may provide for the payment of the fees for a mediator or an arbitrator selected or appointed pursuant to this section from the account for the ombudsman for owners in common-interest communities created pursuant to NRS 116.1117, to the extent that money is available in the account for this purpose.

4. Except as otherwise provided in this section and except where inconsistent with the provisions of NRS 38.300 to 38.360, inclusive, the arbitration of a claim pursuant to this section must be conducted in accordance with the provisions of ~~NRS 38.075 to 38.105, inclusive, 38.115, 38.125, 38.135, 38.155 and 38.165.~~ *sections 22, 23, 24, 26 to 29, inclusive, 31 and 32 of this act.* At any time during the arbitration of a claim relating to the interpretation, application or enforcement of any covenants, conditions or restrictions applicable to residential property or any bylaws, rules or regulations adopted by an association, the arbitrator may issue an order prohibiting the action upon which the claim is based. An award must be made within 30 days after the conclusion of arbitration, unless a shorter period is agreed upon by the parties to the arbitration.

5. If all the parties have agreed to nonbinding arbitration, any party to the arbitration may, within 30 days after a decision and award have been served upon the parties, commence a civil action in the proper court concerning the claim which was submitted for arbitration. Any complaint filed in such an action must contain a sworn statement indicating that the issues addressed in the complaint have been arbitrated pursuant to the provisions of NRS 38.300 to 38.360, inclusive. If such an action is not commenced within that period, any party to the arbitration may, within 1

year after the service of the award, apply to the proper court for a confirmation of the award pursuant to ~~NRS 38.135,~~ *section 29 of this act.*

6. If all the parties agree in writing to binding arbitration, the arbitration must be conducted in accordance with the provisions of chapter 38 of NRS. An award procured pursuant to such arbitration may be vacated and a rehearing granted upon application of a party pursuant to the provisions of ~~NRS 38.145,~~ *section 30 of this act.*

7. If, after the conclusion of arbitration, a party:

(a) Applies to have an award vacated and a rehearing granted pursuant to ~~NRS 38.145,~~ *section 30 of this act;* or

(b) Commences a civil action based upon any claim which was the subject of arbitration,

the party shall, if he fails to obtain a more favorable award or judgment than that which was obtained in the initial arbitration, pay all costs and reasonable attorney's fees incurred by the opposing party after the application for a rehearing was made or after the complaint in the civil action was filed.

8. Upon request by a party, the division shall provide a statement to the party indicating the amount of the fees for a mediator or an arbitrator selected or appointed pursuant to this section.

9. As used in this section, "geographic area" means an area within 150 miles from any residential property or association which is the subject of a written claim submitted pursuant to NRS 38.320.

Sec. 40. NRS 280.190 is hereby amended to read as follows:

280.190 The committee shall:

1. Direct the department to prepare and shall approve an annual operating budget for the department.

2. Submit the budget to the governing bodies of the participating political subdivisions before April 1 for funding for the following fiscal year.

3. Direct the department to prepare and shall adopt the funding apportionment plan provided for in NRS 280.201 and submit the plan before February 1 to the governing bodies of the participating political subdivisions for approval. The governing bodies shall approve or reject the plan before March 1.

4. If any of the governing bodies fails to approve the apportionment plan, the plan or any disputed element thereof must be submitted to an arbitration panel for resolution. The governing body of each participating political subdivision shall name one arbitrator to the panel, who must reside within this state. If this results in an even number of arbitrators, the arbitrators so named shall, by majority vote, select an additional arbitrator, who must reside within this state and who shall serve as chairman of the panel. The department shall provide such advice and technical and clerical assistance as is requested by the panel. The panel must make its decision and submit it to the participating political subdivisions before April 1. When submitted, the decision is final and binding upon the participating political subdivisions. Except as otherwise provided in this section, the provisions of ~~the Uniform Arbitration Act contained in NRS 38.015 to 38.205, inclusive,~~ *sections 2 to 37, inclusive, of this act* apply.

Sec. 41. NRS 391.3194 is hereby amended to read as follows:

391.3194 1. Within 5 days after the superintendent receives the report of the hearing officer he shall either withdraw the recommendation to demote, dismiss or not reemploy the licensed employee or file his recommendation with the board.

2. Within 15 days after the receipt of the recommendation of the superintendent, the board shall either accept or reject the hearing officer's recommendation and notify the licensed employee in writing of its decision.

3. The board may, before making a decision, refer the report back to the hearing officer for further evidence and recommendations. Within 15 days after the report is referred to him, the hearing officer shall complete the report and file it with the board and mail a copy to the superintendent and licensed employee.

4. The licensed employee may appeal the decision to a district court within the time limits and in the manner provided by law for appeals of administrative decisions of state agencies. If the report of the hearing officer is final and binding, the employee or the board may request judicial review of the report ~~pursuant to NRS 38.145 or 38.155.~~ *in the manner provided in sections 30 and 31 of this act.*

Sec. 42. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 must include in the application a written statement to the department that specifies whether he agrees to submit to binding arbitration any claims against him arising out of a contract for repairs made by him to a motor vehicle. If the person fails to submit the statement to the department or specifies in the statement that he does not agree to arbitrate those claims, the person shall file with the department a bond in the amount of \$5,000, with a corporate surety for the bond that is licensed to do business in this state. The form of the bond must be approved by the attorney general and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and 597.480 to 597.590, inclusive.

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the department, pursuant to the terms prescribed by the department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the department; or

(b) A savings certificate of a bank or savings and loan association located in this state, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the department. Interest earned on the certificate accrues to the account of the applicant.

4. If a claim is arbitrated pursuant to the provisions of this section, the proceedings for arbitration must be conducted in accordance with the provisions of ~~NRS 38.015 to 38.205, inclusive.~~ *sections 2 to 37, inclusive, of this act.*

5. If a person:

(a) Submits the statement to the department specifying that he agrees to arbitrate a claim pursuant to the provisions of subsection 1; and

(b) Fails to submit to binding arbitration any claim specified in that subsection,

the person asserting the claim may notify the department of that fact. Upon receipt of the notice, the department shall, after notice and hearing, revoke or refuse to renew the certificate of registration of the person who failed to submit the claim to arbitration.

6. The department may reinstate or renew a certificate of registration that is revoked pursuant to the provisions of subsection 5 if the person whose certificate of registration is revoked:

(a) Submits the claim to arbitration pursuant to the provisions of subsection 4 and notifies the department of that fact; or

(b) Files a bond or makes a deposit with the department pursuant to the provisions of this section.

Sec. 43. NRS 38.015, 38.025, 38.035, 38.045, 38.055, 38.065, 38.075, 38.085, 38.087, 38.095, 38.105, 38.115, 38.125, 38.135, 38.145, 38.155, 38.165, 38.175, 38.185, 38.195 and 38.205 are hereby repealed.

Sec. 44. 1. This section and sections 1 to 38, inclusive, of this act become effective on October 1, 2001.

2. Sections 39 to 43, inclusive, of this act become effective on October 1, 2003.

3. Section 38 of this act expires by limitation on October 1, 2003.