

**LOUISIANA STATE LAW INSTITUTE
ALTERNATIVE DISPUTE RESOLUTION COMMITTEE**

**TITLE 9
CODE TITLE XIX
OF ALTERNATIVE DISPUTE RESOLUTION**

**“Louisiana Arbitration Act”
L.R.S. 9:4201, et seq.**

I.

**Prepared for the
Meeting of the Committee**

**September 11, 2013
Baton Rouge, Louisiana**

**Emmett C. Sole,
Chair**

**Edward F. Sherman,
Reporter**

**Claire Popovich,
Staff Attorney**

ALTERNATIVE DISPUTE RESOLUTION COMMITTEE

John T. Cox, Jr., Shreveport

Robert L. Curry, III, Monroe

Phillip W. DeVilbiss, Lake Charles

Thomas K. Foutz, Metairie

Patrick A. Juneau, Lafayette

F. A. Little, Jr., Alexandria

John M. McCollam, New Orleans

C. Lawrence Orlansky, New Orleans

John W. Perry, Jr., Baton Rouge

Kirk Reasonover, New Orleans

Michael H. Rubin, Baton Rouge

H. Bruce Shreves, New Orleans

Evelyn L. Wilson, Baton Rouge

Richard F. Zimmerman, Jr., Baton Rouge

**Emmett C. Sole,
Chair**

**Edward F. Sherman,
Reporter**

**Claire Popovich,
Staff Attorney**

Louisiana Arbitration Law
L.R.S. 9:4201, et seq.

§ 4201. Validity of arbitration agreements

A provision in any written contract to settle by arbitration a controversy thereafter arising out of the contract, or out of the refusal to perform the whole or any part thereof, or an agreement in writing between two or more persons to submit to arbitration any controversy existing between them at the time of the agreement to submit, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract.

§ 4202. Stay of proceedings brought in violation of arbitration agreement

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

§ 4203. Remedy in case of default; petition and notice; hearing and proceedings

A. The party aggrieved by the alleged failure or refusal of another to perform under a written agreement for arbitration, may petition any court of record having jurisdiction of the parties, or of the property, for an order directing that the arbitration proceed in the manner provided for in the agreement. Five days' written notice of the application shall be served upon the party in default. Service shall be made in the manner provided by law for the service of a summons.

B. The court shall hear the parties, and upon being satisfied that the making of the agreement for arbitration or the failure to comply therewith is not an issue, the court shall issue an order directing the parties to proceed to arbitration in accordance with the terms of the agreement. If the making of the arbitration agreement or the failure or refusal to perform is an issue, the court shall proceed summarily to the trial thereof.

C. If no jury trial is demanded, the court shall hear and determine the issue. Where such an issue is raised, either party may, on or before the return day of the notice of application, demand a jury trial of the issue, and upon such demand the court shall issue an order referring the issue or issues to a jury called and empanelled in the manner provided by law.

D. If the jury finds that no agreement in writing for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury finds that an agreement for arbitration was made in writing and that there is a default in proceeding thereunder, the court shall issue an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.

E. Failure to pay within ten business days any deposit, fee, or expense required under the arbitration process shall constitute default in the arbitration proceeding. A party aggrieved by the default

1 shall be entitled to remove the matter under arbitration in its entirety to a court of competent jurisdiction
2 and shall be entitled to attorney fees and costs in addition to other remedies as provided in this Section.
3

4 **§ 4204. Appointment of arbitrators**

5

6 If, in the agreement, provision is made for a method of naming or appointing an arbitrator or
7 arbitrators or an umpire, this method shall be followed. If no method is provided or if a method is provided
8 and a party thereto fails to avail himself of the method or if for any other reason there shall be a lapse in the
9 naming of an arbitrator or arbitrators or an umpire, or in filling a vacancy, then, upon the application of
10 either party to the controversy, the court aforesaid or the court in and for the parish in which the arbitration
11 is to be held shall designate and appoint an arbitrator or arbitrators or umpire, as the case may require, who
12 shall act under the agreement with the same force and effect as if he or they had been specifically named
13 therein. Unless otherwise provided in the agreement, the arbitration shall be by a single arbitrator.
14

15 **§ 4205. Application heard as motion**

16

17 Any application to the court under this Chapter shall be made and heard in the manner provided by
18 law for the making and hearing of motions, except as otherwise herein expressly provided.
19

20 **§ 4206. Witnesses; summoning; compelling attendance; evidence**

21

22 A. When more than one arbitrator is agreed to, all the arbitrators shall sit at the hearing of the case
23 unless, by consent in writing, all parties agree to proceed with the hearing with a less number. The
24 arbitrators, selected either as prescribed in this Chapter or otherwise, or a majority of them, may, at the
25 request of a party or independently, summon in writing any person to attend before them or any of them as
26 a witness and in a proper case to bring with him or them any book, record, document, or paper which may
27 be deemed material as evidence in the case. The fees for attendance shall be the same as the fees of
28 witnesses in courts of general jurisdiction.

29 B. The summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and
30 shall be signed by the arbitrator, arbitrators, or a majority of them, and shall be directed to the person and
31 shall be served in the same manner as subpoenas to appear and testify before the court. If any person or
32 persons summoned to testify refuses or neglects to obey the summons, upon petition, the court in and for
33 the parish in which the arbitrators are sitting may compel the attendance or punish the person or persons
34 for contempt in the same manner provided by law for securing the attendance of witnesses or their
35 punishment for neglect or refusal to attend in the courts of this state.

36 C. (1) The parties to the arbitration may offer evidence as is relevant and material to the dispute
37 and shall produce evidence as the arbitrator may deem necessary to an understanding and determination of
38 the dispute. Strict conformity to the Code of Evidence shall not be required, except for laws pertaining to
39 testimonial privileges.

40 (2) The arbitrator shall determine the admissibility, relevance, and materiality of the evidence
41 offered, including the admissibility of expert evidence, and may exclude evidence deemed by the
42 arbitrator to be cumulative or irrelevant.
43

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40

Upon petition, approved by the arbitrators or by a majority of them, any court of record in and for the parish in which the arbitrators are sitting may direct the taking of depositions to be used as evidence before the arbitrators, in the same manner and for the same reasons provided by law for the taking of depositions in suits or proceedings pending in the courts of record in this state.

§ 4208. Award

The award shall be in writing and shall be signed by the arbitrators or by a majority of them

§ 4209. Motion to confirm award; jurisdiction; notice

At any time within one year after the award is made any party to the arbitration may apply to the court in and for the parish within which the award was made for an order confirming the award and thereupon the court shall grant such an order unless the award is vacated, modified, or corrected as prescribed in R.S. 9:4210 and 9:4211. Notice in writing of the application shall be served upon the adverse party or his attorney five days before the hearing thereof.

§ 4210. Motion to vacate award; grounds; rehearing

In any of the following cases the court in and for the parish wherein the award was made shall issue an order vacating the award upon the application of any party to the arbitration.

A. Where the award was procured by corruption, fraud, or undue means.

B. Where there was evident partiality or corruption on the part of the arbitrators or any of them.

C. Where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or of any other misbehavior by which the rights of any party have been prejudiced.

D. Where the arbitrators exceeded their powers or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

Where an award is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.

§ 4211. Motion to modify or correct award; grounds

In any of the following cases the court in and for the parish wherein the award was made shall issue an order modifying or correcting the award upon the application of any party to the arbitration.

A. Where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award.

B. Where the arbitrators have awarded upon a matter not submitted to them unless it is a matter not affecting the merits of the decision upon the matters submitted.

1 C. Where the award is imperfect in matter of form not affecting the merits of the controversy.

2
3 The order shall modify and correct the award so as to effect the intent thereof and promote justice
4 between the parties.

5
6 **§ 4212. Judgment upon award**
7

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

10
11 **§ 4213. Notice of motions; when made; service; stay of proceedings**
12

13 Notice of a motion to vacate, modify, or correct an award shall be served upon the adverse party or
14 his attorney within three months after the award is filed or delivered, as prescribed by law for service of a
15 motion in an action. For the purposes of the motion any judge, who might issue an order to stay the
16 proceedings in an action brought in the same court may issue an order, to be served with the notice of
17 motion, staying the proceedings of the adverse party to enforce the award.

18
19 **§ 4214. Record; filing; judgment; effect and enforcement**
20

21 Any party to a proceeding for an order confirming, modifying, or correcting an award shall, at the
22 time the order is filed with the clerk for the entry of judgment thereon, also file the following papers with
23 the clerk:

24 (1) The agreement, the selection or appointment, if any, of an additional arbitrator or umpire, and
25 each written extension of the time, if any, within which to make the award.

26 (2) The award.

27 (3) Each notice, affidavit, or other paper used upon an application to confirm, modify, or correct
28 the award, and a copy of each order of the court upon such an application.

29
30 The judgment shall be docketed as if it were rendered in an action.

31
32 The judgment so entered shall have the same force and effect, in all respects, as, and be subject to
33 all the provisions of law relating to, a judgment in an action, and it may be enforced as if it had been
34 rendered in an action in the court in which it is entered.

35
36 **§ 4215. Appeals**
37

38 An appeal may be taken from an order confirming, modifying, correcting, or vacating an award, or
39 from a judgment entered upon an award, as from an order or judgment in an action.
40
41

1 **§ 4216. Limitation of application of Chapter**
2

3 Nothing contained in this Chapter shall apply to contracts of employment of labor or to contracts
4 for arbitration which are controlled by valid legislation of the United States or to contracts made prior to
5 July 28, 1948.
6

7 **§ 4217. Short title**
8

9 This Chapter may be referred to as the “Louisiana Arbitration Law.”