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CHAPTER 5. UNIFORM ARBITRATION ACT

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27-5-101 Repealed

27-5-102 Repealed

27-5-103 Repealed

27-5-104 Repealed

27-5-105 Repealed

27-5-106 through 27-5-110 reserved

27-5-111 Short title

27-5-112 Uniformity of interpretation

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27-5-114 Validity of arbitration agreement -- exceptions

27-5-115 Proceedings to compel or stay arbitration

27-5-116 Short title -- neutral arbitrator's disclosure required

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Short Title

27-5-111. Short title. This chapter may be cited as the "Uniform Arbitration Act".

History: En. Sec. 1, Ch. 684, L. 1985.

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Uniformity Of Interpretation

27-5-112. Uniformity of interpretation. This chapter must be construed to effectuate its general purpose to make uniform the law of those states that enact it.

History: En. Sec. 2, Ch. 684, L. 1985.

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Application To Labor Agreements

27-5-113. Application to labor agreements. Arbitration agreements between employers and employees or between their respective representatives are valid and enforceable and may be subject to all or portions of this chapter if the agreement so specifies, except 27-5-115, 27-5-311, 27-5-312(1) and (3) through (5), 27-5-313, and 27-5-322 apply in each case.

History: En. Sec. 3, Ch. 684, L. 1985; amd. Sec. 1, Ch. 258, L. 1991.

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Validity Of Arbitration Agreement -- Exceptions

27-5-114. Validity of arbitration agreement -- exceptions. (1) A written agreement to submit an existing controversy to arbitration is valid and enforceable except upon grounds that exist at law or in equity for the revocation of a contract.

(2) A written agreement to submit to arbitration any controversy arising between the parties after the agreement is made is valid and enforceable except upon grounds that exist at law or in equity for the revocation of a contract. Except as permitted under subsection (3), this subsection does not apply to:

(a) claims arising out of personal injury, whether based on contract or tort;

(b) any contract by an individual for the acquisition of real or personal property, services, or money or credit when the total consideration to be paid or furnished by the individual is \$5,000 or less;

(c) any agreement concerning or relating to insurance policies or annuity contracts except for those contracts between insurance companies; or

(d) claims for workers' compensation.

(3) A written agreement between members of a trade or professional organization to submit to arbitration any controversies arising between members of the trade or professional organization after the agreement is made is valid and enforceable except upon grounds that exist at law or in equity for the revocation of a contract.

History: En. Sec. 4, Ch. 684, L. 1985; amd. Sec. 1, Ch. 236, L. 1989; amd. Sec. 1, Ch. 611, L. 1989; amd. Sec. 1, Ch. 19, L. 1997.

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Proceedings To Compel Or Stay Arbitration

27-5-115. Proceedings to compel or stay arbitration. (1) On the application of a party showing an agreement described in **27-5-114** and the opposing party's refusal to arbitrate, the district court shall order the parties to proceed with arbitration; but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of that issue raised and shall order arbitration if it finds for the applying party or deny the application if it finds for the opposing party.

(2) On application, the district court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the stay ordered if the court finds for the applying party. If the court finds for the opposing party, it shall order the parties to proceed to arbitration.

(3) If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under subsection (1), the application must be made in that court. Otherwise, and subject to **27-5-323**, the application may be made in any court of competent jurisdiction.

(4) An action or proceeding involving an issue subject to arbitration must be stayed if an order or application for arbitration has been made under this section. If an issue is severable, the stay may be with respect to the severable issue only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

(5) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or good faith or because no fault or grounds for the claim sought to be arbitrated have been shown.

History: En. Sec. 5, Ch. 684, L. 1985.

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Short Title -- Neutral Arbitrator's Disclosure Required

27-5-116. Short title -- neutral arbitrator's disclosure required. (1) This section may be cited as the "Fairness in Arbitration Act".

(2) Beginning October 1, 2009, a person who has been proposed, nominated, or appointed as a neutral arbitrator pursuant to an arbitration agreement, other than one contained in a collective bargaining agreement, shall comply with the requirements of this section.

(3) A person who has been proposed, nominated, or appointed as a neutral arbitrator for an arbitration proceeding shall disclose to each party all matters that could cause a person aware of the facts underlying a potential conflict of interest to have a reasonable doubt that the person would be able to act as a neutral or impartial arbitrator.

(4) In addition to any matters disclosed pursuant to subsection (3), the person proposed, nominated, or appointed shall disclose:

(a) the existence, regarding the person, of any ground specified in **3-1-803** for disqualification of a judge;

(b) whether the person has been employed by a party to the arbitration proceeding within the last 5 years;

(c) (i) (A) the names of the parties to arbitration proceedings commenced after October 1, 2009, other than the pending proceeding, in which the person served or is serving as a party arbitrator and not a neutral arbitrator for any party to that proceeding or as an attorney for a party to that proceeding and the results of each of those proceedings that were arbitrated to conclusion; or

(B) beginning October 1, 2014, the names of the parties to all prior or current arbitration proceedings, other than the pending proceeding, within the last 5 years in which the person served or is serving as a party arbitrator and not a neutral arbitrator for any party to that proceeding or as an attorney for a party to that proceeding and the results of each of those proceedings that were arbitrated to conclusion;

(ii) regarding the information disclosed pursuant to subsection (4)(c)(i), as appropriate, the:

(A) date of the arbitration award;

(B) identification of the prevailing party;

(C) names of the parties' attorneys; and

(D) amount of monetary damages awarded, if any;

(d) (i) (A) the names of the parties to arbitration proceedings commenced after October 1, 2009, other than the pending proceeding, in which the person served or is serving as a neutral arbitrator and the results of each of those proceedings that were arbitrated to conclusion; or

(B) beginning October 1, 2014, the names of the parties to all prior or current arbitration proceedings, other than the pending proceeding, within the last 5 years in which the person served or is serving as a neutral arbitrator and the results of each of those proceedings that were arbitrated to conclusion;

(ii) regarding the information disclosed pursuant to subsection (4)(d)(i), as appropriate, the:

(A) date of the arbitration award;

(B) identification of the prevailing party;

(C) identification of the person and the party who selected the person to serve as a neutral arbitrator, if any;

(D) names of the parties' attorneys; and

(E) amount of monetary damages awarded, if any; and

(e) any attorney-client relationship the person has or has had with a party or an attorney for a party to the arbitration proceeding within the last 5 years.

(5) In order to preserve confidentiality, it is sufficient for the purposes of subsections (4)(c) and (4)(d) for the person to identify any party who is not a party to the pending arbitration proceeding as "claimant" or "respondent" if that party is or was an individual and not a business or corporate entity.

(6) The person proposed, nominated, or appointed as a neutral arbitrator shall make the disclosure required by this section in writing to all parties by serving a disclosure upon the parties within 10 days of any notice of the person's proposal, nomination, or appointment. The disclosure must be served in accordance with Title 25, chapter 3, part 2.

(7) An arbitration proceeding does not include an arbitration proceeding pursuant to a collective bargaining agreement.

(8) This section does not apply to:

(a) arbitration agreements that have been approved by the United States security and exchange commission pursuant to the Securities and Exchange Act of 1934; or

(b) arbitrations conducted by the Montana bar association's voluntary fee arbitration program.

History: En. Sec. 1, Ch. 339, L. 2009.

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[27-5-201 Repealed](#)

[27-5-202 Repealed](#)

[27-5-203 Repealed](#)

[27-5-204 through 27-5-210 reserved](#)

[27-5-211 Appointment of arbitrators -- conflict of interest provisions applicable](#)

[27-5-212 Majority action by arbitrators](#)

[27-5-213 Hearing](#)

[27-5-214 Representation by attorney](#)

[27-5-215 Witnesses, subpoenas, and depositions](#)

[27-5-216 Award](#)

[27-5-217 Change of award by arbitrators](#)

[27-5-218 Fees and expenses of arbitration](#)

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Appointment Of Arbitrators -- Conflict Of Interest Provisions Applicable

27-5-211. Appointment of arbitrators -- conflict of interest provisions applicable. Except as provided in **27-5-116**, if the arbitration agreement provides a method of appointment of arbitrators, this method must be followed. If a method is not provided, the agreed method fails or for any reason cannot be followed, or an appointed arbitrator fails or is unable to act and the arbitrator's successor has not been appointed, the district court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement. A neutral arbitrator appointed by the district court on or after October 1, 2009, shall comply with the provisions of **27-5-116**.

History: En. Sec. 6, Ch. 684, L. 1985; amd. Sec. 604, Ch. 56, L. 2009; amd. Sec. 2, Ch. 339, L. 2009.

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Majority Action By Arbitrators

27-5-212. Majority action by arbitrators. The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this chapter.

History: En. Sec. 7, Ch. 684, L. 1985.

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Hearing

27-5-213. Hearing. Unless otherwise provided by the agreement, the following apply:

(1) The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by certified mail not less than 5 days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced, notwithstanding the failure of a party duly notified to appear. The district court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(2) The parties are entitled to be heard, present evidence material to the controversy, and cross-examine witnesses appearing at the hearing.

(3) The hearing must be conducted by all the arbitrators, but a majority may determine any question and render a final award. If during the course of the hearing an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

History: En. Sec. 8, Ch. 684, L. 1985.

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Representation By Attorney

27-5-214. Representation by attorney. A party has the right to be represented by an attorney at any proceeding or hearing under this chapter. A waiver of this right prior to the proceeding or hearing is ineffective.

History: En. Sec. 9, Ch. 684, L. 1985.

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Witnesses, Subpoenas, And Depositions

27-5-215. Witnesses, subpoenas, and depositions. (1) The arbitrators may issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and may administer oaths. Subpoenas so issued must be served and, upon application to the district court by a party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action in district court.

(2) On the application of a party and for use as evidence, the arbitrators may permit a deposition to be taken, in the manner and upon the terms designated by the arbitrators, of a witness who cannot be subpoenaed or is unable to attend the hearing.

(3) All provisions of law compelling a person under subpoena to testify are applicable to persons subpoenaed under this chapter.

(4) Fees for attendance as a witness are the same as for a witness in the district court.

History: En. Sec. 10, Ch. 684, L. 1985.

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Award

27-5-216. Award. (1) The award must be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy to each party personally by certified mail or as provided in the agreement.

(2) An award must be made within the time fixed by the agreement or, if no time is fixed, within the time that the district court orders on application of a party. The parties may extend the time, in writing, either before or after the expiration of the time. A party waives the objection that an award was not made within the time required unless the party notifies the arbitrators of the party's objection prior to the delivery of the award to that party.

History: En. Sec. 11, Ch. 684, L. 1985; amd. Sec. 605, Ch. 56, L. 2009.

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Change Of Award By Arbitrators

27-5-217. Change of award by arbitrators. On the application of a party or, if an application to the court is pending under **27-5-311**, **27-5-312**, or **27-5-313**, on submission to the arbitrators by the court under conditions that the court may order, the arbitrators may modify or correct the award upon the grounds stated in **27-5-313**(1)(a) and (1)(c) or for the purpose of clarifying the award. The application must be made within 20 days after delivery of the award to the applicant. Written notice must be given immediately to the opposing party, stating that the opposing party must serve the party's objections to the award, if any, within 10 days from the notice. A modified or corrected award is subject to the provisions of **27-5-311** through **27-5-313**.

History: En. Sec. 12, Ch. 684, L. 1985; amd. Sec. 606, Ch. 56, L. 2009.

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Fees And Expenses Of Arbitration

27-5-218. Fees and expenses of arbitration. Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses, not including counsel fees, incurred in the conduct of the arbitration, must be paid as provided in the award.

History: En. Sec. 13, Ch. 684, L. 1985.

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[27-5-301 Repealed](#)

[27-5-302 Repealed](#)

[27-5-303 Repealed](#)

[27-5-304 Repealed](#)

[27-5-305 through 27-5-310 reserved](#)

[27-5-311 Confirmation of award by court](#)

[27-5-312 Vacating an award](#)

[27-5-313 Modification or correction of award by court](#)

[27-5-314 Judgment on award -- costs](#)

[27-5-315 through 27-5-320 reserved](#)

[27-5-321 Applications to court -- how made](#)

[27-5-322 Jurisdiction of district court](#)

[27-5-323 Venue](#)

[27-5-324 Appeals](#)

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Confirmation Of Award By Court

27-5-311. Confirmation of award by court. Upon the application of a party, the district court shall confirm an award unless within the time limits imposed in this chapter grounds are urged for vacating, modifying, or correcting the award, in which case the court shall proceed as provided in 27-5-312 and 27-5-313.

History: En. Sec. 14, Ch. 684, L. 1985.

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Vacating An Award

27-5-312. Vacating an award. (1) Upon the application of a party, the district court shall vacate an award if:

- (a) the award was procured by corruption, fraud, or other undue means;
 - (b) there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct prejudicing the rights of any party;
 - (c) the arbitrators exceeded their powers;
 - (d) the arbitrators refused to postpone the hearing upon sufficient cause being shown or refused to hear evidence material to the controversy or otherwise conducted the hearing, contrary to the provisions of **27-5-213**, in a manner that substantially prejudiced the rights of a party;
 - (e) there was no arbitration agreement and the issue was not adversely determined in proceedings under **27-5-115** and the party did not participate in the arbitration hearing without raising the objection; or
 - (f) a neutral arbitrator failed to make a material disclosure required by **27-5-116**. An award may be vacated because of a material noncompliance with **27-5-116** no later than 90 days following discovery of the failure to disclose.
- (2) The fact that the relief could not or would not be granted by a court of law or equity is not grounds for vacating or refusing to confirm the award.
- (3) An application under this section must be made within 90 days after delivery of a copy of the award to the applicant, except that if it is predicated upon corruption, fraud, or other undue means, it must be made within 90 days after the grounds are known or should have been known.
- (4) In vacating the award on grounds other than those stated in subsection (1)(e), the court may order a rehearing before new arbitrators chosen as provided in the agreement or, if the agreement does not provide a method of selection, by the court in accordance with **27-5-211** or, if the award is vacated on grounds set forth in subsection (1)(c) or (1)(d), the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with **27-5-211**. The time within which the agreement requires the award to be made is applicable to the rehearing and commences on the date of the order for rehearing.
- (5) If the application to vacate is denied and a motion to modify or correct the award is not pending, the court shall confirm the award.

History: En. Sec. 15, Ch. 684, L. 1985; amd. Sec. 3, Ch. 339, L. 2009.

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Modification Or Correction Of Award By Court

27-5-313. Modification or correction of award by court. (1) Upon application made within 90 days after delivery of a copy of the award to the applicant, the district court shall modify or correct the award if:

(a) there was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award;

(b) the arbitrators awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

(c) the award is imperfect in a matter of form not affecting the merits of the controversy.

(2) If the application is granted, the court shall modify and correct the award to effect its intent and shall confirm the award as modified and corrected. Otherwise, the court shall confirm the award as made.

(3) An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

History: En. Sec. 16, Ch. 684, L. 1985.

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Judgment On Award -- Costs

27-5-314. Judgment on award -- costs. (1) Upon the granting of an order confirming, modifying, or correcting an award, judgment must be entered in conformity with the order and be enforced as any other judgment. Costs of the application and of the proceedings subsequent thereto and disbursements may be awarded by the court.

(2) The judgment may be docketed as if rendered in an action.

History: En. Sec. 17, Ch. 684, L. 1985.

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Through 27-5-320 Reserved

27-5-315 through 27-5-320 reserved.

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Applications To Court -- How Made

27-5-321. Applications to court -- how made. Except as otherwise provided, an application to the court under this chapter must be by motion and must 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 must be served in the manner provided by law for the service of a summons in an action.

History: En. Sec. 18, Ch. 684, L. 1985.

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Jurisdiction Of District Court

27-5-322. Jurisdiction of district court. The making of an agreement described in [27-5-114](#) providing for arbitration in this state confers jurisdiction on the district court to enforce the agreement under this chapter and to enter judgment on an award under the agreement.

History: En. Sec. 19, Ch. 684, L. 1985.

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Venue

27-5-323. Venue. (1) An initial application must be made to the court of the county in which the agreement provides the arbitration hearing must be held or, if the hearing has been held, in the county in which it was held. Otherwise, the application must be made in the county where the adverse party resides or has a place of business or, if the adverse party does not have a residence or place of business in this state, to the court of any county. All subsequent applications must be made to the court hearing the initial application unless the court otherwise directs. An agreement concerning venue involving a resident of this state is not valid unless the agreement requires that arbitration occur within the state of Montana. This requirement may only be waived upon the advice of counsel as evidenced by counsel's signature on the agreement.

(2) (a) An agreement concerning venue involving an electrical generation facility in this state is not valid unless the agreement requires that arbitration occur within the state before a panel of three arbitrators selected under the Uniform Arbitration Act unless all parties agree in writing to a single arbitrator.

(b) For the purposes of this subsection, "electrical generation facility" has the meaning provided in **75-20-104**.

History: En. Sec. 20, Ch. 684, L. 1985; amd. Sec. 607, Ch. 56, L. 2009; amd. Sec. 1, Ch. 376, L. 2021.

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Appeals

27-5-324. Appeals. (1) An appeal may be taken from:

- (a) an order denying an application to compel arbitration made under **27-5-115**;
- (b) an order granting an application to stay arbitration made under **27-5-115(2)**;
- (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 judgment entered pursuant to the provisions of this chapter.

(2) The appeal must be taken in the manner and to the same extent as from orders or judgments in a civil action in district court.

History: En. Sec. 21, Ch. 684, L. 1985.