

Reports to the General Assembly

Code of Virginia
Title 8.01. Civil Remedies and Procedure
Subtitle.
Chapter 21. Arbitration and Award

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Article 1. General Provisions.

§ 8.01-577. Submission of controversy; agreement to arbitrate; condition precedent to actio

A. Persons desiring to end any controversy, whether there is a suit pending therefor or not, may submit the same to arbitration, and agree that such submission may be entered of record in any circuit court or entered by order of any general district court. Upon proof of such agreement out of court, or by consent of the parties given in court in person or by counsel, it shall be entered in the proceedings of such court. Thereupon a rule shall be made that the parties shall submit to the away which shall be made in accordance with such agreement and the provisions of this chapter.

B. Neither party shall have the right to revoke an agreement to arbitrate except on a ground which would be good for revoking or annulling other agreements. Submission of any claim or controversy arbitration pursuant to such agreement shall be a condition precedent to institution of suit or actic thereon, and the agreement to arbitrate shall be enforceable, unless the agreement also provides the submission to arbitration shall not be a condition precedent to suit or action.

Code 1950, § 8-503; 1968, c. 244; 1977, c. 617; 1983, c. 485; 1986, c. 614; 2016, c. 181.

§ 8.01-578. Repealed.

Repealed by Acts 1986, c. 614.

§ 8.01-581. Fiduciary may submit to arbitration.

Any personal representative of a decedent, fiduciary of a person under a disability, or other fiducial may submit to arbitration any suit or matter of controversy touching the estate or property of such decedent, or person under a disability or in respect to which he is trustee. And any submission so made in good faith, and the award made thereupon, shall be binding and entered as the judgment of a court, if so required by the agreement, in the same manner as other submissions and awards. No such fiduciary shall be responsible for any loss sustained by an award adverse to the interests of the person under a disability or beneficiary under any such trust, unless it was caused by his fault or neglect.

Code 1950, § 8-507; 1977, c. 617.

Article 2. Uniform Arbitration Act.

§ 8.01-581.01. Validity of arbitration agreement.

A written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, except upon such grounds as exist at law or in equity for the revocatio of any contract. This article also applies to arbitration agreements between employers and employer

or between their respective representatives unless otherwise provided in the agreement; provided, however, that nothing in this chapter shall be construed to create any right to arbitration with respect to any controversy regarding the employment or terms and conditions of employment of a officer or employee of the Commonwealth.

1986, c. 614.

§ 8.01-581.02. Proceedings to compel or stay arbitration.

- A. On application of a party showing an agreement described in § 8.01-581.01, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration. However, if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue of the existence of an agreement and shall order arbitration only if found for the moving party.
- B. On application, the 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 forthwith and summarily tried and the stay ordered if found for the moving party. found for the opposing party, the court shall order the parties to proceed to arbitration.
- C. 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 A of this section, the application shall be made therein. Otherwise, subject to § 8.01-581.015, the application may be made in any court of competent jurisdiction.
- D. Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under this section. However, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action c proceeding, the order for arbitration shall include the stay.
- E. An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been show

1986, c. 614.

§ 8.01-581.03. Appointment of arbitrators by court; powers of arbitrators.

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator s appointed has all the powers of one specifically named in the agreement.

The powers of the arbitrators may be exercised by a majority, unless otherwise provided by the agreement or by this article.

1986, c. 614.

§ 8.01-581.04. Hearing.

Unless otherwise provided by the agreement:

1. The arbitrators shall appoint a time and place for the hearing and cause notification to the partic to be served personally or by registered mail not less than five days before the hearing. Appearance the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as

necessary and, on request of a party 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 court on application may direct the arbitrators to proceed promptly with the hearing and determination of t controversy.

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

1986, c. 614.

§ 8.01-581.05. Representation by attorney.

A party has the right to be represented by an attorney at any proceeding or hearing under this artic A waiver thereof prior to the proceeding or hearing is ineffective.

1986, c. 614.

§ 8.01-581.06. Witnesses, subpoenas, depositions.

The arbitrators may issue subpoenas for the attendance of witnesses and for the production of boo records, documents and other evidence, and shall have the power to administer oaths. Subpoenas s issued shall be served, and upon application to the court by a party or the arbitrators, enforced, in t manner provided by law for the service and enforcement of subpoenas in a civil action. All provisio of law compelling a person under subpoena to testify are applicable.

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

Fees for attendance as a witness shall be the same as for a witness in the circuit court.

1986, c. 614.

§ 8.01-581.07. Award; fees and expenses to be fixed.

The award shall be in writing and signed by the arbitrators joining in the award. The arbitrators shadeliver a copy to each party personally or by registered mail, or as provided in the agreement.

An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not may within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him. Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses ar fees incurred in the conduct of the arbitration, and all other expenses, not including counsel fees, shall be paid as provided in the award.

1986, c. 614.

§ 8.01-581.08. Change of award by arbitrators.

On application of a party or, if an application to the court is pending under §§ 8.01-581.09, 8.01-581.010 or § 8.01-581.011, on submission to the arbitrators by the court under such conditions as t court may order, the arbitrators may modify or correct the award upon the grounds stated in subdivisions 1 and 3 of § 8.01-581.011, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice thereous shall be given forthwith to the opposing party, stating that he must serve his objections thereto, if any, within ten days from the notice. The award as modified or corrected is subject to the provision of §§ 8.01-581.09, 8.01-581.010 or § 8.01-581.011.

1986, c. 614.

§ 8.01-581.09. Confirmation of an award.

Upon application of a party any time after an award is made, the court shall confirm an award, unle within the time limits hereinafter imposed grounds are urged for vacating or modifying or correction the award, in which case the court shall proceed as provided in §§ 8.01-581.010 and 8.01-581.011.

1986, c. 614; 1998, c. 303.

§ 8.01-581.010. Vacating an award.

Upon application of a party, the court shall vacate an award where:

- 1. The award was procured by corruption, fraud or other undue means;
- 2. There was evident partiality by an arbitrator appointed as a neutral, corruption in any of the arbitrators, or misconduct prejudicing the rights of any party;
- 3. The arbitrators exceeded their powers;
- 4. The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contra to the provisions of § 8.01-581.04, in such a way as to substantially prejudice the rights of a party;
- 5. There was no arbitration agreement and the issue was not adversely determined in proceedings under $\S 8.01-581.02$ and the party did not participate in the arbitration hearing without raising the objection.

The fact that the relief was such that it could not or would not be granted by a court of law or equit is not grounds for vacating or refusing to confirm the award.

An application under this section shall be made within ninety days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or reasonably should have been known. An application shall be made by filing a petition with the appropriate court within the prescribed time limits of this section, or by raising reasons supporting vacation in response to another party's petition to confirm the award, provided that such response is filed within the prescribed time limits of this section.

In vacating the award on grounds other than that stated in subdivision 5, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with § 8.01-581.03. If the award is vacated on grounds set forth in subdivisions 3 and 4 the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with § 8.01-581.03. The time within which the agreement

requires the award to be made is applicable to the rehearing and commences from the date of the order.

If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

1986, c. 614; 1998, c. 303.

§ 8.01-581.011. Modification or correction of award.

Upon application made within ninety days after delivery of a copy of the award to the applicant, th court shall modify or correct the award where:

- 1. 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;
- 2. The arbitrators have 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
- 3. The award is imperfect in a matter of form, not affecting the merits of the controversy.

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

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

1986, c. 614.

§ 8.01-581.012. Judgment or decree on award.

Upon granting an order confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity therewith and be docketed and enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

1986, c. 614.

§ 8.01-581.013. Applications to court.

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 an action.

1986, c. 614.

§ 8.01-581.014. Court; jurisdiction.

The term "court" means a circuit court or general district court of the Commonwealth having jurisdiction over the subject matter of the controversy.

1986, c. 614; 1995, c. 342; 2016, c. 181.

§ 8.01-581.015. Venue.

Except as provided in subsection B of § 8.01-262.1, an initial application shall be made to the court the county or city in which the agreement provides the arbitration hearing shall be held or, if the

hearing has been held, in the county or city in which it was held. Otherwise, venue of the application shall be as provided in Chapter 5 (§ 8.01-257 et seq.) of this title. All subsequent applications shall made to the court hearing the initial application unless the court otherwise directs.

1986, c. 614; 1991, c. 489.

§ 8.01-581.016. Appeals.

An appeal may be taken from:

- 1. An order denying an application to compel arbitration made under § 8.01-581.02;
- 2. An order by a general district court granting an application to compel arbitration;
- 3. An order granting an application to stay arbitration made under subsection B of § 8.01-581.02;
- 4. An order confirming or denying an award;
- 5. An order modifying or correcting an award;
- 6. An order vacating an award without directing a rehearing; or
- 7. A judgment or decree entered pursuant to the provisions of this article.

The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

1986, c. 614; 2016, c. 181.

7/4/20

The Code of Virginia,
Constitution of Virginia,
Charters, Authorities, Compacts
and Uncodified Acts are now
available in EPub eBook format.

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Helpful Resources
Virginia Code Commission
Virginia Register of Regulations
U.S. Constitution

For Developers

The Virginia Law website data is available via a web service.

