

Senate Bill 383

By: Senators Hamrick of the 30th, McKoon of the 29th, Stone of the 23rd, Carter of the 42nd and Bethel of the 54th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 9 of Title 9 of the Official Code of Georgia Annotated,
2 relating to general provisions for arbitration, so as to repeal Part 2, relating to international
3 transactions; to provide for a short title; to provide for a statement of purpose; to provide for
4 applicability; to provide for definitions; to provide for procedure; to provide for court
5 intervention; to provide for an arbitration agreement; to provide for selection and
6 disqualification of arbitrators; to provide for challenges to arbitrator selection and
7 substitution of arbitrators; to provide for interim measures; to provide for commencement of
8 arbitration proceedings and statements of claims and defenses; to provide for default; to
9 provide for the appointment of experts; to provide for rules applicable to disputes; to provide
10 for settlements and the form and contents of arbitration awards and corrections to an
11 arbitration award; to provide for recourse against an arbitration award; to provide for
12 recognition and enforcement of arbitration awards; to provide for related matters; to provide
13 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Article 1 of Chapter 9 of Title 9 of the Official Code of Georgia Annotated, relating to
17 general provisions for arbitration, is amended by repealing Part 2, relating to international
18 transactions, and enacting a new Part 2 to read as follows:

19 "Part 2

20 9-9-20.

21 (a) This part shall be known and may be cited as the 'Georgia International Commercial
22 Arbitration Code.'

23 (b) The purpose of this part is to encourage international commercial arbitration in this
24 state, to enforce arbitration agreements and arbitration awards, to facilitate prompt and

25 efficient arbitration proceedings consistent with this part, and to provide a conducive
26 environment for international business and trade.

27 9-9-21.

28 (a) This part shall apply to international commercial arbitration, subject to any agreement
29 in force between the United States and any other country.

30 (b) The provisions of this part, except for Code Sections 9-9-29 and 9-9-30, subsections
31 (f) through (h) of Code Section 9-9-38, and Code Sections 9-9-39, 9-9-57, and 9-9-58, shall
32 apply only if the place of arbitration is in this state.

33 (c) An arbitration shall be considered international if:

34 (1) The parties to an arbitration agreement have their places of business in different
35 countries at the time of the conclusion of such arbitration agreement;

36 (2) One of the following places is situated outside the country in which the parties have
37 their places of business:

38 (A) The place of arbitration, if determined in or pursuant to the arbitration agreement;
39 or

40 (B) Any place where a substantial part of the obligations of the commercial
41 relationship is to be performed or the place with which the subject matter of the dispute
42 is most closely connected; or

43 (3) The parties have expressly agreed that the subject matter of the arbitration agreement
44 relates to more than one country.

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

46 (1) If a party has more than one place of business, the place of business is that which has
47 the closest relationship to the arbitration agreement; and

48 (2) If a party does not have a place of business, reference is to be made to such party's
49 habitual residence.

50 (e) This part shall not affect any other law of this state by virtue of which certain disputes
51 shall not be submitted to arbitration or may be submitted to arbitration only according to
52 provisions other than those of this part.

53 9-9-22.

54 (a) As used in this part, the term:

55 (1) 'Arbitration' means any arbitration, whether or not administered by a permanent
56 arbitral institution.

57 (2) 'Arbitration agreement' means an agreement by the parties to submit to arbitration all
58 or certain disputes that have arisen or may arise between them in respect of a defined

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

61 (3) 'Arbitration award' means a decision of an arbitration tribunal on the substance of a
62 dispute submitted to it and shall include an interim, interlocutory, or partial award.

63 (4) 'Arbitration tribunal' means a sole arbitrator or a panel of arbitrators.

64 (b)(1) Where a provision of this part, except Code Section 9-9-50, leaves the parties free
65 to determine a certain issue, such freedom shall include the right of the parties to
66 authorize a third party, including an institution, to make that determination.

67 (2) Where a provision of this part refers to the fact that the parties have agreed or that
68 they may agree or in any other way refers to an agreement of the parties, such agreement
69 shall include any arbitration rule referred to in such agreement.

70 (3) Where a provision of this part, other than in paragraph (1) of Code Section 9-9-47
71 and paragraph (1) of subsection (b) of Code Section 9-9-54, refers to a claim, it shall also
72 apply to a counterclaim, and where it refers to a defense, it shall also apply to a defense
73 to such counterclaim.

74 9-9-23.

75 (a) In the interpretation of this part, regard shall be given to its international origin and to
76 the need to promote uniformity in its application and the observance of good faith.

77 (b) Questions concerning matters governed by this part which are not expressly settled in
78 it are to be settled in conformity with the general principles on which this part is based.

79 9-9-24.

80 (a) Unless otherwise agreed by the parties:

81 (1) Any written communication shall be deemed to have been received if it is delivered
82 to the addressee personally or if it is delivered at his or her place of business, habitual
83 residence, or mailing address; if none of these can be found after making a reasonable
84 inquiry, a written communication shall be deemed to have been received if it is sent to
85 the addressee's last known place of business, habitual residence, or mailing address by
86 registered mail or any other means which provides a record of the attempt to deliver it;
87 and

88 (2) Communications shall be deemed to have been received on the day it is delivered.

89 (b) The provisions of this Code section shall not apply to communications in court
90 proceedings.

91 9-9-25.

92 A party who knows that any provision of this part from which the parties may derogate or
 93 any requirement under the arbitration agreement has not been complied with and yet
 94 proceeds with the arbitration without objecting to such noncompliance without undue delay
 95 or, if a time limit is provided therefor, within such period of time, shall be deemed to have
 96 waived the right to object.

97 9-9-26.

98 In matters governed by this part, no court shall intervene except where provided in this
 99 part. If the controversy is within the scope of this part, the arbitration agreement shall be
 100 enforced by the courts of this state in accordance with this part without regard to the
 101 justiciable character of the controversy.

102 9-9-27.

103 The functions referred to in subsections (c) and (d) of Code Section 9-9-32, subsection (c)
 104 of Code Section 9-9-34, Code Section 9-9-35, paragraph (3) of Code Section 9-9-37, Code
 105 Section 9-9-49, and subsection (b) of Code Section 9-9-56 shall be performed by the
 106 superior court in the county agreed upon by the parties. Barring such agreement, these
 107 functions shall be performed by the superior court:

108 (1) In any county where any portion of the hearing has been conducted;

109 (2) If no portion of the hearing has been conducted in this state, in the county where any
 110 party resides or does business; or

111 (3) If there is no such county, in any county.

112 9-9-28.

113 (a) All arbitration agreements shall be in writing.

114 (b) A written arbitration agreement means that its contents are recorded in any form,
 115 whether or not the arbitration agreement or contract has been concluded orally, by conduct,
 116 or by other means.

117 (c)(1) As used in this subsection, the term:

118 (A) 'Data message' means information generated, sent, received or stored by electronic,
 119 magnetic, optical, or similar means, including, but not limited to, electronic data
 120 interchange (EDI), e-mail, telegram, telex, or telecopy.

121 (B) 'Electronic communication' means any communication that the parties make by
 122 means of data messages.

123 (2) The requirement that an arbitration agreement be in writing may be met by an
124 electronic communication if the information contained therein is accessible so as to be
125 useable for subsequent reference.

126 (d) An arbitration agreement shall be deemed to be in writing if it is contained in an
127 exchange of statements of claim and defense in which the existence of an arbitration
128 agreement is alleged by one party and not denied by the other.

129 (e) The reference in a contract to any document containing an arbitration clause shall
130 constitute an arbitration agreement in writing, provided that the reference is such as to
131 make that clause a part of the contract.

132 9-9-29.

133 (a) A court before which a civil action is brought in a matter which is the subject of an
134 arbitration agreement shall, if a party so requests not later than when submitting the party's
135 first statement on the substance of the dispute, refer the parties to arbitration unless it finds
136 that the arbitration agreement is null and void, inoperative, or incapable of being
137 performed.

138 (b) Where an action referred to in subsection (a) of this Code section has been brought,
139 arbitral proceedings may nevertheless be commenced or continued, and an arbitration
140 award may be made, while the action is pending before the court.

141 9-9-30.

142 Before or during arbitral proceedings, a party may request from a court an interim measure
143 of protection, and a court may grant such measure, and such request shall not be deemed
144 to be incompatible with an arbitration agreement.

145 9-9-31.

146 The parties shall be free to determine the number of arbitrators, and if no determination is
147 stated, the number of arbitrators shall be one.

148 9-9-32.

149 (a) No person shall be precluded by reason of nationality from acting as an arbitrator,
150 unless otherwise agreed by the parties.

151 (b) The parties shall be free to agree on a procedure to appoint the arbitrator or arbitrators,
152 subject to the provisions of subsections (d) and (e) of this Code section.

153 (c) If the parties do not agree on the procedure to appoint the arbitrator or arbitrators:

154 (1) In an arbitration with three arbitrators, each party shall appoint one arbitrator, and the
155 two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint

156 the arbitrator within 30 days of receipt of a request to do so from the other party, or if the
 157 two arbitrators fail to agree on the third arbitrator within 30 days of their appointment,
 158 the appointment shall be made, upon request of a party, by the court specified in Code
 159 Section 9-9-27; or

160 (2) In an arbitration with a sole arbitrator, if the parties are unable to agree on the
 161 arbitrator within 30 days, the arbitrator shall be appointed, upon request of a party, by the
 162 court specified in Code Section 9-9-27.

163 (d) Where, under an appointment procedure agreed upon by the parties:

164 (1) A party fails to act as required under such procedure;

165 (2) The parties, or two arbitrators, are unable to reach an agreement expected of them
 166 under such procedure; or

167 (3) A third party, including an institution, fails to perform any function entrusted to it
 168 under such procedure,

169 any party may request the court specified in Code Section 9-9-27 to take the necessary
 170 measure, unless the arbitration agreement on the appointment procedure provides other
 171 means for securing the appointment.

172 (e) A decision on a matter entrusted by subsections (c) or (d) of this Code section to the
 173 court specified in Code Section 9-9-27 shall not be subject to appeal. The court, in
 174 appointing an arbitrator, shall have due regard to any qualifications required of the
 175 arbitrator by the arbitration agreement and to such considerations as are likely to secure the
 176 appointment of an independent and impartial arbitrator and, in the case of a sole or third
 177 arbitrator, shall take into account as well the advisability of appointing an arbitrator of a
 178 nationality other than those of the parties.

179 (f) An arbitrator shall not be liable for:

180 (1) Anything done or omitted in the discharge or purported discharge of arbitral
 181 functions, unless the act or omission is shown to have been in bad faith; or

182 (2) Any mistake of law, fact, or procedure made in the course of arbitration proceedings
 183 or in the making of an arbitration award.

184 (g) Subsection (f) of this Code section shall apply to an employee or agent of an arbitrator
 185 and to an appointing authority, arbitral institution, or person designated or requested by the
 186 parties to appoint or nominate an arbitrator or provide other administrative services in
 187 support of the arbitration.

188 9-9-33.

189 (a) When a person is approached in connection with the possible appointment of such
 190 person as an arbitrator, such person shall disclose any circumstances likely to give rise to
 191 justifiable doubts as to his or her impartiality or independence. An arbitrator, from the time

192 of appointment and throughout the arbitral proceedings, shall without delay disclose any
193 such circumstances to the parties unless they have already been informed of them by the
194 arbitrator.

195 (b) An arbitrator may be challenged only if circumstances exist that give rise to justifiable
196 doubts as to the arbitrator's impartiality or independence, or if the arbitrator does not
197 possess qualifications agreed to by the parties. A party may challenge an arbitrator
198 appointed by the party, or in whose appointment the party has participated, only for reasons
199 of which the party becomes aware after the appointment has been made.

200 9-9-34.

201 (a) The parties shall be free to agree on a procedure for challenging an arbitrator, subject
202 to the provisions of subsection (c) of this Code section.

203 (b) If the parties fail to agree on a procedure for challenging an arbitrator, a party who
204 intends to challenge an arbitrator shall, within 15 days after becoming aware of the
205 constitution of the arbitration tribunal or after becoming aware of any circumstance
206 referred to in subsection (b) of Code Section 9-9-33, send a written statement of the reasons
207 for the challenge to the arbitration tribunal. Unless the challenged arbitrator withdraws
208 from office or the other party agrees to the challenge, the arbitration tribunal shall decide
209 on the challenge.

210 (c) If a challenge under the procedure set forth in subsection (b) of this Code section is not
211 successful, within 30 days after having received notice of the decision rejecting the
212 challenge, the challenging party may request that the court specified in Code Section
213 9-9-27 decide on the challenge, which decision shall not be subject to appeal; while such
214 a request is pending, the arbitration tribunal, including the challenged arbitrator, may
215 continue the arbitral proceedings and make an arbitration award.

216 9-9-35.

217 (a) If an arbitrator becomes de jure or de facto unable to perform his or her functions or
218 for other reasons fails to act without undue delay, the arbitrator's mandate terminates if he
219 or she withdraws from office or if the parties agree on the termination. Otherwise, if a
220 controversy remains concerning any of these grounds, any party may request that the court
221 specified in Code Section 9-9-27 decide on the termination of the mandate, which decision
222 shall not be subject to appeal.

223 (b) If, under this Code section or subsection (b) of Code Section 9-9-34, an arbitrator
224 withdraws from office or a party agrees to the termination of the mandate of an arbitrator,
225 this shall not imply acceptance of the validity of any ground referred to in this Code section
226 or subsection (b) of Code Section 9-9-33.

227 9-9-36.

228 Where the mandate of an arbitrator terminates under Code Section 9-9-34 or 9-9-35 or
229 because of withdrawal from office for any other reason or because of the revocation of the
230 arbitrator's mandate by agreement of the parties or in any other case of termination of the
231 arbitrator's mandate, a substitute arbitrator shall be appointed according to the rules that
232 were applicable to the appointment of the arbitrator being replaced.

233 9-9-37.

234 Unless otherwise agreed by the parties:

235 (1) The arbitration tribunal may rule on its own jurisdiction, including any objections
236 with respect to the existence or validity of the arbitration agreement. For that purpose,
237 an arbitration clause which forms part of a contract shall be treated as an agreement
238 independent of the other terms of the contract. A decision by the arbitration tribunal that
239 the contract is null and void shall not thereby invalidate the arbitration clause;

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

247 (3) The arbitration tribunal may rule on a plea referred to in paragraph (2) of this Code
248 section either as a preliminary question or in an arbitration award on the merits. If the
249 arbitration tribunal rules as a preliminary question that it has jurisdiction or only partial
250 jurisdiction, within 30 days after having received notice of such ruling and subject to the
251 permission of the arbitration tribunal, any party may request that the court specified in
252 Code Section 9-9-27 decide the matter, which decision shall not be subject to appeal;
253 while such a request is pending, the arbitration tribunal may continue the arbitral
254 proceedings and make an arbitration award.

255 9-9-38.

256 (a) Unless otherwise agreed by the parties, the arbitration tribunal may, at the request of
257 a party, grant interim measures as it deems appropriate.

258 (b) The arbitration tribunal may modify, suspend, or terminate an interim measure it has
259 granted, upon application of any party or, in exceptional circumstances and upon prior
260 notice to the parties, on the arbitration tribunal's own initiative.

261 (c) The arbitration tribunal may require the party requesting an interim measure to provide
 262 appropriate security in connection with the measure.

263 (d) The arbitration tribunal may require any party promptly to disclose any material
 264 change in the circumstances on the basis of which the measure was requested or granted.

265 (e) If a measure ordered under subsection (a) of this Code section proves to have been
 266 unjustified from the outset, the party which obtained its enforcement may be obliged to
 267 compensate the other party for damage resulting from the enforcement of such measure or
 268 from its providing security in order to avoid enforcement. This claim may be put forward
 269 in the pending arbitral proceedings.

270 (f) An interim measure issued by an arbitration tribunal shall be recognized as binding and,
 271 unless otherwise provided by the arbitration tribunal, enforced upon application to the
 272 competent court, irrespective of the country in which it was issued, subject to the
 273 provisions of Code Section 9-9-39.

274 (g) The party who is seeking or has obtained recognition or enforcement of an interim
 275 measure shall promptly inform the court of any termination, suspension, or modification
 276 of that interim measure.

277 (h) Where recognition or enforcement of an interim measure is sought in a court of this
 278 state, such court may order the requesting party to provide appropriate security if the
 279 arbitration tribunal has not already made a determination with respect to security or where
 280 such a decision is necessary to protect the rights of third parties.

281 9-9-39.

282 (a) Recognition or enforcement of an interim measure may be refused only:

283 (1) At the request of the party against whom it is invoked if the court is satisfied that:

284 (A) Such refusal is warranted on the grounds set forth in subparagraphs (a)(1)(A)
 285 through (a)(1)(D) of Code Section 9-9-58;

286 (B) The arbitration tribunal's decision with respect to the provision of security in
 287 connection with the interim measure issued by the arbitration tribunal has not been
 288 complied with; or

289 (C) The interim measure has been terminated or suspended by the arbitration tribunal
 290 or, where so empowered, by the court of the state in which the arbitration takes place
 291 or under the law of which that interim measure was granted; or

292 (2) If the court finds that:

293 (A) The interim measure is incompatible with the powers conferred upon the court,
 294 unless the court decides to reformulate the interim measure to the extent necessary to
 295 adapt it to its own powers and procedures for the purposes of enforcing that interim
 296 measure and without modifying its substance; or

297 (B) Any of the grounds set forth in subparagraph (a)(2)(A) or (a)(2)(B) of Code
298 Section 9-9-58 shall apply to the recognition and enforcement of the interim measure.

299 (b) Any determination made by the court on any ground in subsection (a) of this Code
300 section shall be effective only for the purposes of the application to recognize and enforce
301 the interim measure. Where recognition or enforcement is sought, the court shall not
302 undertake a review of the substance of the interim measure in determining any ground
303 specified in subsection (a) of this Code section.

304 9-9-40.

305 The parties shall be treated with equality, and each party shall be given a full opportunity
306 of presenting its case.

307 9-9-41.

308 (a) Subject to the provisions of this part, the parties shall be free to agree on the procedure
309 to be followed by the arbitration tribunal in conducting the proceedings.

310 (b) If the parties fail to agree on the procedure to be followed by the arbitration tribunal
311 in conducting proceedings, the arbitration tribunal may, subject to the provisions of this
312 part, conduct the arbitration in such manner as it considers appropriate. The power
313 conferred upon the arbitration tribunal includes the power to determine the admissibility,
314 relevance, materiality, and weight of any evidence.

315 9-9-42.

316 (a) The parties shall be free to agree on the place of arbitration; provided, however, that
317 failing such agreement, the place of arbitration shall be determined by the arbitration
318 tribunal having regard to the circumstances of the case, including the convenience of the
319 parties.

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

324 9-9-43.

325 Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular
326 dispute shall commence on the date on which a request for that dispute to be referred to
327 arbitration is received by the respondent.

328 9-9-44.

329 (a) The parties shall be free to agree on the language or languages to be used in the arbitral
330 proceedings; provided, however, that failing such agreement, the arbitration tribunal shall
331 determine the language or languages to be used in the proceedings. Such agreement or
332 determination, unless otherwise specified therein, shall apply to any written statement by
333 a party, any hearing, and any arbitration award, decision, or other communication by the
334 arbitration tribunal.

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

338 9-9-45.

339 (a) Within the period of time agreed by the parties or determined by the arbitration
340 tribunal, the claimant shall state the facts supporting his or her claim, the points at issue,
341 and the relief or remedy sought, and the respondent shall state his or her defense in respect
342 of these particulars, unless the parties have otherwise agreed as to the required elements
343 of such statements. The parties may submit with their statements all documents they
344 consider to be relevant or may add a reference to the documents or other evidence they will
345 submit.

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

350 9-9-46.

351 (a) Subject to any contrary agreement by the parties, the arbitration tribunal shall decide
352 whether to hold oral hearings for the presentation of evidence or for oral argument, or
353 whether the proceedings shall be conducted on the basis of documents and other materials;
354 provided, however, that unless the parties have agreed that no hearings shall be held, the
355 arbitration tribunal shall hold hearings at an appropriate stage of the proceedings, if
356 requested by a party.

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

360 (c) All statements, documents, or other information supplied to the arbitration tribunal by
361 one party shall be communicated to the other party. Any expert report or evidentiary

362 document on which the arbitration tribunal may rely in making its decision shall be
363 communicated to the parties.

364 (d) Unless the parties agree to confer such power on the tribunal, the tribunal shall not
365 have the power to order consolidation of proceedings or concurrent hearings; provided,
366 however, that the parties shall be free to agree:

367 (1) That the arbitral proceedings shall be consolidated with other arbitral proceedings;
368 or

369 (2) That concurrent hearings shall be held, on such terms as may be agreed.

370 9-9-47.

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

372 (1) The claimant fails to communicate his or her statement of claim in accordance with
373 subsection (a) of Code Section 9-9-45, the arbitration tribunal shall terminate the
374 proceedings;

375 (2) The respondent fails to communicate his or her statement of defense in accordance
376 with subsection (a) of Code Section 9-9-45, the arbitration tribunal shall continue the
377 proceedings without treating such failure in itself as an admission of the claimant's
378 allegations; and

379 (3) Any party fails to appear at a hearing or to produce documentary evidence, the
380 arbitration tribunal may continue the proceedings and make the arbitration award on the
381 evidence before it.

382 9-9-48.

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

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

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

389 (b) Unless otherwise agreed by the parties, if a party requests or if the arbitration tribunal
390 considers it necessary, the expert shall, after delivery of the expert's written or oral report,
391 participate in a hearing where the parties have the opportunity to put questions to the expert
392 and to present expert witnesses in order to testify on the points at issue.

393 9-9-49.

394 (a) The arbitrators may issue subpoenas for the attendance of witnesses and for the
395 production of books, records, documents, and other evidence. Subpoenas shall be served

396 and, upon application to the court specified in Code Section 9-9-27 by a party or the
397 arbitrators, enforced in the same manner provided by law for the service and enforcement
398 of subpoenas in a civil action.

399 (b) Notices to produce books, writings, and other documents or tangible things,
400 depositions, and other discovery may be used in the arbitration according to procedures
401 established by the arbitrators.

402 (c) A party shall have the opportunity to obtain a list of witnesses and to examine and copy
403 documents relevant to the arbitration.

404 (d) Witnesses shall be compensated in the same amount and manner set forth in Title 24.

405 9-9-50.

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

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

412 (c) The arbitration tribunal shall decide ex aequo et bono or as amiable compositeur only
413 if the parties have expressly authorized it to do so.

414 (d) In all cases, the arbitration tribunal shall decide in accordance with the terms of the
415 contract and shall take into account the usages of the trade applicable to the transaction.

416 9-9-51.

417 In arbitral proceedings with more than one arbitrator, any decision of the arbitration
418 tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its
419 members; provided, however, that questions of procedure may be decided by a presiding
420 arbitrator, if authorized by the parties or all members of the arbitration tribunal.

421 9-9-52.

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

426 (b) An arbitration award on agreed terms shall be made in accordance with the provisions
427 of Code Section 9-9-53 and shall state that it is an arbitration award. Such an arbitration
428 award shall have the same status and effect as any other arbitration award on the merits of
429 the case.

430 9-9-53.

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

435 (b) The arbitration award shall state the reasons upon which it is based, unless the parties
436 have agreed that no reasons are to be given or the arbitration award is an arbitration award
437 on agreed terms pursuant to Code Section 9-9-52.

438 (c) The arbitration award shall state its date and the place of arbitration as determined in
439 accordance with subsection (a) of Code Section 9-9-42. The arbitration award shall be
440 deemed to have been made at that place.

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

443 (e) The arbitrators may award reasonable fees and expenses actually incurred, including,
444 without limitation, fees and expenses of legal counsel, to any party to the arbitration and
445 shall allocate the costs of the arbitration among the parties as it determines appropriate.

446 9-9-54.

447 (a) The arbitral proceedings shall be terminated by the final arbitration award or by an
448 order of the arbitration tribunal in accordance with subsection (b) of this Code section.

449 (b) The arbitration tribunal shall issue an order for the termination of the arbitral
450 proceedings when:

451 (1) The claimant withdraws his or her claim, unless the respondent objects thereto and
452 the arbitration tribunal recognizes a legitimate interest by the respondent in obtaining a
453 final settlement of the dispute;

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

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

457 (c) The mandate of the arbitration tribunal shall terminate with the termination of the
458 arbitral proceedings, subject to the provisions of Code Section 9-9-55 and subsection (d)
459 of Code Section 9-9-56.

460 9-9-55.

461 (a)(1) Within 30 days of receipt of the arbitration award, unless another period of time
462 has been agreed upon by the parties:

463 (A) A party, with notice to the other party, may request the arbitration tribunal to
 464 correct in the arbitration award any errors in computation, any clerical or typographical
 465 errors, or any errors of similar nature; and

466 (B) If agreed by the parties, a party, with notice to the other party, may request the
 467 arbitration tribunal to give an interpretation of a specific point or part of the arbitration
 468 award.

469 (2) If the arbitration tribunal considers any request under paragraph (1) of this subsection
 470 to be justified, it shall make the correction or give the interpretation within 30 days of
 471 receipt of the request. The interpretation shall form part of the arbitration award.

472 (b) The arbitration tribunal may correct any error of the type referred to in subparagraph
 473 (a)(1)(A) of this Code section on its own initiative within 30 days of the date of the
 474 arbitration award.

475 (c) Unless otherwise agreed by the parties, a party, with notice to the other party, may
 476 request, within 30 days of receipt of the arbitration award, the arbitration tribunal to make
 477 an additional award as to claims presented in the arbitration proceedings but omitted from
 478 the arbitration award. If the arbitration tribunal considers such request to be justified, it
 479 shall make the additional award within 60 days of receipt of the request.

480 (d) The arbitration tribunal may extend, if necessary, the period of time within which it
 481 shall make a correction, interpretation, or an additional award under subsection (a) or (c)
 482 of this Code section.

483 (e) The provisions of Code Section 9-9-53 shall apply to a correction or interpretation of
 484 the arbitration award or to an additional award.

485 9-9-56.

486 (a) Recourse to a court against an arbitration award may be made only by an application
 487 for setting aside in accordance with subsections (b) and (c) of this Code section.

488 (b) An arbitration award may be set aside by the court specified in Code Section 9-9-27
 489 only if:

490 (1) The party making the application furnishes proof that:

491 (A) A party to the arbitration agreement referred to in Code Section 9-9-28 was under
 492 some incapacity; or that said arbitration agreement is not valid under the law to which
 493 the parties have subjected it or, failing any indication thereon, under the law of this
 494 state;

495 (B) The party making the application was not given proper notice of the appointment
 496 of an arbitrator or of the arbitral proceedings or was otherwise unable to present his or
 497 her case;

498 (C) The arbitration award deals with a dispute not contemplated by or not falling
499 within the terms of the submission to arbitration or contains decisions on matters
500 beyond the scope of the submission to arbitration, provided that, if the decisions on
501 matters submitted to arbitration can be separated from those not so submitted, only that
502 part of the arbitration award which contains decisions on matters not submitted to
503 arbitration may be set aside; or

504 (D) The composition of the arbitration tribunal or the arbitral procedure was not in
505 accordance with the arbitration agreement of the parties, unless such arbitration
506 agreement was in conflict with a provision of this part from which the parties cannot
507 derogate, or, failing such agreement, was not in accordance with this part; or

508 (2) The court finds that:

509 (A) The subject matter of the dispute is not capable of settlement by arbitration under
510 the law of the United States; or

511 (B) The arbitration award is in conflict with the public policy of the United States.

512 (c) An application for setting aside an arbitration award may not be made after three
513 months have elapsed from the date on which the party making that application had received
514 the arbitration award or, if a request had been made under Code Section 9-9-55, from the
515 date on which that request had been disposed of by the arbitration tribunal.

516 (d) The court, when asked to set aside an arbitration award, may, where appropriate and
517 requested by a party, suspend the setting aside proceedings for a period of time determined
518 by it in order to give the arbitration tribunal an opportunity to resume the arbitral
519 proceedings or to take such other action as in the arbitration tribunal's opinion will
520 eliminate the grounds for setting aside.

521 (e) Where none of the parties is domiciled or has its place of business in this state, they
522 may, by written agreement referencing this subsection, limit any of the grounds for
523 recourse against the arbitration award under this Code section, with the exception of
524 paragraph (2) of subsection (b) of this Code section.

525 9-9-57.

526 (a) An arbitration award, irrespective of the country in which it was made, shall be
527 recognized as binding and, upon application in writing to the competent court, shall be
528 enforced subject to the provisions of this Code section and of Code Section 9-9-58.

529 (b) The party relying on an arbitration award or applying for its enforcement shall supply
530 the original arbitration award or a copy thereof. The court may request the party to supply
531 a translation of the arbitration award.

532 9-9-58.

533 (a) Recognition or enforcement of an arbitration award, irrespective of the country in
534 which it was made, may be refused only:

535 (1) At the request of the party against whom it is invoked, if that party furnishes to the
536 competent court where recognition or enforcement is sought proof that:

537 (A) A party to the arbitration agreement referred to in Code Section 9-9-28 was under
538 some incapacity; or the arbitration agreement is not valid under the law to which the
539 parties have subjected it or, failing any indication thereon, under the law of the country
540 where the arbitration award was made;

541 (B) The party against whom the arbitration award is invoked was not given proper
542 notice of the appointment of an arbitrator or of the arbitral proceedings or was
543 otherwise unable to present his or her case;

544 (C) The arbitration award deals with a dispute not contemplated by or not falling
545 within the terms of the submission to arbitration, or it contains decisions on matters
546 beyond the scope of the submission to arbitration, provided that, if the decisions on
547 matters submitted to arbitration can be separated from those not so submitted, that part
548 of the arbitration award which contains decisions on matters submitted to arbitration
549 may be recognized and enforced;

550 (D) The composition of the arbitration tribunal or the arbitral procedure was not in
551 accordance with the arbitration agreement of the parties or, failing such agreement, was
552 not in accordance with the law of the country where the arbitration took place; or

553 (E) The arbitration award has not yet become binding on the parties or has been set
554 aside or suspended by a court of the country in which, or under the law of which, that
555 arbitration award was made; or

556 (2) If the court finds that:

557 (A) The subject matter of the dispute is not capable of settlement by arbitration under
558 the law of the United States; or

559 (B) The recognition or enforcement of the arbitration award would be contrary to the
560 public policy of the United States.

561 (b) If an application for setting aside or suspension of an arbitration award has been made
562 to a court referred to in subparagraph (a)(1)(E) of this Code section, the court where
563 recognition or enforcement is sought may, if it considers it proper, adjourn its decision and
564 may also, on the application of the party claiming recognition or enforcement of the
565 arbitration award, order the other party to provide appropriate security.

566 9-9-59.

567 Any judgment considered a final judgment under this part may be appealed pursuant to

568 Chapter 6 of Title 5."

569

SECTION 2.

570 This Act shall become effective on July 1, 2012, and shall apply to international arbitration

571 agreements entered into on and after such date. This Act shall not apply to any international

572 arbitration agreements entered into prior to July 1, 2012, to which the provisions of the

573 former Part 2 of Article 1 of Chapter 9 of Title 9 shall apply.

574

SECTION 3.

575 All laws and parts of laws in conflict with this Act are repealed.