

UNIFORM ARBITRATION ACT

36.600 Definitions. As used in ORS 36.600 to 36.740:

(1) "Arbitration organization" means an association, agency, board, commission or other entity that is neutral and initiates, sponsors or administers an arbitration proceeding or is involved in the appointment of an arbitrator.

(2) "Arbitrator" means an individual appointed to render an award, alone or with others, in a controversy that is subject to an agreement to arbitrate.

(3) "Court" means a circuit court.

(4) "Knowledge" means actual knowledge.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity.

(6) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. [2003 c.598 §1]

Note: Sections 3 and 31, chapter 598, Oregon Laws 2003, provide:

Sec. 3. (1) Sections 1 to 30 of this 2003 Act [36.600 to 36.740] govern an agreement to arbitrate made on or after the effective date of this 2003 Act [January 1, 2004].

(2) Sections 1 to 30 of this 2003 Act govern an agreement to arbitrate made before the effective date of this 2003 Act if all the parties to the agreement or to the arbitration proceeding so agree in a record.

(3) On or after September 1, 2004, sections 1 to 30 of this 2003 Act govern an agreement to arbitrate whenever made. [2003 c.598 §3]

Sec. 31. Sections 1 to 30 of this 2003 Act [36.600 to 36.740] do not affect an action or proceeding commenced or right accrued before the effective date of this 2003 Act [January 1, 2004]. Subject to section 3 of this 2003 Act, an arbitration agreement made before the effective date of this 2003 Act continues to be governed by ORS 36.300 to 36.365 as though those sections were not repealed by section 55 of this 2003 Act. [2003 c.598 §31]

Note: 36.600 to 36.740 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 36 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

36.605 Notice. (1) Except as otherwise provided in ORS 36.600 to 36.740, a person gives notice to another person by taking action that is reasonably necessary to inform the other person in ordinary course, whether or not the other person acquires knowledge of the notice.

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

(3) A person receives notice when it comes to the person's attention or the notice is delivered at the person's place of residence or place of business, or at another location held out by the person as a place of delivery of such communications. [2003 c.598 §2]

Note: See notes under 36.600.

36.610 Effect of agreement to arbitrate; nonwaivable provisions. (1) Except as otherwise provided in this section, a party to an agreement to arbitrate or to an arbitration proceeding may waive, or the parties may vary the effect of, the requirements of ORS 36.600 to 36.740 to the extent permitted by law.

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

(a) Waive or agree to vary the effect of the requirements of this section or ORS 36.615 (1), 36.620 (1), 36.630, 36.675 (1) or (2), 36.720 or 36.730;

(b) Agree to unreasonably restrict the right under ORS 36.635 to notice of the initiation of an arbitration proceeding;

(c) Agree to unreasonably restrict the right under ORS 36.650 to disclosure of any facts by a neutral arbitrator; or

(d) Waive the right under ORS 36.670 of a party to an agreement to arbitrate to be represented by a lawyer at any proceeding or hearing under ORS 36.600 to 36.740, but an employer and a labor organization may waive the right to representation by a lawyer in a labor arbitration.

(3) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the parties may not vary the effect of, the requirements of this section or ORS 36.625, 36.660, 36.680, 36.690 (4) or (5), 36.700, 36.705, 36.710, 36.715 (1) or (2), 36.735 or 36.740 or section 3 (1) or (3) or 31, chapter 598, Oregon Laws 2003.

(4) Subsections (2) and (3) of this section do not apply to agreements to arbitrate entered into by two or more insurers, as defined by ORS 731.106, or self-insured persons for the purpose of arbitration of disputes arising out of the provision of insurance. [2003 c.598 §4]

Note: See notes under 36.600.

36.615 Application for judicial relief; fees. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief under ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If subsequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no additional filing fees shall be required of the parties.

(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person filing the petition must pay a fee of \$35, and a person filing an appearance in opposition to the petition must pay a filing fee of \$21.

(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration, and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this subsection for the filing of any petition under ORS 36.600 to 36.740.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first petition to the court under ORS 36.600 to 36.740 must be served in the manner provided by ORCP 7 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

(3) In addition to the fees provided for in subsection (1)(b) of this section, for the period commencing September 1, 2003, and ending June 30, 2005, the clerk of the court shall collect a surcharge of \$11 from the party filing a petition under subsection (1) of this section, and a surcharge of \$6 from a party filing an appearance in opposition to the petition. [2003 c.598 §5; 2003 c.737 §40a]

Note: The amendments to 36.615 by section 40c, chapter 737, Oregon Laws 2003, become operative July 1, 2005. See section 40d, chapter 737, Oregon Laws 2003. The text that is operative on and after July 1, 2005, is set forth for the user's convenience.

36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief under ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If subsequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no additional filing fees shall be required of the parties.

(b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation, vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person filing the petition must pay a fee of \$39, and a person filing an appearance in opposition to the petition must pay a filing fee of \$23.

(c) If a civil action is pending relating to the same dispute that is the subject of the arbitration, and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this subsection for the filing of any petition under ORS 36.600 to 36.740.

(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first petition to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

Note: See notes under 36.600.

36.620 Validity of agreement to arbitrate. (1) An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties to the agreement is valid, enforceable and irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

(2) Subject to ORS 36.625 (8), the court shall decide whether an agreement to arbitrate exists or a controversy is subject to an agreement to arbitrate.

(3) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled.

(4) If a party to a judicial proceeding challenges the existence of, or claims that a controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may

continue pending final resolution of the issue by the court, unless the court otherwise orders. [2003 c.598 §6]

Note: See notes under 36.600.

36.625 Petition to compel or stay arbitration. (1) On petition of a person showing an agreement to arbitrate and alleging another person's refusal to arbitrate pursuant to the agreement:

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

(b) If the refusing party opposes the petition, the court shall proceed summarily to decide the issue as provided in subsection (8) of this section and order the parties to arbitrate unless it finds that there is no enforceable agreement to arbitrate.

(2) On petition of a person alleging that an arbitration proceeding has been initiated or threatened but that there is no agreement to arbitrate, the court shall proceed summarily to decide the issue as provided in subsection (8) of this section. If the court finds that there is an enforceable agreement to arbitrate, it shall order the parties to arbitrate.

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

(4) The court may not refuse to order arbitration because the claim subject to arbitration lacks merit or grounds for the claim have not been established.

(5) If a proceeding involving a claim referable to arbitration under an alleged agreement to arbitrate is pending in court, a petition under this section must be made in that court. Otherwise, a petition under this section may be made in any court as provided in ORS 36.725.

(6) If a party makes a petition to the court to order arbitration, the court on just terms shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until the court renders a final decision under this section.

(7) If the court orders arbitration, the court on just terms shall stay any judicial proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable, the court may limit the stay to that claim.

(8) A judge shall decide all issues raised under a petition filed under ORS 36.600 to 36.740 unless there is a constitutional right to jury trial on the issue. If there is a constitutional right to jury trial on an issue, the issue shall be tried to a jury upon the request of any party to the proceeding. [2003 c.598 §7]

Note: See notes under 36.600.

36.630 Provisional remedies. (1) Before an arbitrator is appointed and is authorized and able to act, the court, upon petition of a party to an arbitration proceeding and for good cause shown, may enter an order for provisional remedies to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action.

(2) After an arbitrator is appointed and is authorized and able to act:

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

proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action; and

(b) A party to an arbitration proceeding may move the court for a provisional remedy only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy.

(3) A party does not waive a right of arbitration by making a petition under subsection (1) or (2) of this section. [2003 c.598 §8]

Note: See notes under 36.600.

36.635 Initiation of arbitration. (1) A person initiates an arbitration proceeding by giving notice in a record to the other parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence of agreement, by certified mail, return receipt requested and obtained, or by service as authorized for summons under ORCP 7 D. The notice must describe the nature of the controversy and the remedy sought.

(2) Unless a person objects for lack or insufficiency of notice under ORS 36.665 (3) not later than the beginning of the arbitration hearing, the person by appearing at the hearing waives any objection to lack or insufficiency of notice. [2003 c.598 §9]

Note: See notes under 36.600.

36.640 Consolidation of separate arbitration proceedings. (1) Except as otherwise provided in subsection (3) of this section, upon petition of a party to an agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of separate arbitration proceedings as to all or some of the claims if:

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

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

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

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

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

(3) The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation. [2003 c.598 §10]

Note: See notes under 36.600.

36.645 Appointment of arbitrator; service as neutral arbitrator. (1) If the parties to an agreement to arbitrate agree on a method for appointing an arbitrator, that method must be followed, unless the method fails. If the parties have not agreed on a method, the agreed method fails, or an arbitrator designated or appointed fails or is unable to act and a

successor has not been appointed, the court, on petition of a party to the arbitration proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

(2) An individual who has a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party may not serve as an arbitrator required by an agreement to be neutral. [2003 c.598 §11]

Note: See notes under 36.600.

36.650 Disclosure by arbitrator. (1) Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitration proceeding and to any other arbitrators in the arbitration proceeding any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitration proceeding, including:

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

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

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

(3) If an arbitrator discloses a fact required by subsection (1) or (2) of this section to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under ORS 36.705 (1)(b) for vacating an award made by the arbitrator.

(4) If the arbitrator did not disclose a fact as required by subsection (1) or (2) of this section, upon timely objection by a party, the court under ORS 36.705 (1)(b) may vacate an award.

(5) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitration proceeding or a known, existing and substantial relationship with a party, the party's counsel or representatives, a witness or another arbitrator in the proceeding is presumed to act with evident partiality under ORS 36.705 (1)(b).

(6) If the parties to an arbitration proceeding agree to the procedures of an arbitration organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a petition to vacate an award on that ground under ORS 36.705 (1)(b). [2003 c.598 §12]

Note: See notes under 36.600.

36.655 Action by majority. If there is more than one arbitrator, the powers of an arbitrator must be exercised by a majority of the arbitrators, but all of them shall conduct the hearing under ORS 36.665 (3). [2003 c.598 §13]

Note: See notes under 36.600.

36.660 Immunity of arbitrator; competency to testify; attorney fees and costs. (1)

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

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

(3) The failure of an arbitrator to make a disclosure required by ORS 36.650 does not cause any loss of immunity under this section.

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

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

(b) To a hearing on a petition to vacate an award under ORS 36.705 (1)(a) or (b) if the petitioner establishes prima facie that a ground for vacating the award exists.

(5) If a person commences a civil action against an arbitrator, arbitration organization or representative of an arbitration organization arising from the services of the arbitrator, organization or representative, or if a person seeks to compel an arbitrator or a representative of an arbitration organization to testify or produce records in violation of subsection (4) of this section, and the court decides that the arbitrator, arbitration organization or representative of an arbitration organization is immune from civil liability or that the arbitrator or representative of the organization is not competent to testify, the court shall award to the arbitrator, organization or representative reasonable attorney fees. [2003 c.598 §14]

Note: See notes under 36.600.

36.665 Arbitration process. (1) An arbitrator may conduct an arbitration in such manner as the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality and weight of any evidence.

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

(a) If all interested parties agree; or

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

(3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to

the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives any objection based on lack or insufficiency of notice. Upon request of a party to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy upon the evidence produced although a party who was duly notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.

(4) At a hearing under subsection (3) of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement arbitrator must be appointed in accordance with ORS 36.645 to continue the proceeding and to resolve the controversy. [2003 c.598 §15]

Note: See notes under 36.600.

36.670 Representation by a lawyer; representation of legal or commercial entities. A party to an arbitration proceeding may be represented by a lawyer admitted to practice in this state or any other state. A corporation, business trust, partnership, limited liability company, association, joint venture or other legal or commercial entity may be represented by a lawyer admitted to practice in this state or any other state, by an officer of the entity, or by an employee or other agent authorized by the entity to represent the entity in the proceeding. [2003 c.598 §16]

Note: See notes under 36.600.

36.675 Witnesses; subpoenas; depositions; discovery. (1) An arbitrator may administer oaths. An arbitrator or an attorney for any party to the arbitration proceeding may issue a subpoena for the attendance of a witness and for the production of records and other evidence at any hearing. A subpoena must be served in the manner for service of subpoenas under ORCP 55 D and, upon petition to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by ORCP 55 G.

(2) In order to make the proceedings fair, expeditious and cost-effective, upon request of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any witness to be taken for use as evidence at the hearing, including a witness who cannot be subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions under which the deposition is taken.

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

(4) If an arbitrator permits discovery under subsection (3) of this section, the

arbitrator may order a party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue subpoenas for the attendance of a witness and for the production of records and other evidence at a discovery proceeding, and take action against a noncomplying party to the extent a court could if the controversy were the subject of a civil action in this state.

(5) An arbitrator may issue a protective order to prevent the disclosure of privileged information, confidential information, trade secrets and other information protected from disclosure to the extent a court could if the controversy were the subject of a civil action in this state.

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

(7) The court may enforce a subpoena or discovery-related order for the attendance of a witness within this state, and for the production of records and other evidence issued by an arbitrator or by an attorney for any party to the proceeding in connection with an arbitration proceeding in another state, upon conditions determined by the court so as to make the arbitration proceeding fair, expeditious and cost-effective. A subpoena or discovery-related order issued by an arbitrator or by an attorney for any party to the proceeding in another state must be served in the manner provided by ORCP 55 D for service of subpoenas in a civil action in this state and, upon petition to the court by a party to the arbitration proceeding or the arbitrator, enforced in the manner provided by ORCP 55 G for enforcement of subpoenas in a civil action in this state. [2003 c.598 §17]

Note: See notes under 36.600.

36.680 Judicial enforcement of preaward ruling by arbitrator. If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding, the party may request the arbitrator to incorporate the ruling into an award under ORS 36.685. A prevailing party may make a petition to the court for an expedited order to confirm the award under ORS 36.700, in which case the court shall summarily decide the petition. The court shall issue an order to confirm the award unless the court vacates, modifies, or corrects the award under ORS 36.705 or 36.710. [2003 c.598 §18]

Note: See notes under 36.600.

36.685 Award. (1) An arbitrator shall make a record of an award. The record must be signed or otherwise authenticated by any arbitrator who concurs with the award. If the award requires the payment of money, including but not limited to payment of costs or attorney fees, the award must be accompanied by a separate statement that contains the information required by ORS 18.042 for judgments that include money awards. The arbitrator or the arbitration organization shall give notice of the award, including a copy of the award, to each party to the arbitration proceeding.

(2) An award must be made within the time specified by the agreement to arbitrate or, if not specified therein, within the time ordered by the court. The court may extend or the parties to the arbitration proceeding may agree in a record to extend the time. The court or the parties may extend the time within or after the time specified or ordered. A party

waives any objection that an award was not timely made unless the party gives notice of the objection to the arbitrator before receiving notice of the award. [2003 c.598 §19; 2003 c.576 §169a]

Note: See notes under 36.600.

36.690 Change of award by arbitrator. (1) Upon request by a party to an arbitration proceeding, an arbitrator may modify or correct an award:

(a) Upon a ground stated in ORS 36.710 (1)(a) or (c);

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

(c) To clarify the award.

(2) A request under subsection (1) of this section must be made and notice given to all parties within 20 days after the requesting party receives notice of the award.

(3) A party to the arbitration proceeding must give notice of any objection to the request within 10 days after receipt of the notice under subsection (2) of this section.

(4) If a petition to the court is pending under ORS 36.700, 36.705 or 36.710, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(a) Upon a ground stated in ORS 36.710 (1)(a) or (c);

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

(c) To clarify the award.

(5) An award modified or corrected pursuant to this section is subject to ORS 36.685 (1), 36.700, 36.705 and 36.710. [2003 c.598 §20]

Note: See notes under 36.600.

36.695 Remedies; fees and expenses of arbitration proceeding. (1) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(2) An arbitrator may award reasonable attorney fees and other reasonable expenses of arbitration as may be specified in the arbitration agreement if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(3) As to all remedies other than those authorized by subsections (1) and (2) of this section, an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under ORS 36.700 or for vacating an award under ORS 36.705.

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

(5) If an arbitrator awards punitive damages or other exemplary relief under subsection (1) of this section, the arbitrator shall specify in the award the basis in fact justifying and the basis in law authorizing the award and state separately the amount of the punitive damages or other exemplary relief. [2003 c.598 §21]

Note: See notes under 36.600.

36.700 Confirmation of award. (1) After a party to an arbitration proceeding receives notice of an award, the party may make a petition to the court for an order confirming the award. The party filing the petition must serve a copy of the petition on all other parties to the proceedings. The court shall issue a confirming order unless within 20 days after the petition is served on the other parties:

(a) A party requests that the arbitrator modify or correct the award under ORS 36.690; or

(b) A party petitions the court to vacate, modify or correct the award under ORS 36.705 or 36.710.

(2) If a party requests that the arbitrator modify or correct the award under ORS 36.690, or petitions the court to vacate, modify or correct the award under ORS 36.705 or 36.710, the court may stay entry of an order on a petition filed under this section until a final decision is made on the request or petition. [2003 c.598 §22]

Note: See notes under 36.600.

36.705 Vacating award. (1) Upon petition to the court by a party to an arbitration proceeding, the court shall vacate an award made in the arbitration proceeding if:

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

(b) There was:

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

(B) Corruption by an arbitrator; or

(C) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy or otherwise conducted the hearing contrary to ORS 36.665 so as to prejudice substantially the rights of a party to the arbitration proceeding;

(d) An arbitrator exceeded the arbitrator's powers;

(e) There was no agreement to arbitrate, unless the person participated in the arbitration proceeding without raising an objection under ORS 36.665 (3) not later than the beginning of the arbitration hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in ORS 36.635 so as to prejudice substantially the rights of a party to the arbitration proceeding.

(2) A petition under this section must be filed within 20 days after the petitioner is served with a petition for confirmation of an award under ORS 36.700, unless the petitioner alleges that the award was procured by corruption, fraud or other undue means. If the petitioner alleges that the award was procured by corruption, fraud or other undue means, a petition under this section must be filed within 90 days after the grounds for challenging the award are known or, by the exercise of reasonable care, would have been known by the petitioner. A party filing a petition under this section must serve a copy of the petition on all other parties to the proceedings.

(3) If the court vacates an award on a ground other than that set forth in subsection (1)(e) of this section, it may order a rehearing. If the award is vacated on a ground stated in subsection (1)(a) or (b) of this section, the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in subsection (1)(c), (d) or (f) of this section, the rehearing may be before the arbitrator who made the award or before any successor appointed for that arbitrator. The arbitrator must render the decision in the rehearing within the same time as that provided for an award in ORS 36.685 (2).

(4) If the court denies a petition to vacate an award, it shall confirm the award unless a petition to modify or correct the award is pending. [2003 c.598 §23]

Note: See notes under 36.600.

36.710 Modification or correction of award. (1) Upon petition filed within 20 days after the petitioner is served with a petition for confirmation of an award under ORS 36.700, the court shall modify or correct the award if:

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

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

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

(2) If a petition made under subsection (1) of this section is granted, the court shall modify or correct and confirm the award as modified or corrected. Otherwise, unless a petition to vacate is pending, the court shall confirm the award.

(3) A petition to modify or correct an award pursuant to this section may be joined with a petition to vacate the award.

(4) A party filing a petition under this section must serve a copy of the petition on all other parties to the proceedings. [2003 c.598 §24]

Note: See notes under 36.600.

36.715 Judgment on award; attorney fees and litigation expenses. (1) Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity with the order. The judgment may be entered in the register and enforced as any other judgment in a civil action.

(2) A court may allow reasonable costs of the petition and subsequent judicial proceedings.

(3) On application of a prevailing party to a contested judicial proceeding under ORS 36.700, 36.705 or 36.710, the court may add reasonable attorney fees incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award. [2003 c.598 §25]

Note: See notes under 36.600.

36.720 Jurisdiction. (1) A court having jurisdiction over the controversy and the parties may enforce an agreement to arbitrate.

(2) An agreement to arbitrate providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under ORS 36.600 to 36.740. [2003 c.598 §26]

Note: See notes under 36.600.

36.725 Venue. A petition pursuant to ORS 36.615 must be made in the court for the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if the hearing has been held, in the court for the county in which it was held. Otherwise, the petition may be made in the court for any county in which an adverse party resides or has a place of business or, if no adverse party has a residence or place of business in this state, in the court of any county in this state. All subsequent petitions must be made in the court hearing the initial petition unless the court otherwise directs. [2003 c.598 §27]

Note: See notes under 36.600.

36.730 Appeals. (1) An appeal may be taken from:

- (a) An order denying a petition to compel arbitration.
 - (b) An order granting a petition to stay arbitration.
 - (c) A judgment entered pursuant to ORS 36.600 to 36.740, including but not limited to a judgment:
 - (A) Confirming or denying confirmation of an award.
 - (B) Modifying or correcting an award.
 - (C) Vacating an award without directing a rehearing.
- (2) An appeal under this section must be taken as provided in ORS chapter 19. [2003 c.598 §28]

Note: See notes under 36.600.

36.735 Uniformity of application and construction. In applying and construing ORS 36.600 to 36.740, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [2003 c.598 §29]

Note: See notes under 36.600.

36.740 Relationship to electronic signatures in Global and National Commerce Act. The provisions of ORS 36.600 to 36.740 governing the legal effect, validity and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 and 7002, as in effect on January 1, 2004. [2003 c.598 §30]

Note: See notes under 36.600.