

REPUBLIC ACT NO. 876

AN ACT TO AUTHORIZE THE MAKING OF ARBITRATION AND SUBMISSION AGREEMENTS, TO PROVIDE FOR THE APPOINTMENT OF ARBITRATORS AND THE PROCEDURE FOR ARBITRATION IN CIVIL CONTROVERSIES, AND FOR OTHER PURPOSES

Section 1. *Short Title.* - This Act shall be known as "The Arbitration Law."

Section 2. *Persons and matters subject to arbitration.* - Two or more persons or parties may submit to the arbitration of one or more arbitrators any controversy existing between them at the time of the submission and which may be the subject of an action, or the parties to any contract may in such contract agree to settle by arbitration a controversy thereafter arising between them. Such submission or contract shall be valid, enforceable and irrevocable, save upon such grounds as exist at law for the revocation of any contract.

Such submission or contract may include question arising out of valuations, appraisals or other controversies which may be collateral, incidental, precedent or subsequent to any issue between the parties.

A controversy cannot be arbitrated where one of the parties to the controversy is an infant, or a person judicially declared to be incompetent, unless the appropriate court having jurisdiction approve a petition for permission to submit such controversy to arbitration made by the general guardian or guardian ad litem of the infant or of the incompetent.

But where a person capable of entering into a submission or contract has knowingly entered into the same with a person incapable of so doing, the objection on the ground of incapacity can be taken only in behalf of the person so incapacitated.

Section 3. *Controversies or cases not subject to the provisions of this Act.* - This Act shall not apply to controversies and to cases which are subject to the jurisdiction of the Court of Industrial Relations or which have been submitted to it as provided by Commonwealth Act Numbered One hundred and three, as amended.

Section 4. *Form of arbitration agreement.* - A contract to arbitrate a controversy thereafter arising between the parties, as well as a submission to arbitrate an existing controversy shall be in writing and subscribed by the party sought to be charged, or by his lawful agent.

The making of a contract or submission for arbitration described in section two hereof, providing for arbitration of any controversy, shall be deemed a consent of the parties to the jurisdiction of the Court of First Instance of the province or city where any of the parties resides, to enforce such contract or submission.

Section 5. *Preliminary procedure.* - An arbitration shall be instituted by:

(a) In the case of a contract to arbitrate future controversies by the service by either party upon the other of a demand for arbitration in accordance with the contract. Such demand shall be set forth the nature of the controversy, the amount involved, if any, and the relief sought, together with a true copy of the contract providing for arbitration. The demand shall be served upon any party either in person or by registered mail. In the event that the contract between the parties provides for the appointment of a single arbitrator, the demand shall be set forth a specific time within which the parties shall agree upon such arbitrator. If the contract between the parties provides for the appointment of three arbitrators, one to be selected by each party, the demand shall name the arbitrator appointed by the party making the demand; and shall require that the party upon whom the demand is made shall within fifteen days after receipt thereof advise in writing the party making such demand of the name of the person appointed by the second party; such notice shall require that the two arbitrators so appointed must agree upon the third arbitrator within ten days from the date of such notice.

(b) In the event that one party defaults in answering the demand, the aggrieved party may file with the Clerk of the Court of First Instance having jurisdiction over the parties, a copy of the demand for arbitration under the contract to arbitrate, with a notice that the original demand was sent by registered mail or delivered in person to the party against whom the claim is asserted. Such demand shall set forth the nature of the controversy, the amount involved, if any, and the relief sought, and shall be accompanied by a true copy of the contract providing for arbitration.

(c) In the case of the submission of an existing controversy by the filing with the Clerk of the Court of First Instance having jurisdiction, of the submission agreement, setting forth the nature of the controversy, and the amount involved, if any. Such submission may be filed by any party and shall be duly executed by both parties.

(d) In the event that one party neglects, fails or refuses to arbitrate under a submission agreement, the aggrieved party shall follow the procedure prescribed in subparagraphs (a) and (b) of this section.

Section 6. *Hearing by court.* - A party aggrieved by the failure, neglect or refusal of another to perform under an agreement in writing providing for arbitration may petition the court for an order directing that such arbitration proceed in the manner provided for in such agreement. Five days notice in writing of the hearing of such application shall be served either personally or by registered mail upon the party in default. The court shall hear the parties, and upon being satisfied that the making of the agreement or such failure to comply therewith is not in issue, shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement. If the making of the agreement or default be in issue the court

shall proceed to summarily hear such issue. If the finding be that no agreement in writing providing for arbitration was made, or that there is no default in the proceeding thereunder, the proceeding shall be dismissed. If the finding be that a written provision for arbitration was made and there is a default in proceeding thereunder, an order shall be made summarily directing the parties to proceed with the arbitration in accordance with the terms thereof.

The court shall decide all motions, petitions or applications filed under the provisions of this Act, within ten days after such motions, petitions, or applications have been heard by it.

Section 7. Stay of civil action. - If any suit or proceeding be brought upon an issue arising out of an agreement providing for the arbitration thereof, the court in which such suit or proceeding is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration, shall stay the action or proceeding until an arbitration has been had in accordance with the terms of the agreement: Provided, That the applicant, for the stay is not in default in proceeding with such arbitration.

Section 8. Appointment of arbitrators. - If, in the contract for arbitration or in the submission described in section two, provision is made for a method of naming or appointing an arbitrator or arbitrators, such method shall be followed; but if no method be provided therein the Court of First Instance shall designate an arbitrator or arbitrators.

The Court of First Instance shall appoint an arbitrator or arbitrators, as the case may be, in the following instances:

- (a) If the parties to the contract or submission are unable to agree upon a single arbitrator; or
- (b) If an arbitrator appointed by the parties is unwilling or unable to serve, and his successor has not been appointed in the manner in which he was appointed; or
- (c) If either party to the contract fails or refuses to name his arbitrator within fifteen days after receipt of the demand for arbitration; or
- (d) If the arbitrators appointed by each party to the contract, or appointed by one party to the contract and by the proper Court, shall fail to agree upon or to select the third arbitrator.
- (e) The court shall, in its discretion appoint one or three arbitrators, according to the importance of the controversy involved in any of the preceding cases in which the agreement is silent as to the number of arbitrators.
- (f) Arbitrators appointed under this section shall either accept or decline their appointments within seven days of the receipt of their appointments. In case of declination or the failure of an arbitrator or arbitrators to duly accept their appointments the parties or the court, as the case may be, shall proceed to appoint a substitute or substitutes for the arbitrator or arbitrators who decline or failed to accept his or their appointments.

Section 9. *Appointment of additional arbitrators.* - Where a submission or contract provides that two or more arbitrators therein designated or to be thereafter appointed by the parties, may select or appoint a person as an additional arbitrator, the selection or appointment must be in writing. Such additional arbitrator must sit with the original arbitrators upon the hearing.

Section 10. *Qualifications of arbitrators.* - Any person appointed to serve as an arbitrator must be of legal age, in full-enjoyment of his civil rights and know how to read and write. No person appointed to served as an arbitrator shall be related by blood or marriage within the sixth degree to either party to the controversy. No person shall serve as an arbitrator in any proceeding if he has or has had financial, fiduciary or other interest in the controversy or cause to be decided or in the result of the proceeding, or has any personal bias, which might prejudice the right of any party to a fair and impartial award.

No party shall select as an arbitrator any person to act as his champion or to advocate his cause.

If, after appointment but before or during hearing, a person appointed to serve as an arbitrator shall discover any circumstances likely to create a presumption of bias, or which he believes might disqualify him as an impartial arbitrator, the arbitrator shall immediately disclose such information to the parties. Thereafter the parties may agree in writing:

(a) to waive the presumptive disqualifying circumstances; or

(b) to declare the office of such arbitrator vacant. Any such vacancy shall be filled in the same manner as the original appointment was made.

Section 11. *Challenge of arbitrators.* - The arbitrators may be challenged only for the reasons mentioned in the preceding section which may have arisen after the arbitration agreement or were unknown at the time of arbitration.

The challenge shall be made before them.

If they do not yield to the challenge, the challenging party may renew the challenge before the Court of First Instance of the province or city in which the challenged arbitrator, or, any of them, if there be more than one, resides. While the challenging incident is discussed before the court, the hearing or arbitration shall be suspended, and it shall be continued immediately after the court has delivered an order on the challenging incident.

Section 12. *Procedure by arbitrators.* - Subject to the terms of the submission or contract, if any are specified therein, are arbitrators selected as prescribed herein must, within five days after appointment if the parties to the controversy reside within the same city or province, or within fifteen days after appointment if the parties reside in different provinces, set a time and place for the hearing of the matters submitted to them, and must cause notice thereof to be given to each of the parties. The hearing can be postponed or adjourned by the arbitrators only by agreement of the parties; otherwise, adjournment may be ordered by the arbitrators upon their own motion only at the hearing and for good and sufficient cause. No adjournment shall extend the hearing beyond the day fixed in the submission or contract for rendering the award, unless the time so fixed is extended by the written agreement of the parties to the

submission or contract or their attorneys, or unless the parties have continued with the arbitration without objection to such adjournment.

The hearing may proceed in the absence of any party who, after due notice, fails to be present at such hearing or fails to obtain an adjournment thereof. An award shall not be made solely on the default of a party. The arbitrators shall require the other party to submit such evidence as they may require for making an award.

No one other than a party to said arbitration, or a person in the regular employ of such party duly authorized in writing by said party, or a practicing attorney-at-law, shall be permitted by the arbitrators to represent before him or them any party to the arbitration. Any party desiring to be represented by counsel shall notify the other party or parties of such intention at least five days prior to the hearing.

The arbitrators shall arrange for the taking of a stenographic record of the testimony when such a record is requested by one or more parties, and when payment of the cost thereof is assumed by such party or parties.

Persons having a direct interest in the controversy which is the subject of arbitration shall have the right to attend any hearing; but the attendance of any other person shall be at the discretion of the arbitrators.

Section 13. *Oath of arbitrators.* - Before hearing any testimony, arbitrators must be sworn, by any officer authorized by law to administer an oath, faithfully and fairly to hear and examine the matters in controversy and to make a just award according to the best of their ability and understanding. Arbitrators shall have the power to administer the oaths to all witnesses requiring them to tell the whole truth and nothing but the truth in any testimony which they may give in any arbitration hearing. This oath shall be required of every witness before any of his testimony is heard.

Section 14. *Subpoena and subpoena duces tecum.* - Arbitrators shall have the power to require any person to attend a hearing as a witness. They shall have the power to subpoena witnesses and documents when the relevancy of the testimony and the materiality thereof has been demonstrated to the arbitrators. Arbitrators may also require the retirement of any witness during the testimony of any other witness. All of the arbitrators appointed in any controversy must attend all the hearings in that matter and hear all the allegations and proofs of the parties; but an award by the majority of them is valid unless the concurrence of all of them is expressly required in the submission or contract to arbitrate. The arbitrator or arbitrators shall have the power at any time, before rendering the award, without prejudice to the rights of any party to petition the court to take measures to safeguard and/or conserve any matter which is the subject of the dispute in arbitration.

Section 15. *Hearing by arbitrators.* - Arbitrators may, at the commencement of the hearing, ask both parties for brief statements of the issues in controversy and/or an agreed statement of facts. Thereafter the parties may offer such evidence as they desire, and shall produce such additional evidence as the arbitrators shall require or deem necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judge of the relevancy and materiality of the evidence offered or produced, and shall not be bound to

conform to the Rules of Court pertaining to evidence. Arbitrators shall receive as exhibits in evidence any document which the parties may wish to submit and the exhibits shall be properly identified at the time of submission. All exhibits shall remain in the custody of the Clerk of Court during the course of the arbitration and shall be returned to the parties at the time the award is made. The arbitrators may make an ocular inspection of any matter or premises which are in dispute, but such inspection shall be made only in the presence of all parties to the arbitration, unless any party who shall have received notice thereof fails to appear, in which event such inspection shall be made in the absence of such party.

Section 16. *Briefs.* - At the close of the hearings, the arbitrators shall specifically inquire of all parties whether they have any further proof or witnesses to present; upon the receipt of a negative reply from all parties, the arbitrators shall declare the hearing closed unless the parties have signified an intention to file briefs. Then the hearing shall be closed by the arbitrations after the receipt of briefs and/or reply briefs. Definite time limit for the filing of such briefs must be fixed by the arbitrators at the close of the hearing. Briefs may filed by the parties within fifteen days after the close of the oral hearings; the reply briefs, if any, shall be filed within five days following such fifteen-day period.

Section 17. *Reopening of hearing.* - The hearing may be reopened by the arbitrators on their own motion or upon the request of any party, upon good cause, shown at any time before the award is rendered. When hearings are thus reopened the effective date for the closing of the hearings shall be the date of the closing of the reopened hearing.

Section 18. *Proceeding in lieu of hearing.* - The parties to a submission or contract to arbitrate may, by written agreement, submit their dispute to arbitration by other than oral hearing. The parties may submit an agreed statement of facts. They may also submit their respective contentions to the duly appointed arbitrators in writing; this shall include a statement of facts, together with all documentary proof. Parties may also submit a written argument. Each party shall provide all other parties to the dispute with a copy of all statements and documents submitted to the arbitrators. Each party shall have an opportunity to reply in writing to any other party's statements and proofs; but if such party fails to do so within seven days after receipt of such statements and proofs, he shall be deemed to have waived his right to reply. Upon the delivery to the arbitrators of all statements and documents, together with any reply statements, the arbitrators shall declare the proceedings in lieu of hearing closed.

Section 19. *Time for rendering award.* - Unless the parties shall have stipulated by written agreement the time within which the arbitrators must render their award, the written award of the arbitrators shall be rendered within thirty days after the closing of the hearings or if the oral hearings shall have been waived, within thirty days after the arbitrators shall have declared such proceedings in lieu of hearing closed. This period may be extended by mutual consent of the parties..

Section 20. *Form and contents of award.* - The award must be made in writing and signed and acknowledged by a majority of the arbitrators, if more than one; and by the sole arbitrator, if there is only one. Each party shall be furnished with a copy of the award. The arbitrators in their award may grant any remedy or relief which they deem just and equitable and within the

scope of the agreement of the parties, which shall include, but not be limited to, the specific performance of a contract.

In the event that the parties to an arbitration have, during the course of such arbitration, settled their dispute, they may request of the arbitrators that such settlement be embodied in an award which shall be signed by the arbitrators. No arbitrator shall act as a mediator in any proceeding in which he is acting as arbitrator; and all negotiations towards settlement of the dispute must take place without the presence of the arbitrators.

The arbitrators shall have the power to decide only those matters which have been submitted to them. The terms of the award shall be confined to such disputes.

The arbitrators shall have the power to assess in their award the expenses of any party against another party, when such assessment shall be deemed necessary.

Section 21. Fees of arbitration. - The fees of the arbitrators shall be fifty pesos per day unless the parties agree otherwise in writing prior to the arbitration.

Section 22. Arbitration deemed a special proceeding. - Arbitration under a contract or submission shall be deemed a special proceeding, of which the court specified in the contract or submission, or if none be specified, the Court of First Instance for the province or city in which one of the parties resides or is doing business, or in which the arbitration was held, shall have jurisdiction. Any application to the court, or a judge thereof, hereunder shall be made in manner provided for the making and hearing of motions, except as otherwise herein expressly provided.

Section 23. Confirmation of award. - At any time within one month after the award is made, any party to the controversy which was arbitrated may apply to the court having jurisdiction, as provided in section twenty-eight, for an order confirming the award; and thereupon the court must grant such order unless the award is vacated, modified or corrected, as prescribed herein. Notice of such motion must be served upon the adverse party or his attorney as prescribed by law for the service of such notice upon an attorney in action in the same court.

Section 24. Grounds for vacating award. - In any one of the following cases, the court must make an order vacating the award upon the petition of any party to the controversy when such party proves affirmatively that in the arbitration proceedings:

- (a) The award was procured by corruption, fraud, or other undue means; or
- (b) That there was evident partiality or corruption in the arbitrators or any of them; or
- (c) That the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; that one or more of the arbitrators was disqualified to act as such under section nine hereof, and wilfully refrained from disclosing such disqualifications or of any other misbehavior by which the rights of any party have been materially prejudiced; or

(d) That the arbitrators exceeded their powers, or so imperfectly executed them, that a mutual, final and definite award upon the subject matter submitted to them was not made.

Where an award is vacated, the court, in its discretion, may direct a new hearing either before the same arbitrators or before a new arbitrator or arbitrators to be chosen in the manner provided in the submission or contract for the selection of the original arbitrator or arbitrators, and any provision limiting the time in which the arbitrators may make a decision shall be deemed applicable to the new arbitration and to commence from the date of the court's order.

Where the court vacates an award, costs, not exceeding fifty pesos and disbursements may be awarded to the prevailing party and the payment thereof may be enforced in like manner as the payment of costs upon the motion in an action.

Section 25. *Grounds for modifying or correcting award.* - In any one of the following cases, the court must make an order modifying or correcting the award, upon the application of any party to the controversy which was arbitrated:

(a) Where 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; or

(b) Where the arbitrators have awarded upon a matter not submitted to them, not affecting the merits of the decision upon the matter submitted; or

(c) Where the award is imperfect in a matter of form not affecting the merits of the controversy, and if it had been a commissioner's report, the defect could have been amended or disregarded by the court.

The order may modify and correct the award so as to effect the intent thereof and promote justice between the parties.

Section 26. *Motion to vacate, modify or correct award: when made.* - Notice of a motion to vacate, modify or correct the award must be served upon the adverse party or his counsel within thirty days after award is filed or delivered, as prescribed by law for the service upon an attorney in an action.

Section 27. *Judgment.* - Upon the granting of an order confirming, modifying or correcting an award, judgment may be entered in conformity therewith in the court wherein said application was filed. Costs of the application and the proceedings subsequent thereto may be awarded by the court in its discretion. If awarded, the amount thereof must be included in the judgment.

Section 28. *Papers to accompany motion to confirm, modify, correct, or vacate award.* - The party moving for an order confirming, modifying, correcting, or vacating an award, shall at the time that such motion is filed with the court for the entry of judgment thereon also file the following papers with the Clerk of Court;

(a) The submission, or contract to arbitrate; the appointment of the arbitrator or arbitrators; and each written extension of the time, if any, within which to make the award.

(b) A verified of the award.

(c) Each notice, affidavit, or other paper used upon the application to confirm, modify, correct or vacate such award, and a copy of each of the court upon such application.

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

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

Section 29. Appeals. - An appeal may be taken from an order made in a proceeding under this Act, or from a judgment entered upon an award through certiorari proceedings, but such appeals shall be limited to questions of law. The proceedings upon such an appeal, including the judgment thereon shall be governed by the Rules of Court in so far as they are applicable.

Section 30. Death of party. - Where a party dies after making a submission or a contract to arbitrate as prescribed in this Act, the proceedings may be begun or continued upon the application of, or notice to, his executor or administrator, or temporary administrator of his estate. In any such case, the court may issue an order extending the time within which notice of a motion to confirm, vacate, modify or correct an award must be served. Upon confirming an award, where a party has died since it was filed or delivered, the court must enter judgment in the name of the original party; and the proceedings thereupon are the same as where a party dies after a verdict.

Section 31. Repealing clause. - The provisions of chapters one and two, Title XIV, of the Civil Code shall remain in force. All other laws and parts of laws inconsistent with this Act are hereby repealed. If any provision of this Act shall be held invalid the remainder that shall not be affected thereby.

Section 32. Effectivity. - This Act shall take effect six months after its approval.

Approved: June 19, 1953