

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL



NEW YORK'S
FARM EQUIPMENT
LEMON LAW:

A GUIDE FOR
CONSUMERS

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New York’s Farm Equipment Lemon Law: A Guide for Consumers

This guide will help you determine whether your equipment is covered under the New York Farm Equipment Lemon Law, what rights you have under the law, and what you can do to enforce those rights.

Please review this guide carefully before filing a request for arbitration.

A copy of the New York Farm Equipment Lemon Law and the regulations governing the New York State Arbitration Program are available at the back of this booklet. To obtain further information regarding the New York Farm Equipment Lemon Law, you may contact any of the offices of the Attorney General, listed at the back of this booklet, or you may consult a lawyer.

Table of Contents

Farm Equipment Lemon Law Questions and Answers	1-6
New York State Arbitration Program Questions and Answers	7-13
Step-by-Step Procedural Guide for the NYS Arbitration Program	14-18
Sample Notice to Supplier and Document Request	19
The Farm Equipment Lemon Law	20-25
New York State Arbitration Program Regulations	26-38
Offices of the New York State Attorney General	39

Farm Equipment Lemon Law Questions and Answers

1. What is the purpose of the New York Farm Equipment Lemon Law?

The New York Farm Equipment Lemon Law provides a legal remedy for New York residents who buy or lease new farm equipment that turns out to be defective, or in other words, a lemon. If your farm equipment fails to conform to the terms of its written warranty, and the supplier or authorized dealer is unable to repair the equipment after a reasonable number of attempts, you may be entitled to a full refund or comparable replacement equipment.

2. Who is covered by the Farm Equipment Lemon Law?

The law covers New York residents who are the purchasers, lessees, or transferees of farm equipment, other than for the purposes of resale.

3. Who does the Farm Equipment Lemon Law apply to?

The law applies to “suppliers.” A supplier is the manufacturer, wholesaler or distributor that issues the warranty effective in New York State for the farm equipment sold by the dealer.

4. What farm equipment is covered under the Farm Equipment Lemon Law?

The law covers new self-propelled farm equipment and implements of husbandry that are purchased, leased, or otherwise received (*e.g.*, via gift) by New York residents for more than \$1,500 and not for the purpose of resale.

Accessories and parts are also covered if they are (a) included in the lease or sale of the farm equipment and (b) designed and manufactured primarily for agricultural purposes.

The following types of equipment are NOT covered:

- Farm equipment **not** specifically manufactured for the United States market or in compliance with the laws and standards of the United States.
 - If this exception applies, the Farm Equipment Lemon Law

(continues on the next page)

requires the supplier to obtain written acknowledgement from the buyer, at the time of purchase, that you have been made aware that such equipment is not covered by the lemon law.

- Used farm equipment, meaning it has already been owned by another consumer. The law only covers equipment that, at the time of purchase, is being transferred for the first time from a manufacturer, distributor or new farm machinery dealer and has not already been registered or titled in any state.

5. Am I covered if I purchased the farm equipment outside of New York State?

Yes, so long as you are a New York resident and meet the other requirements of the law. The Farm Equipment Lemon Law applies to purchases made by New York residents, regardless of whether the equipment was sold within or outside of New York State.

6. What is the supplier's obligation to provide a warranty under the law?

The law requires suppliers to provide a fair and reasonable written warranty for new farm equipment for a duration of no less than twelve months from the date of delivery of the equipment to the consumer. The supplier *may* provide a warranty that covers the equipment for a longer time but is not required to do so by the law.

The Farm Equipment Lemon Law enforces written warranties provided by the suppliers of new farm equipment. You should review the terms of your equipment's written warranty carefully to determine the length and scope of its coverage.

7. What is the supplier's duty of repair?

The Farm Equipment Lemon Law places a duty upon the supplier to repair—free of charge and without any deductible—any defect covered by any express warranty. Once timely notice of the defect is given in writing, the supplier or authorized dealer may not charge for the repairs. If you have been charged for such repairs or a deductible, you should contact the Attorney General's Office.

8. What should you do if you become aware of a problem with your farm equipment?

You should immediately report *in writing* any defect, “nonconformity,” or “condition” to the manufacturer, wholesaler, distributor, or authorized dealer of your farm equipment.

A “condition” is a general problem, such as difficulty in starting, that can result from a defect of one or more parts.

A “nonconformity” is any condition of the farm machinery that substantially impairs the value or safety of such equipment, or its use for the purpose for which it was intended.

9. How do I notify a dealer or supplier of a problem?

You should provide notice of a problem to the dealer or supplier *in writing* at any time during the warranty period. Within the last 30 days of the warranty period, you may provide notice orally, but you must follow up with written notice within 30 days after the end of the warranty period.

10. What should I do if the dealer fails to start the repairs?

If the dealer won’t start repairs on your farm equipment, you may forward written notice of the dealer’s refusal to the supplier.

The supplier must commence repairs within twenty days of receiving this notice.

If the supplier fails to undertake repairs, the supplier must provide information to you about consumer complaint remedies.

11. What is the supplier’s duty to provide a refund or replacement of your farm equipment?

As long as the problem you are complaining about continues to exist after a reasonable number of repair attempts and the problem substantially impairs the value, use or safety of the equipment, you may be eligible for a refund or replacement.

12. Does the law specify the number of required repair attempts?

Yes. The law defines a reasonable number of repair attempts to mean *four or more failed repair attempts* or causing the farm equipment to be *out of service by reason of repair for a cumulative total of 30 days*.

13. Are there any exceptions to the supplier's duty to refund or replace?

The supplier does not have a duty to make a refund or provide a replacement if:

- (a) the defect does **not** substantially impair the value, use or safety of the equipment; or
- (b) the defect is the result of abuse, neglect or unauthorized modifications or alterations of the equipment by the consumer.

14. What constitutes substantial impairment of value, use, or safety?

It will depend on the facts in each case. In general, your complaint must be about a serious problem. For example, a defect in the engine that makes the farm equipment inoperable is clearly substantial. In some cases, the cumulative effect of many lesser defects can add up to substantial impairment.

15. Can you still obtain a refund or a replacement if the defect has been repaired?

Yes, you may still be entitled to relief under the Farm Equipment Lemon Law, provided all the other legal requirements are met, if a defect continued to exist at the end of the fourth repair attempt, or if the equipment was out-of-service by reason of repair for a total of at least 30 days, even if the defect was subsequently repaired.

16. Do I have a choice of whether I can get a refund or replacement?

Yes, so long as comparable equipment is available from the supplier. If you qualify for relief under the Farm Equipment Lemon Law, you have the option of receiving either a refund or a replacement. The consumer—not the supplier or authorized dealer—makes this decision.

17. What is comparable replacement equipment?

You are entitled to receive equipment of the same year and model, which has approximately the same amount of use as the equipment being replaced.

18. What should be included in your refund?

A refund should include the following: the price of the equipment (purchase price or lease price plus trade-in allowance) plus any fees the consumer paid and less a deduction for use.

The deduction for use is calculated based on different formulas provided in the law, depending on whether the equipment contains an engine hour meter, hours are the basic usage standard, and the equipment is “self-propelled harvesting equipment.”

19. If successful, can you recover sales tax?

Yes. State and local sales taxes are refunded directly by the New York State Commissioner of Taxation and Finance who will determine the appropriate amount to be refunded under the law. You must complete and submit an “Application for Credit or Refund of Sales or Use Tax” (Form AU-11) to the NYS Tax Department, TDAB – Sales Tax Refunds, W A Harriman Campus, Albany, New York 12227. (Such form may be obtained through the supplier or directly from the Department of Taxation and Finance.)

You have three years from the date a refund is received from the supplier to apply for the tax refund.

20. If the purchase was financed, how is the refund divided?

The refund by the supplier is the same whether the equipment was financed or not. However, when the equipment was financed, instead of the entire refund going to you, the refund must be divided between you and the lender (the bank or finance company). Generally, the lender will calculate how much is still owed by you and the refund will be applied first to that amount. The balance of the refund will then go to you.

21. If the farm equipment was leased, how is the refund calculated?

When the farm equipment is leased, the refund due from the supplier is divided between you and the leasing company. The lease price to be refunded to you is the total of your down payment (including any trade-in allowance) plus the total of monthly lease payments, minus interest charges and any other service fees.

If the monthly payment includes other service fees, such as insurance or other costs, paid for your benefit, such amounts will also be deducted from your refund. The leasing company's portion of the refund is the balance of the "lease price," as that term is defined by the law.

22. If my lease ends, can I still file a Lemon Law claim?

Yes, the ending of the term of your lease does not prevent you from filing or maintaining an arbitration claim under the Farm Equipment Lemon Law.

23. What should I do in advance to give me the best chance of qualifying for a refund or replacement of my farm equipment?

- (a) Report the problem *in writing* to the supplier or authorized dealer.
- (b) If the problem persists, bring the equipment into the dealer or supplier promptly for repairs and continue to do so until you reach four repair attempts or 30 days out of service.
- (c) You must be able to establish the necessary repair attempts or days out-of-service due to repairs within the applicable warranty period. Therefore, it is important to keep copies of all paperwork associated with the repairs and any correspondence with the dealer and/or supplier.

24. How can you enforce your rights under the Farm Equipment Lemon Law?

You have the choice of either participating in an arbitration program or suing the supplier directly in court. *Any action under the Farm Equipment Lemon Law must be commenced within twenty-four months (or 2 years) of the date of original delivery of the equipment to the consumer.*

25. If you win court, can attorney's fees also be recovered?

Yes. The law authorizes the court to award you reasonable attorney's fees if you are successful.

26. What is an arbitration proceeding?

Arbitration is often much less complicated, time consuming, and expensive than going to court. The arbitration hearing is informal and strict rules of evidence do not apply. Arbitrators, rather than judges, listen to each side, review the evidence, and render a decision.

27. What arbitration programs are available to you in New York?

You may participate in the Farm Equipment Lemon Law Arbitration Program (the “New York Program”), as provided by the lemon law. The New York Program is administrated by the New York State Dispute Resolution Association (“NYSDRA”) under regulations issued by the New York Attorney General. (A copy of the regulations may be found in the back of this booklet). Decisions under the New York Program are binding on both parties.

You may also choose to participate in the supplier’s arbitration program if one has been established. Decisions under the supplier’s program are not binding on you. Consequently, if you have gone through the supplier’s program and are not satisfied, you may still apply for arbitration under the New York Program. However, any prior arbitration decision may be considered at any subsequent arbitration hearing or court proceeding.

28. How do you participate in the New York Program?

You must first complete a “Request for Arbitration” form, which may be obtained from the New York Attorney General’s website, <https://ag.ny.gov/consumer-frauds/lemon-law>, or from any of the Attorney General’s regional offices. (A list of the Attorney General’s regional offices may be found at the end of this booklet). The completed form must be returned to the Attorney General’s Lemon Law Unit, Office of the New York Attorney General, 28 Liberty Street, New York, NY 10005. You may also submit the form by email to NYAG.LemonLaw@ag.ny.gov.

29. How does the New York Program Operate?

The Attorney General’s office will review the “Request for Arbitration” form to determine whether your claim is eligible under the Farm Equipment Lemon Law to be heard by an arbitrator. If accepted, the form will be forwarded to the Administrator for processing. The Administrator will then ask you to pay the required filing fee. Upon receiving the filing fee and a required separate fee paid by the supplier, the Administrator will forward your Request for Arbitration to the supplier. The Administrator will also appoint an arbitrator and schedule a hearing to be held within 35 days.

If rejected, the form will be returned to you together with an explanation for the rejection. A step-by-step description of the New York Program follows this “Question & Answer” section in this booklet.

30. Who are the arbitrators?

The arbitrators are volunteers who have been trained in the Lemon Law and in arbitration procedures by the Attorney General’s Office and the Administrator.

31. Is a consumer entitled to an oral hearing?

Yes. You have an absolute right to an oral hearing. At an oral hearing, both you and the supplier’s representation have the opportunity to present your case in person before an arbitrator.

You may also elect to have a hearing on documents only by indicating this preference on the “Request for Arbitration” form. In a “documents only” hearing, both sides must present their positions in writing. If you request a “documents only” hearing, the supplier may object, in which case an oral hearing will be scheduled.

Finally, you have the right to a virtual hearing. At a virtual hearing, both you and the supplier’s representation can present your case before an arbitrator through a Zoom meeting. If you request a virtual hearing, the supplier may object, in which case an oral hearing will be scheduled.

32. Can you request an adjournment of a hearing?

Yes. Either party may apply to the arbitrator, through the Administrator, for a reasonable adjournment of the hearing date. Upon the finding of good cause, the arbitrator will reschedule the hearing.

33. May a stenographic record or tape recording be made of the hearing?

Yes. Any party to the arbitration may arrange, on its own, for a stenographic record or a tape recording of the hearing at its own expense, even if the other party objects. If a stenographer or tape recorder will be used, reasonable prior notice, through the Administrator, must be given to the other party.

34. Do you need an attorney for the arbitration hearing?

No. The New York Program is designed to be accessible to you without the need for an attorney. Both you and the supplier may use an attorney or any other person to assist you if you so choose. However, the law does not provide for the recovery of attorneys' fees for representation in an arbitration proceeding.

35. How should you prepare for the hearing?

You should keep a copy of your "Request for Arbitration" form to use as a guide in preparing for the hearing. The form contains much of the information needed at the hearing. In addition, you are advised to:

- (a) *Gather Documents.* Bring to the hearing records of everything pertaining to the purchase or lease and the problem, including a copy of the purchase contract (invoice) or lease, all correspondence, work orders, and the applicable warranty.
- (b) *Organize Records.* Keep records in chronological order. This will serve as a guide in presenting the history of the problem.
- (c) *Prepare an Outline.* Having an outline will help to present and remember relevant information.
- (d) *Prepare Questions to Ask the Supplier's Representative.* Preparing questions to ask the supplier's representative will help assure that no important question is omitted.

(e) *Arrange for Witnesses.* The presence of witnesses, for example, a mechanic, or their sworn statements may be helpful to document the defect or problem your equipment has.

36. What if you do not have all the documents?

Upon payment of the filing fee and prior to the hearing, the consumer or the supplier may make a written request to the arbitrator, through the Administrator, to direct the other party to provide any necessary documents or other information. Either party may also request the arbitrator to subpoena documents or witnesses to appear at the hearing.

A sample letter requesting documents may be found in this booklet.

37. May the arbitrator direct that the equipment be made available for examination?

Yes. The arbitrator may direct you to make the equipment available for examination. The arbitrator has the discretion to examine or ride in the equipment in the presence of both parties.

38. How should you present your case at the hearing?

At the hearing, you should present your case in a clear, organized, and concise manner. You are advised to:

- (a) State the specific nature of the problem or defect.
- (b) State any conversations with the dealer's or supplier's representatives.
- (c) Describe and document, where possible, each repair attempt.
- (d) Describe and document any new developments which may have occurred since the "Request for Arbitration" form was submitted.
- (e) Offer proof of each point, especially those the supplier may dispute.

(f) Present any witness that may provide relevant information.

(g) State the relief requested.

(h) At the end of the presentation, briefly summarize the facts discussed.

39. What happens if either party fails to appear at the hearing?

Unless the hearing has been properly rescheduled, if either the supplier or you fail to appear at an oral hearing, the arbitrator will nevertheless conduct the hearing and issue a decision based upon the evidence presented and any documents contained in the file.

40. When can you expect a decision?

You may expect a decision, generally, within 10 days of the hearing. Sometimes, however, the arbitrator requests that additional documents or information be submitted, in which case the decision may be delayed.

41. Can you recover the filing fee?

Yes. If you are successful, the arbitrator's decision in your favor must include the return of the filing fee paid by you. Also, if you settle the case any time before a decision is rendered, you should seek to recover the filing fee.

42. When must a supplier comply with an arbitrator's decision?

Within thirty days from the date you notify the supplier of your acceptance of the arbitrator's decision. In most cases, the supplier's representative will contact you within this period to arrange for the return of the equipment in exchange for either a refund or a replacement.

Failure of the supplier to comply within this time period entitles you to recover an additional \$25 for each business day of noncompliance, up to \$500. If the supplier does not voluntarily pay any applicable penalty, you may sue to recover this penalty in Small Claims Court. However, this deadline and penalties are not applicable where the consumer requests replacement

equipment built to order or with options that are not comparable to the equipment being replaced, or the consumer has otherwise made compliance within the prescribed period impossible.

43. What happens if the supplier does not comply with the arbitrator's award?

If the supplier does not comply with the award, you can enforce the arbitrator's decision through the courts by bringing an action to confirm the award. This action must be commenced within one year of receipt of the decision. You should consult a private attorney if you wish to pursue this remedy. If you are successful, the court will convert the arbitrator's award into a court judgment and may award reasonable attorney's fees. The court may also award reasonable attorneys' fees incurred to enforce the collection of the award.

44. Under what circumstances can an arbitrator's decision be modified?

The grounds for modification are very limited. Generally, awards may be modified only to correct a miscalculation or a technical mistake in the award. For example, a modification may be requested where the usage deduction was miscalculated, or the filing fee was omitted from the refund.

45. When must a request for modification be made?

Either party may seek a modification by the arbitrator of the award by written application to the Administrator within 20 days of receiving the award. The other party will be given the opportunity to object to the modification. The arbitrator must rule on all such requests within 30 days after the request is received. To modify an award after 20 days, an application to a court may be necessary.

46. Can an arbitrator's decision be challenged?

Either party may commence a lawsuit to challenge an arbitrator's award within 90 days of receipt of the award. However, the grounds for such

challenges are limited by law. Generally, the courts will uphold an arbitrator's award if it is supported by evidence and is grounded in reason. Reasonable attorney's fees may be awarded by the court if you are successful in challenging or defending an arbitration award.

47. What role will the Attorney General's Office or the Administrator play if an award is challenged in court?

Neither the New York Attorney General's Office nor the Administrator is authorized to represent you in such a challenge; this is the responsibility of your own attorney.

48. Can you apply for another hearing under the New York Program if you lost the first one?

It depends. A decision under the New York Program is binding on both parties. However, if new facts arise after a hearing was held, you may reapply for a new hearing based on the new facts.

49. Does the Lemon Law limit any of the other legal remedies already available to you?

No. The Farm Equipment Lemon Law adds to your arsenal of existing legal remedies. These legal remedies can be explained by your attorney.

50. Can your rights under the Farm Equipment Lemon Law be waived?

No. Any contract clause which seeks to waive your rights under the Farm Equipment Lemon Law is void.

51. Where can you get help or further information regarding the lemon law?

You may contact any of the New York Attorney General Offices listed at the end of this booklet or consult a lawyer.

Step-by-Step Procedural Guide for the New York State Arbitration Program

The New York State Program’s operational procedures for farm equipment can be summarized in ten steps as follows:

Step 1	Consumer’s Completion of Request-For-Arbitration Form
Step 2	Attorney General’s Review
Step 3	Request for Filing Fee and Arbitration Fee by Administrator
Step 4	Filing Date; Commencement Date; Appointment of Arbitrator; Scheduling of Hearing
Step 5	Notice of Claim Sent to Supplier (and Third Party, if any); Supplier Responds; Consumer Replies
Step 6	Pre-Hearing Discovery
Step 7	Hearing
Step 8	Decision
Step 9	Administrator’s Review of Decision Form
Step 10	Modification and Appeal

Step 1. Consumer’s Completion of Request-For-Arbitration Form

A consumer can seek redress under the New York Program by obtaining a “Request-for-Arbitration” form from the New York Attorney General’s website. www.ag.ny.gov or any office of the New York Attorney General. The consumer completes and returns this form to the Attorney General’s Lemon Law Unit located at 28 Liberty Street, New York, NY 10005.

Step 2. Attorney General's Review

The form is reviewed promptly by the Attorney General's Lemon Law Unit. The review is for screening purposes only – to determine whether the claim may be heard by an arbitrator. For example, to be eligible for acceptance into the New York Program for farm equipment, the equipment must have a purchase or lease price of more than \$1,500. Based on this review, the Request-for-Arbitration form is either accepted or rejected. If rejected, the form is returned to the consumer with a letter indicating the reason(s) for the rejection. In many instances, a consumer is able to correct the cause of the rejection and successfully resubmit the form. If the form is accepted, the consumer is advised in writing that the matter is being forwarded to the Administrator for further processing.

Step 3. Request for Filing Fee and Arbitration Fee by Administrator

Upon receipt of an accepted Request-for-Arbitration form, the Administrator writes to the consumer to request the payment of the filing fee. If, after 30 days, the Administrator has not received the filing fee from the consumer, it sends a second notice. If the fee is still not received within another 30 days, the Request-for-Arbitration form is returned, and the consumer is advised that the case has been closed.

Within five days of the receiving the filing fee from the consumer, the Administrator sends a notice to the supplier that a Request for Arbitration has been filed by a consumer and that the supplier must remit the prescribed arbitration fee to the Administrator within 10 days. If, after 10 days, the Administrator has not received the arbitration fee from the supplier, it sends a second notice. If the fee is still not received within another 10 days, the Administrator will notify the Attorney General in writing.

Step 4. Filing Date; Commencement Date; Appointment of Arbitrator; Scheduling of Hearing

The date the Administrator receives the filing fee from the consumer is considered the case "filing date." The date the Administrator receives the arbitration fee from the supplier is considered the "commencement date." The

commencement date marks the official beginning of the farm equipment arbitration process. At this juncture, the Administrator appoints an arbitrator and schedules a hearing for a specific date no later than 35 days from the commencement date. Oral in-person hearings are scheduled to accommodate the needs of the consumer, both geographically and as to time-of-day. The consumer elects on the Request-For-Arbitration form the most convenient site for the hearing from the over-50 locations available.

Step 5. Notice of Claim Sent to Supplier (and Third Party, if any); Supplier Responds; Consumer Replies

Within five days of the commencement date, the Administrator sends a copy of the consumer's completed Request-for-Arbitration form, with all attachments, to the supplier's designated contact person. If the equipment was financed or leased, the finance company or bank to which the consumer makes his or her payments or the leasing company is also notified of the consumer's claim and of the scheduled hearing date and is requested to submit relevant financial information prior to the hearing date. The supplier is given 15 days from the commencement date to respond to the consumer's claim. If the consumer requested a hearing on documents only, the supplier may object and an oral hearing will be scheduled. The Administrator mails any response received from the supplier to the consumer, who may reply within 25 days of the commencement date. The administrator mails a copy of the consumer's reply, if any, to the supplier.

Step 6. Pre-Hearing Discovery

Prior to the hearing, either party may request the arbitrator to direct the production of specified documents (such as repair orders) or information, or request that a witness be subpoenaed. Under the regulations, an arbitrator may draw a negative inference concerning any issue for which documents or witnesses were requested but not provided.

Step. 7. The Hearing

At the hearing, the consumer presents evidence and then the supplier presents its evidence. Each party, as well as the arbitrator, may question the other party

or any witness. The arbitrator administers an oath or affirmation to each individual who testifies. Formal rules of evidence do not apply, and each party is afforded a full and equal opportunity to present his or her case. Typically, a hearing lasts between one and two hours. The arbitrator has the discretion to examine and/or ride in the consumer's equipment, and both parties are afforded the opportunity to be present and accompany the arbitrator on any examination ride.

Step 8. The Decision

Regardless of the type of hearing – oral (in person), on documents only, or virtual – the arbitrator must render a decision within 5 days following the hearing date (unless additional time was allowed for the submission of requested documents) which is to be no more than 40 days from the commencement date. Each decision must be signed and certified by the arbitrator, contain a summary of both the issues in dispute and the evidence presented by each side, include the arbitrator's findings and indicate whether or not the arbitrator, based on the stated findings, found that the consumer qualifies for relief under the lemon law. If the arbitrator finds that the consumer is entitled to relief, the arbitrator must award either a refund or comparable replacement equipment, depending on what the consumer requested. The decision must contain a calculation of the award, where applicable, in accordance with the law, taking into consideration, for example, any allowable deductions for use. A refund of the prescribed filing fee must also be included as part of every award in favor of the consumer. The supplier must comply with the award within 30 days from the date the consumer notifies the supplier of his or her acceptance of the decision.

Step 9. Administrator's Review of the Decision Form

Once rendered, the decision is sent to the Administrator which reviews it for technical completeness and accuracy and to eliminate arithmetic or typographical errors. The Administrator must obtain the approval of the arbitrator for any corrections. Once finalized, the Administrator mails copies of the decision to each of the parties and the Attorney General's Office within 45 days of the commencement date.

Step 10. Modification and Appeal

Where a party believes a mistake was made, he or she may seek a modification within 20 days of the receipt of the award. Such a request for modification must be acted upon by the arbitrator within 30 days. The grounds for modification are limited by law (CPLR § 7511(c)). The decision is binding on both parties but may be subject to judicial review as permitted pursuant to CPLR Article 75. Either party may commence a court proceeding to vacate or modify an award within 90 days of its receipt (CPLR § 7511(a)).

SAMPLE REQUEST FOR DOCUMENTS

Your Name
Address
City, State, Zip

NYS Dispute Resolution Association
[Fill in Specific Dispute Center's Address]

Attention: Arbitrator [INSERT NAME]

Re: Lemon Law Arbitration # _____ Request for Documents

Dear Arbitrator:

Pursuant to section 303.10 of the New York Farm Equipment Lemon Law Arbitration Regulations, I am requesting that you direct the supplier to obtain and forward to the Case Administrator legible copies of the following documents and information no later than three days before the scheduled hearing date:

1. Each and every repair order for work performed on my farm equipment, any mechanic's or technician's notes, email or written comments from any supplier's or dealer's representative relating to the diagnosis, repair, defect or condition complained of in my Request for Arbitration.
2. Any service bulletin and recall notice issued that may relate to the problem: [describe your problem, for example, stalling, lack of power on acceleration, etc.].
3. Any report or correspondence regarding my equipment's problems.
4. Any other documents or information that may relate directly to this arbitration.

Your prompt attention to this request is greatly appreciated.

Sincerely,

New York Farm Equipment Lemon Law

General Business Law, Article 33-B

§ 697. **Definitions.** Whenever used in this article:

1. “Consumer” means a New York resident who is the purchaser, lessee or transferee of farm equipment, other than for the purposes of resale.
2. “Farm equipment” means any self-propelled farm equipment and implements of husbandry and the accessories and parts included in the sale or lease of same designed and manufactured primarily to be used for agricultural purposes and for the United States market or in compliance with the laws and standards of the United States for which the purchase or lease price for each piece of farm equipment exceeds one thousand five hundred dollars and which is being transferred for the first time from a manufacturer, distributor or new farm machinery dealer and has not been registered or titled in this state or any other state.
3. “Express warranty” or “warranty” means the written affirmation of fact or promise made by a supplier to a consumer in connection with the sale of farm equipment which relates to the nature of the material or workmanship, including any terms or conditions precedent to the enforcement of obligations under that warranty.
4. (a) “Use deduction formula” shall be used on farm equipment which does not contain an engine hour meter or for which hours is not the basic usage standard and means a dollar amount obtained by multiplying the full purchase price or lease price of the farm equipment by a fraction, the denominator of which is one thousand eight hundred twenty-five and the numerator of which is the number of days after delivery of the farm equipment.

(b) “Non-seasonal equipment hours deduction formula” shall be used on farm equipment which contains an engine hour meter and for which hours is the basic usage standard and means the hours of use times the full purchase price, or lease price if applicable, divided by five thousand hours.

(c) “Seasonal equipment hours deduction formula” shall be used on self-propelled harvesting equipment which contains an engine hour meter and for which hours is the basic usage standard and means the hours of use times the full purchase price, or lease price if applicable, divided by two thousand hours.
5. “Lessee” means any consumer who leases farm equipment pursuant to a written lease agreement which provides that the lessee is responsible for repairs to such farm equipment.
6. “Lease price” means the aggregate of: (a) the lessor's actual purchase cost; (b) the freight cost, if applicable; (c) the cost for accessories, if applicable; (d) any fee paid to another to

obtain the lease; and (e) an amount equal to five percent of the lessor's actual purchase cost as prescribed in paragraph (a) of this subdivision.

7. "Supplier" means the manufacturer, wholesaler or distributor that issues the warranty effective in New York State for the farm equipment sold by the dealer.
8. "Dealer" means any person selling or agreeing to sell farm equipment under an agreement with a manufacturer, wholesaler or distributor.
9. "Nonconformity" means any condition of the farm machinery that substantially impairs the value or safety of such equipment, or its use for the purpose for which it was intended.

§ 697-a. Warranty to consumers.

1. Every supplier of new farm equipment which is sold within or outside of this state shall provide a fair and reasonable warranty on all new farm equipment that shall be of no less duration than twelve months following the date of original delivery of the farm equipment to the consumer. If the new farm equipment does not conform to all applicable express warranties during the warranty period, and the consumer reports the nonconformity, defect or condition to the supplier or its dealer in writing before the end of the warranty period, or verbally within thirty days before the warranty ends and then in writing within thirty days after the expiration of the warranty period, such supplier or dealer shall make such repairs as are necessary to conform the new equipment to such express warranties at no charge to the consumer.
 - 1-a. Farm equipment that is not specifically manufactured for the United States market or in compliance with the laws and standards of the United States is not covered by this article. A dealer who sells such farm equipment shall receive written acknowledgement from the purchaser that the purchaser has been made aware that such equipment is not covered by this article.
2. If the supplier or its dealer are unable to conform the farm equipment to any applicable express warranty by repairing the nonconformity after a reasonable number of attempts, the supplier, at the option of the consumer, shall replace the farm equipment with comparable farm equipment provided that such comparable equipment is available from the supplier, or accept return of the equipment from the consumer and refund to the consumer the full purchase price or, if applicable, the lease price and any trade-in allowance plus fees and charges, less a deduction for use calculated pursuant to the formula provided in subdivision four of section six hundred ninety-seven of this article. For purposes of this section, fees and charges shall include but not be limited to license fees, registration fees or other governmental charges. Refunds shall be made to the consumer or lienholder, if any, as their interests may appear on the records of ownership. Such refund shall also be accompanied by the proper application for credit for refund of state and local sales tax as published by the Department of Taxation and Finance and by a notice that the sales tax paid on the purchase price, lease price or portion thereof being refunded is refundable by the Commissioner of Taxation and Finance in accordance with

the provisions of subdivision (f) of section eleven hundred thirty-nine of the tax law.

3. If a dealer refuses to undertake the repairs within the time allotted pursuant to subdivision one of this section, the consumer may immediately forward written notice of such refusal to the supplier, who shall have twenty days from receipt of such notice to commence such repairs.
4. (a) If the supplier refuses to undertake the repairs, the supplier shall provide information for consumer complaint remedies which shall inform the consumer of, among other things, whether an informal dispute settlement mechanism has been established by the supplier and how the consumer may avail himself or herself of such mechanism.

(b) If a supplier has established an informal dispute settlement mechanism, such mechanism shall provide, at a minimum, the following:

(i) That the arbitrators and the consumers who request arbitration are given a written copy of the provisions of this article together with the notice set forth below entitled "New Farm Equipment Bill of Rights" and that the arbitrators participating in such mechanism are trained in arbitration and are familiar with the provisions of this article;

(ii) That the consumers, upon request, are given an opportunity to make an oral presentation to the arbitrator; and

(iii) That the rights and procedures used in the mechanism comply with federal regulations promulgated by the federal trade commission relating to informal dispute settlement mechanisms.

(c) Each consumer shall have the option of submitting any dispute arising under this section, upon the payment of a prescribed filing fee, to an alternate arbitration mechanism established pursuant to regulations promulgated hereunder by the state attorney general. Upon application of the consumer and payment of the filing fee, all suppliers shall submit to such alternate arbitration, and shall pay a fee established pursuant to regulations of the attorney general. Such alternate arbitration shall be conducted by a professional arbitrator or arbitration firm appointed by the state attorney general. Such mechanism shall insure the personal objectivity of its arbitrators and the right of each party to present its case, to be in attendance during any presentation made by the other party and to rebut and refute such presentation. In all other respects, such alternate arbitration mechanism shall be governed by article seventy-five of the civil practice law and rules.

(d) A supplier shall have up to thirty days from the date the consumer notifies the supplier of his or her acceptance of the arbitrator's decision to comply with the terms of that decision. Failure to comply with the thirty-day limitation shall also entitle the consumer to recover a fee of twenty-five dollars a day for each business day of noncompliance up to five hundred dollars. Provided, however, that nothing contained in this paragraph shall impose any liability on a supplier where a delay beyond the thirty-

day period is attributable to a consumer who has requested replacement farm equipment built to order or with options that are not comparable to the farm equipment being replaced or otherwise made compliance impossible within said period. In no event shall a consumer who has resorted to an informal dispute settlement mechanism be precluded from seeking the rights or remedies available by law.

(e) A court may award reasonable attorney's fees to a prevailing plaintiff or to a consumer who prevails in any judicial action or proceeding arising out of an arbitration proceeding held pursuant to paragraph (c) of this subdivision. In the event a prevailing plaintiff is required to retain the services of an attorney to enforce collection of an award granted pursuant to this section, the court may assess against the supplier reasonable attorney's fees for services rendered to enforce collection of such award.

(f) Any action brought pursuant to this section shall be commenced within twenty-four months of the date of original delivery of the farm equipment to the consumer.

(g) It shall be presumed that a reasonable number of attempts have been undertaken to conform the farm equipment to the applicable express warranties, if:

(i) the same nonconformity, defect or condition has been subject to repair four times by the supplier, or its authorized dealers and such nonconformity continues to exist; or

(ii) the farm equipment is out of service by reason of repair of one or more nonconformities by the supplier or its dealer for a cumulative total of thirty calendar days during the warranty period.

(h) The term of an express warranty, the one year warranty period and the thirty day out of service period shall be extended by any reasonable time during which repair services are not available to the consumer for reasons which shall include war, terrorist attack, pestilence, invasion or strike, fire, flood or other natural disaster or unforeseen and unanticipated extraordinary circumstances.

§ 697-b. Affirmative defenses.

It shall be an affirmative defense to claim under this section that:

(a) the nonconformity, defect or condition does not substantially impair the value, use or safety of the equipment;

(b) the nonconformity, defect or condition is the result of abuse, neglect or unauthorized modifications or alterations of the farm equipment;

(c) a claim by the consumer was not filed in a timely manner; or

(d) any other affirmative defense allowed by law.

§ 697-c. Cumulative remedies; prohibition against waiver.

The warranty under this article shall be in addition to and not in derogation of all other rights and privileges which such consumer may have under any other law or instrument. Waiver of any rights by the buyer under this article shall be deemed contrary to public policy and shall be unenforceable and void.

§ 697-d. New farm equipment bill of rights.

A supplier shall provide the following notice, entitled "New Farm Equipment Bill of Rights" along with a written copy of the provisions of this article, to its authorized dealers in this state, and the dealer shall provide such bill of rights to each consumer at the time of purchase or lease of farm equipment. Such notice shall be printed in conspicuous ten-point bold face type.

NEW FARM EQUIPMENT BILL OF RIGHTS

(1) IN ADDITION TO ANY WARRANTIES PROVIDED FOR YOUR FARM EQUIPMENT, YOUR NEW FARM EQUIPMENT, PURCHASED WITHIN OR OUTSIDE OF THIS STATE, IS WARRANTED AGAINST ALL MATERIAL DEFECTS FOR ONE YEAR.

(2) YOU MUST REPORT ANY PROBLEMS TO THE WARRANTOR OR ITS DEALER IN WRITING WITHIN THE WARRANTY PERIOD. ALTHOUGH, IF IN THE LAST THIRTY DAYS OF THE WARRANTY, YOU ARE ONLY ABLE TO PROVIDE A VERBAL NOTICE, YOU WILL HAVE UP TO THIRTY DAYS AFTER THE EXPIRATION OF THE WARRANTY TO PROVIDE A WRITTEN NOTICE.

(3) A WARRANTOR OR A DEALER MAY NOT CHARGE FOR THE PARTS OR LABOR INVOLVED IN THE REPAIR OF THE DEFECT WITHIN THE WARRANTY PERIOD.

(4) IF THE SAME PROBLEM CANNOT BE REPAIRED AFTER FOUR ATTEMPTS DURING THE WARRANTY PERIOD; OR IF YOUR EQUIPMENT IS OUT OF SERVICE TO REPAIR A PROBLEM FOR A TOTAL OF THIRTY DAYS DURING THE WARRANTY PERIOD; OR IF THE SUPPLIER OR ITS DEALER REFUSES TO REPAIR A SUBSTANTIAL DEFECT OR CONDITION WITHIN TWENTY DAYS OF RECEIPT OF WRITTEN NOTICE SENT BY YOU TO THE SUPPLIER; THEN YOU MAY BE ENTITLED, AT YOUR OPTION, TO EITHER COMPARABLE FARM EQUIPMENT OR A REFUND OF YOUR PURCHASE PRICE FROM THE WARRANTOR, MINUS A USE ALLOWANCE.

(5) A WARRANTOR MAY DENY LIABILITY IF THE PROBLEM IS CAUSED BY ABUSE, NEGLIGENCE, OR UNAUTHORIZED MODIFICATIONS

OF THE EQUIPMENT.

(6) A WARRANTOR MAY REFUSE TO EXCHANGE COMPARABLE EQUIPMENT OR REFUND YOUR PURCHASE PRICE IF THE PROBLEM DOES NOT SUBSTANTIALLY IMPAIR THE VALUE, SAFETY OR USE OF YOUR FARM EQUIPMENT.

(7) IF THE WARRANTOR DOES NOT HAVE AN ARBITRATION PROCEDURE, YOU MAY RESORT TO ANY REMEDY BY LAW AND MAY BE ENTITLED TO YOUR ATTORNEY'S FEES IF YOU PREVAIL.

(8) NO CONTRACT OR AGREEMENT CAN VOID ANY OF THESE RIGHTS.

(9) AS AN ALTERNATIVE TO THE ARBITRATION PROCEDURE MADE AVAILABLE THROUGH THE WARRANTOR, YOU MAY INSTEAD CHOOSE TO SUBMIT YOUR CLAIM TO AN INDEPENDENT ARBITRATOR, APPROVED BY THE ATTORNEY GENERAL. YOU WILL HAVE TO PAY A FEE FOR SUCH AN ARBITRATION. CONTACT YOUR LOCAL CONSUMER OFFICE OR ATTORNEY GENERAL'S OFFICE TO FIND OUT HOW TO ARRANGE FOR INDEPENDENT ARBITRATION.

New York State Arbitration Program Regulations

Pursuant to General Business Law, Article 33-B, section 697-a

Title 13 NYCRR Chap. VIII Part 303

Consumer Warranty on Farm Equipment – Arbitration Program Regulations

Section	303.1 Purpose
	303.2 Definitions
	303.3 Appointment of Administrator
	303.4 Consumer’s Request for Arbitration
	303.5 Filing Date
	303.6 Notice to the Supplier
	303.7 Assignment of Arbitrator
	303.8 Scheduling of Arbitration Hearing
	303.9 Adjournments
	303.10 Request for Additional Information or Documents
	303.11 Representation by Counsel or Third Party
	303.12 Interpreters
	303.13 Hearing Procedure
	303.14 Hearing on Documents Only
	303.15 Defaults
	303.16 Withdrawal or Settlement Prior to Decision
	303.17 Decision
	303.18 Record keeping
	303.19 Miscellaneous Provisions

Section 303.1 Purpose

(a) These regulations are promulgated pursuant to General Business Law (“GBL”), Article 33-B, section 697-a, added by chapter 662 of the Laws of 2005 as amended by Chapter 706 of the Laws of 2006. They set forth the procedures for the operation of an alternative arbitration mechanism (the “Program”) as required by GBL section 697-a(c).

(b) These regulations are designed to promote the independent, speedy, efficient and fair disposition of disputes concerning defective farm equipment.

Section 303.2 Definitions

(a) Unless otherwise stated, terms used in these regulations are as defined in GBL section 697.

(b) The term “Administrator” shall mean a professional arbitration firm or individual appointed by the Attorney General to administer the Program.

Section 303.3 Appointment of Administrator

(a) The Attorney General shall appoint an Administrator or Administrators to a definite term not to exceed two years. The term shall be renewable.

(b) The following criteria shall be considered in the selection of an Administrator: capability, objectivity, non-affiliation with a supplier’s arbitration program, reliability, experience, financial stability, extent of geographic coverage, and fee structure.

(c) The Attorney General shall give appropriate public notice at least 60 days prior to the expiration of an Administrator’s term inviting any interested qualified party to apply in writing for the position of Administrator within 30 days from the date of the public notice.

(d) Upon a vacancy occurring prior to the expiration of an Administrator's term, the time periods in subdivision (c) shall not apply and the Attorney General shall take appropriate steps to assure the continued administration of the Program.

Section 303.4 Consumer's Request for Arbitration

(a) The Attorney General shall prescribe and make available "Request for Arbitration" forms for GBL Article 33-B claims. To apply for arbitration under the Program, a consumer shall obtain, complete, and submit the appropriate form to the Attorney General.

(b) Those consumers wishing a hearing on documents only shall so indicate on the form.

(c) The consumer shall indicate on the form his/her choice of remedy (i.e., either refund or comparable replacement equipment), in the event the arbitrator rules in favor of the consumer. Such choice shall be followed by the arbitrator unless the consumer advises the Administrator in writing of a change in his/her choice of remedy prior to the arbitrator's rendering of a decision.

(d) Upon receipt, the Attorney General shall date-stamp and assign a case number to the form.

(e) The Attorney General shall review the submitted form for completeness and eligibility and shall either accept it or reject it.

(f) If the form is rejected by the Attorney General, the Attorney General shall promptly return the form, notifying the consumer in writing of the reason(s) for the rejection and, where possible, inviting the consumer to correct the deficiencies.

(g) If the form is accepted by the Attorney General, he shall refer it to the

Administrator for processing. The Attorney General shall promptly notify the consumer in writing of the acceptance of the form and of its referral to the Administrator. The Attorney General shall prescribe a filing fee and an arbitration fee to be paid by the consumer and the supplier, respectively. Such notice shall also advise the consumer to pay the prescribed filing fee directly to the Administrator.

(h) If, after 30 days from the date of the notice of acceptance, the Administrator fails to receive the prescribed filing fee, the Administrator shall promptly advise the consumer in writing that unless such fee is received within 60 days from the date of the first notice, the form will be returned and the case marked closed. After such time, if the consumer wishes to pursue a claim under the Program, (s)he must submit a new form to the Attorney General.

(i) Participation in any informal dispute resolution mechanism that is not binding on the consumer shall not affect the eligibility of a consumer to participate in the Program.

Section 303.5 Filing Date

On the day the Administrator receives the prescribed filing fee, the Administrator shall date stamp the “Request for Arbitration” form. Such date shall be considered the “filing date”.

Section 303.6 Notice to the Supplier

(a) Each supplier of farm equipment sold to a New York consumer shall notify the Attorney General in writing, within 10 days after the effective date of these regulations, of the name, address and telephone number of the person designated to receive notices under the GBL Article 33-B Program. Such information shall be presumed correct unless updated by the supplier.

(b) Within 5 days of the filing date, the Administrator shall send the supplier's designee a notice that a Request for Arbitration has been filed by the consumer and that the supplier must remit the prescribed arbitration fee to the Administrator within 10 days from the date of mailing by the Administrator. The date the prescribed arbitration fee is received by the Administrator is considered the "commencement date."

(c) Within 5 days of the "commencement date," the Administrator shall send the supplier's designee a copy of the consumer's completed Request for Arbitration form along with a notice that it may respond in writing. Such response shall be sent in triplicate, within 15 days of the commencement date, to the Administrator, who shall promptly forward one copy to the consumer.

(d) If, after 10 days from the date of mailing of the first notice to the supplier requesting payment of the prescribed arbitration fee, the Administrator fails to receive such prescribed fee, the Administrator shall promptly advise the supplier in writing that unless such fee is received within 20 days from the date of the first notice, the Attorney General's Office will be notified of the supplier's non-compliance. In the event that the Administrator fails to receive the prescribed arbitration fee from the supplier within 20 days of the first notice, it shall promptly notify the Attorney General's Office in writing of such non-compliance.

Section 303.7 Assignment of Arbitrator

(a) After the commencement date, the Administrator shall assign an arbitrator to hear and decide the case. Notice of assignment shall be mailed to the arbitrator and the parties along with a copy of these regulations and GBL Article 33-B.

(b) The arbitrator assigned shall not have any bias, any financial or personal

interest in the outcome of the hearing, or any current connection to the sale, distribution or manufacture of farm equipment.

(c) Upon a finding by the Administrator, at any stage of the process, of grounds to disqualify the arbitrator, the Administrator shall dismiss the arbitrator and assign another arbitrator to the case.

(d) If any arbitrator should resign, die, withdraw or be unable to perform the duties of his/her position, the Administrator shall assign another arbitrator to the case and the period to render a decision shall be extended accordingly.

(e) Arbitrators shall undergo training established by the Administrator and the Attorney General. This training shall include procedural techniques, the duties and responsibilities of arbitrators under the Programs, and the substantive provisions of GBL Article 33-B.

Section 303.8 Scheduling of Arbitration Hearings

(a) The arbitration shall be conducted as an oral hearing unless the consumer has requested, on the "Request for Arbitration" form, a hearing on documents only and both parties agree to a documents only hearing; provided, however, that the parties may mutually agree in writing to change the mode of hearing. Upon such change, the parties shall notify the Administrator who shall comply with the request and, where necessary, such request shall waive the 40 day limit in which a decision must be rendered.

(b) The consumer may respond in writing to the supplier's submission within 25 days of the commencement date. Such response shall be sent in triplicate to the Administrator, who shall promptly forward a copy to the supplier.

(c) An oral hearing, where appropriate, shall be scheduled no later than 35 days

from the commencement date, unless a later date is agreed to by both parties. The Administrator shall notify both parties of the date, time and place of the hearing at least 8 days prior to its scheduled date.

(d) Hearings shall be scheduled to accommodate, where possible, time-of-day needs of the consumer and the supplier, including evening and weekend hours.

(e) Hearings shall also be scheduled to accommodate geographic needs of the consumer. Regular hearing sites shall be established at locations designated by the Administrator. No hearing site established by the Administrator shall be discontinued without the approval of the Attorney General. In addition, where a regular site is more than 100 miles from the consumer's residence, a hearing must be scheduled at the request of the consumer at a location designated by the Administrator within 100 miles of the consumer's residence.

(f) In unusual circumstances, a party may present its case by telephone, provided that adequate advance notice is given to the Administrator and to the other party. In such cases, the arbitrator and both parties shall be included and the party requesting the telephonic hearing shall pay all costs associated therewith.

Section 303.9 Adjournments

Either party may make a request to reschedule the hearing. Except in unusual circumstances, such request shall be made to the Administrator orally or in writing at least two business days prior to the hearing date. Upon a finding of good cause, the arbitrator may reschedule the hearing. In unusual circumstances, the arbitrator may reschedule the hearing at any time prior to its commencement.

Section 303.10 Request for Additional Information or Documents

(a) A party, by application in writing to the Administrator, may request the arbitrator to direct the other party to produce any documents or information. The arbitrator shall, upon receiving such request, or on his or her own initiative, direct the production of documents or information which she or he believes will reasonably assist a party in presenting his or her case or assist the arbitrator in deciding the case. The arbitrator's direction for the production of documents and information shall allow a reasonable time for the gathering and production of such documents and information.

(b) All documents and information forwarded in compliance with the arbitrator's direction shall be legible and received no later than three business days prior to the date of the hearing. Each party shall bear its own photocopying costs.

(c) Upon failure of a party to comply with the arbitrator's direction to produce documents and/or information, the arbitrator may draw a negative inference concerning any issue involving such documents or information.

(d) The term "documents" in this section shall include, but not be limited to, relevant supplier's service bulletins, dealer work orders, diagnoses, bills, and all communications relating to the consumer's claim.

(e) At the request of either party or on his or her own initiative, the arbitrator, when she or he believes it appropriate, may subpoena any witnesses to appear or documents to be presented at the hearing.

Section 303.11 Representation by Counsel or Third Party

Any party may be represented by counsel or assisted by any third party.

Section 303.12 Interpreters

Any party wishing an interpreter shall make the necessary arrangements and assume the costs for such service.

Section 303.13 Hearing Procedure

(a) The conduct of the hearing shall afford each party a full and equal opportunity to present his/her case.

(b) The arbitrator shall administer an oath or affirmation to each individual who testifies.

(c) Formal rules of evidence shall not apply; the parties may introduce any relevant evidence.

(d) The arbitrator shall receive in evidence a decision rendered in a previous arbitration which was not binding on the consumer and give it such weight as the arbitrator deems appropriate.

(e) The arbitrator shall receive relevant evidence of witnesses by affidavit, and such affidavits shall be given such weight as the arbitrator deems appropriate.

(f) The arbitrator shall have discretion to examine or ride in the consumer's equipment. Both parties shall be afforded the opportunity to be present and accompany the arbitrator on any such examination or ride.

(g) The consumer shall first present evidence in support of his/her claim, and the supplier shall then present its evidence. Each party may question the witnesses called by the other. The arbitrator may question any party or witness at any time during the hearing.

- (h) The arbitrator shall maintain decorum at the hearing.
- (i) The arbitrator may request additional evidence after the closing the hearing.

All such evidence shall be submitted to the Administrator for transmission to the arbitrator and the parties.

Section 303.14 Hearing on Documents Only

If the hearing is on documents only, all documents shall be submitted to the Administrator no later than 30 days from the commencement date. The arbitrator shall render a timely decision based on all documents submitted.

Section 303.15 Defaults

(a) Upon the failure of a party to appear at an oral hearing, the arbitrator shall nevertheless conduct the hearing and render a timely decision based on the evidence presented and documents contained in the file.

(b) If neither party appears at the hearing, the arbitrator shall return the case to the Administrator who shall close it and so notify the parties.

(c) In a documents-only hearing, where the supplier fails to respond to the claim, the arbitrator shall render a decision based upon the documents contained in the file.

Section 303.16 Withdrawal or Settlement Prior to Decision

(a) A consumer may withdraw his/her request for arbitration at any time prior to decision. If the Administrator is notified by the consumer of his/her request to withdraw the claim within seven business days of the commencement date, the Administrator shall refund the

filing fee to the consumer and the arbitration fee to the supplier.

(b) If the parties agree to a settlement more than seven business days after the commencement date but prior to the issuance of a decision, they shall notify the Administrator in writing of the terms of the settlement. Upon the request of the parties, the arbitrator shall issue a decision reflecting the settlement.

Section 303.17 The Decision

(a) The arbitrator shall render a decision within 40 days from the commencement date which shall be in writing on a form prescribed by the Administrator and approved by the Attorney General. The decision shall be dated and signed by the arbitrator. An electronic signature authorized by the arbitrator shall be deemed a valid signature.

(b) In his/her decision, the arbitrator shall determine whether the consumer qualifies for relief pursuant to GBL section 697-a. If the arbitrator finds that the consumer qualifies, (s)he shall award the specific remedies prescribed by the statute.

(c) The decision shall specify the monetary award where applicable. A calculation of the amount, in accordance with GBL section 697-a shall be included in the decision. The decision shall also award the prescribed filing fee to a successful consumer.

(d) The decision shall, where applicable, require that any action required by the supplier be completed within 30 days from the date the Administrator notifies the supplier of the decision.

(e) The Administrator shall review the decision for technical completeness and accuracy and advise the arbitrator of any suggested technical corrections, such as computational, typographical or other minor corrections. Such changes shall be made only with the consent of the

arbitrator.

(f) After review, the Administrator shall, within 45 days of the commencement date, mail a copy of the final decision to both parties, the arbitrator, and the Attorney General. The date of mailing to the parties shall be date-stamped by the Administrator on the decision as the date of issuance.

(g) Failure to mail the decision to the parties within the specified time period or failure to hold the hearing within the prescribed time shall not invalidate the decision.

(h) The arbitrator's decision is binding on both parties and is final, subject only to judicial review pursuant to CPLR, Article 75. The decision shall include a statement to this effect.

Section 303.18 Record keeping

(a) The Administrator shall keep all records pertaining to each arbitration for a period of at least two years and shall make the records of a particular arbitration available for inspection upon written request by a party to that arbitration, and shall make records of all arbitrations available to the Attorney General upon written request.

(b) The Administrator shall maintain records and statistics for the Program.

Section 303.19 Miscellaneous Provisions

(a) All communications between the parties and the arbitrator, other than at oral hearings, shall be directed to the Administrator.

(b) If any provision of these regulations or the application of such provision to any persons or circumstances shall be held invalid, the validity of the remainder of these

regulations and the applicability of such provision to other persons or circumstances shall not be affected thereby.

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