

By: Martinez Fischer

H.B. No. 3430

A BILL TO BE ENTITLED

1 AN ACT

2 relating to enforcement of arbitration agreements and arbitration  
3 awards.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 171.001, Civil Practice and Remedies  
6 Code, is amended by amending Subsection (a) and adding Subsections  
7 (c) and (d) to read as follows:

8 (a) Except as provided by Subsections (c) and (d), a [A]  
9 written agreement to arbitrate is valid and enforceable if the  
10 agreement is to arbitrate a controversy that:

11 (1) exists at the time of the agreement; or

12 (2) arises between the parties after the date of the  
13 agreement.

14 (c) An agreement to arbitrate in connection with the  
15 acquisition by one or more individuals of property, services,  
16 money, or credit in which the total consideration to be furnished by  
17 the individual is not more than \$50,000 is not valid or enforceable  
18 unless:

19 (1) the parties to the agreement agree in writing to  
20 arbitrate; and

21 (2) the agreement is signed by each party's attorney.

22 (d) An agreement to arbitrate a claim for personal injury is  
23 not valid and enforceable unless:

24 (1) each party to the claim, on the advice of counsel,

1 agrees in writing to arbitrate; and

2 (2) the agreement is signed by each party and each  
3 party's attorney.

4 SECTION 2. Section 171.002(a), Civil Practice and Remedies  
5 Code, is amended to read as follows:

6 (a) This chapter does not apply to:

7 (1) a collective bargaining agreement between an  
8 employer and a labor union;

9 ~~(2) [an agreement for the acquisition by one or more~~  
10 ~~individuals of property, services, money, or credit in which the~~  
11 ~~total consideration to be furnished by the individual is not more~~  
12 ~~than \$50,000, except as provided by Subsection (b)];~~

13 ~~[(3) a claim for personal injury, except as provided~~  
14 ~~by Subsection (c)];~~

15 ~~[(4)]~~ a claim for workers' compensation benefits; or

16 (3) ~~[(5)]~~ an agreement made before January 1, 1966.

17 SECTION 3. Section 171.088(a), Civil Practice and Remedies  
18 Code, is amended to read as follows:

19 (a) On application of a party, the court shall vacate an  
20 award if:

21 (1) the award was obtained by corruption, fraud, or  
22 other undue means;

23 (2) the rights of a party were prejudiced by:

24 (A) evident partiality by an arbitrator  
25 appointed as a neutral arbitrator;

26 (B) corruption in an arbitrator; or

27 (C) misconduct or wilful misbehavior of an

1 arbitrator;

2 (3) the arbitrators:

3 (A) exceeded their powers;

4 (B) refused to postpone the hearing after a  
5 showing of sufficient cause for the postponement;

6 (C) refused to hear evidence material to the  
7 controversy; or

8 (D) conducted the hearing, contrary to Section  
9 171.043, 171.044, 171.045, 171.046, or 171.047, in a manner that  
10 substantially prejudiced the rights of a party; [~~or~~]

11 (4) there was no agreement to arbitrate, the issue was  
12 not adversely determined in a proceeding under Subchapter B, and  
13 the party did not participate in the arbitration hearing without  
14 raising the objection; or

15 (5) it is manifest that:

16 (A) the arbitrator acted contrary to the  
17 applicable law and enforcement of the award would result in  
18 significant injustice;

19 (B) the award is unfounded in reason or fact; or

20 (C) the award is mistakenly based on a crucial  
21 assumption that is conceded not to be a fact.

22 SECTION 4. Section 171.089, Civil Practice and Remedies  
23 Code, is amended by adding Subsection (d) to read as follows:

24 (d) If the award is vacated under Section 171.088(a)(1) or  
25 (2) and the conduct of the nonmoving party contributed to the  
26 vacation of the award, at the election of the moving party, the  
27 court shall order all subsequent proceedings to the dispute to be

1 adjudicated in a court of appropriate jurisdiction.

2 SECTION 5. Section 171.098, Civil Practice and Remedies  
3 Code, is amended by amending Subsection (b) and adding Subsection  
4 (c) to read as follows:

5 (b) Except as provided by Subsection (c), the [~~The~~] appeal  
6 shall be taken in the manner and to the same extent as an appeal from  
7 an order or judgment in a civil action.

8 (c) A party may appeal a judgment, decree, or order in a case  
9 to which the Federal Arbitration Act (9 U.S.C. Sec. 1 et seq.), as  
10 amended, applies in the manner and to the same extent as provided by  
11 that Act.

12 SECTION 6. Sections 171.002(b) and (c), Civil Practice and  
13 Remedies Code, are repealed.

14 SECTION 7. The change in law made by this Act applies only  
15 to arbitration under an agreement entered into on or after the  
16 effective date of this Act. Arbitration under an agreement entered  
17 into before the effective date of this Act is governed by the law in  
18 effect immediately before that date, and that law is continued in  
19 effect for that purpose.

20 SECTION 8. This Act takes effect September 1, 2003.