

By: West

S.B. No. 504

A BILL TO BE ENTITLED

AN ACT

relating to the filing of certain information by arbitrators after each arbitration.

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

SECTION 1. Title 7, Civil Practice and Remedies Code, is amended by adding Chapter 181 to read as follows:

CHAPTER 181. ARBITRATOR REQUIREMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 181.001. POLICY; FINDINGS. (a) State and federal policy favors submitting disputes to arbitration. The benefits of arbitration include quicker and less expensive resolution of disputes than is generally available by litigation.

(b) It is this state's policy to ensure that a person's right to the fair and impartial hearing and resolution of a civil complaint is not infringed. To protect that right, it is in the public interest and is the purpose of this chapter to require the provision of information needed to evaluate whether the public policy supporting arbitration is being served and to establish a basic system for evaluating and ensuring the accountability of arbitrators and arbitration services providers.

Sec. 181.002. DEFINITIONS. In this chapter:

(1) "Arbitration panel" means a group or panel of arbitrators.

(2) "Arbitration services provider" means a person

1 that holds itself out as:

2 (A) managing, coordinating, or administering
3 arbitrations;

4 (B) providing the services of arbitrators;

5 (C) making referrals or appointments to
6 arbitrators; or

7 (D) providing lists of arbitrators.

8 (3) "Arbitrator" means a neutral individual,
9 including a member of a panel of neutral individuals, who hears the
10 claims of the parties to a dispute and renders a decision and who
11 is:

12 (A) chosen by the parties to the dispute;

13 (B) appointed by a court; or

14 (C) selected by an arbitration services provider
15 under an agreement of the parties or applicable rules.

16 (4) "Consumer arbitration" means an arbitration that
17 arises out of or relates to a transaction in which an individual
18 acquires or seeks to acquire credit, or the purchase or lease of
19 goods or services, primarily intended to be used for personal,
20 family, or household purposes.

21 (5) "Employment arbitration" means an arbitration
22 that arises out of or relates to an employment relationship or
23 prospective employment relationship. The term does not include a
24 grievance or arbitration proceeding subject to a collective
25 bargaining agreement.

26 (6) "Office of court administration" means the Office
27 of Court Administration of the Texas Judicial System.

1 Sec. 181.003. APPLICABILITY. (a) Except as provided by
2 Subsection (b), the requirements of this chapter apply to any
3 consumer arbitration or employment arbitration conducted in this
4 state that is subject to Chapter 171 or Chapter 1, Federal
5 Arbitration Act (9 U.S.C. Sections 1-16), as amended.

6 (b) This chapter does not apply to an arbitration conducted
7 or administered by a self-regulatory organization as defined by the
8 Securities Exchange Act of 1934 (15 U.S.C. Section 78c), as
9 amended, the Commodity Exchange Act (7 U.S.C. Section 1 et seq.), as
10 amended, or regulations adopted under those acts.

11 [Sections 181.004-181.050 reserved for expansion]

12 SUBCHAPTER B. DISCLOSURE PROCEDURES

13 Sec. 181.051. DISCLOSURE FILING. For each consumer
14 arbitration or employment arbitration conducted in this state, the
15 arbitrator or arbitration panel that conducts the arbitration or,
16 if an arbitration services provider administers the arbitration,
17 the arbitration services provider shall file an arbitration
18 disclosure with the office of court administration before the 90th
19 day after the date the arbitration award is signed.

20 Sec. 181.052. DISCLOSURE INFORMATION. The disclosure must
21 contain the following information:

- 22 (1) the names of the parties to the dispute;
23 (2) the name of each party's attorney, if any;
24 (3) the name of the arbitrator or of each member of the
25 arbitration panel conducting the arbitration;
26 (4) the name of the arbitration services provider
27 administering the arbitration, if any;

1 (5) a general statement of the nature of the dispute
2 and the relief requested by each party;

3 (6) the arbitrator's or the arbitration panel's
4 decision and award;

5 (7) the date the award was signed;

6 (8) the date the arbitrator or arbitration panel was
7 selected or appointed to conduct the arbitration;

8 (9) the fees and expenses charged by each arbitrator;
9 and

10 (10) the fees and expenses charged by the arbitration
11 services provider administering the arbitration, if any.

12 Sec. 181.053. OPTION TO LIMIT DISCLOSURE. (a)

13 Notwithstanding Section 181.052, the parties may agree to except
14 from disclosure the information required by Sections 181.052(1),
15 (2), and (6).

16 (b) An agreement to limit disclosure may not be entered
17 into:

18 (1) before the 20th day after the filing and service of
19 the demand for arbitration; or

20 (2) after the close of the arbitration hearing.

21 (c) The parties shall provide evidence of their agreement to
22 limit disclosure by signing a form adopted for that purpose by the
23 office of court administration, under the supervision of the chief
24 justice.

25 (d) If the parties agree to limit disclosure:

26 (1) the arbitrator or arbitration services provider
27 shall:

1 (A) retain the original agreement to limit
2 disclosure in the records of the proceeding until the second
3 anniversary of the date on which the award is signed; and

4 (B) provide each party with a copy of the
5 agreement; and

6 (2) the arbitrator or arbitration services provider,
7 as applicable, shall file with the office of court administration
8 the information not excepted by this section from disclosure in
9 accordance with this subchapter and shall certify to the office of
10 court administration that the parties have signed and submitted an
11 agreement to limit disclosure.

12 Sec. 181.054. INTERNET SITE FOR INFORMATION. The office of
13 court administration shall make the information collected under
14 this subchapter available on its Internet website.

15 [Sections 181.055-181.100 reserved for expansion]

16 SUBCHAPTER C. ENFORCEMENT PROVISIONS

17 Sec. 181.101. LATE FILING FEE. (a) The director of the
18 office of court administration, under the supervision of the chief
19 justice, shall implement procedures for the collection of a fee not
20 to exceed \$100 for the late filing of an arbitration disclosure in
21 accordance with rules adopted by the supreme court for the
22 efficient administration of justice.

23 (b) A party to an arbitration, or an attorney for the party,
24 may report an overdue filing of the arbitration disclosure to the
25 office of court administration.

26 (c) An arbitration disclosure that is filed within the
27 period specified by Section 181.051 is not subject to a filing fee.

1 Sec. 181.102. LATE DISCLOSURE FILERS; INELIGIBILITY FOR
2 ARBITRATION ADMINISTRATION. (a) An arbitrator, including a member
3 of an arbitration panel, or arbitration services provider is
4 ineligible for a court appointment to arbitrate or administer an
5 arbitration under Section 171.041(b) during the period in which the
6 arbitrator or panel of which the arbitrator is a member or
7 arbitration services provider:

8 (1) fails to file an overdue arbitration disclosure;
9 or

10 (2) owes a fee for late filing.

11 (b) An arbitrator who personally or as a member of an
12 arbitration panel has failed, or an arbitration services provider
13 that has failed, three times in the preceding 12-month period to
14 timely file arbitration disclosures is ineligible for a court
15 appointment to arbitrate or administer an arbitration under Section
16 171.041(b) until the first anniversary of the date the office of
17 court administration receives the third report of an overdue filing
18 with respect to that arbitrator or arbitration services provider.

19 (c) The office of court administration shall compile,
20 maintain, and publish on the Internet an updated list of
21 arbitrators and arbitration services providers that are ineligible
22 to conduct or administer a court-ordered arbitration under
23 Subsection (a) or (b).

24 (d) The director of the office of court administration,
25 under the supervision of the chief justice, shall implement a
26 procedure by which an arbitrator or arbitration services provider
27 can be removed from the published list, in accordance with rules

1 adopted by the supreme court for the efficient administration of
2 justice.

3 (e) The office of court administration and the Texas
4 Judicial Council shall include in the annual report under Section
5 71.034, Government Code, a list of the names of all arbitrators or
6 arbitration services providers who have been on the ineligible list
7 during the period included in that report.

8 [Sections 181.103-181.150 reserved for expansion]

9 SUBCHAPTER D. IMMUNITY

10 Sec. 181.151. IMMUNITY FROM CIVIL LIABILITY. An arbitrator
11 or arbitration services provider is immune from civil liability for
12 providing information required for compliance with this chapter
13 unless the complaining party proves that the arbitrator or
14 arbitration services provider recklessly or knowingly provided
15 false information.

16 SECTION 2. (a) For the purposes of this section, the date an
17 arbitration is commenced is the date an arbitrator, as defined by
18 Section 181.002, Civil Practice and Remedies Code, as added by this
19 Act, is selected or appointed.

20 (b) Chapter 181, Civil Practice and Remedies Code, as added
21 by this Act, applies only to an arbitration commenced on or after
22 January 1, 2006. An arbitration commenced before January 1, 2006,
23 is governed by the law applicable to arbitrations immediately
24 before January 1, 2006, and that law is continued in effect for that
25 purpose.

26 SECTION 3. This Act takes effect January 1, 2006.