

1-1 By: West S.B. No. 504
1-2 (In the Senate - Filed February 14, 2005; February 24, 2005,
1-3 read first time and referred to Committee on Business and Commerce;
1-4 March 22, 2005, rereferred to Committee on Jurisprudence;
1-5 May 2, 2005, reported adversely, with favorable Committee
1-6 Substitute by the following vote: Yeas 4, Nays 0; May 2, 2005,
1-7 sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR S.B. No. 504 By: Wentworth

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the filing of certain information by arbitrators after
1-12 each arbitration.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Title 7, Civil Practice and Remedies Code, is
1-15 amended by adding Chapter 181 to read as follows:

1-16 CHAPTER 181. ARBITRATOR REQUIREMENTS

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 181.001. POLICY; FINDINGS. (a) State and federal
1-19 policy favors submitting disputes to arbitration. The benefits of
1-20 arbitration include quicker and less expensive resolution of
1-21 disputes than is generally available by litigation.

1-22 (b) It is this state's policy to ensure that a person's right
1-23 to the fair and impartial hearing and resolution of a civil
1-24 complaint is not infringed. To protect that right, it is in the
1-25 public interest and is the purpose of this chapter to require the
1-26 provision of information needed to evaluate whether the public
1-27 policy supporting arbitration is being served and to establish a
1-28 basic system for evaluating and ensuring the accountability of
1-29 arbitrators and arbitration services providers.

1-30 Sec. 181.002. DEFINITIONS. In this chapter:

1-31 (1) "Arbitration panel" means a group or panel of
1-32 arbitrators.

1-33 (2) "Arbitration services provider" means a person
1-34 that holds itself out as:

1-35 (A) managing, coordinating, or administering
1-36 arbitrations;

1-37 (B) providing the services of arbitrators;

1-38 (C) making referrals or appointments to
1-39 arbitrators; or

1-40 (D) providing lists of arbitrators.

1-41 (3) "Arbitrator" means a neutral individual,
1-42 including a member of a panel of neutral individuals, who hears the
1-43 claims of the parties to a dispute and renders a decision and who
1-44 is:

1-45 (A) chosen by the parties to the dispute;

1-46 (B) appointed by a court; or

1-47 (C) selected by an arbitration services provider
1-48 under an agreement of the parties or applicable rules.

1-49 (4) "Consumer arbitration" means an arbitration that
1-50 arises out of or relates to a transaction in which an individual
1-51 acquires or seeks to acquire credit, or the purchase or lease of
1-52 goods or services, primarily intended to be used for personal,
1-53 family, or household purposes.

1-54 (5) "Employment arbitration" means an arbitration
1-55 that arises out of or relates to an employment relationship or
1-56 prospective employment relationship. The term does not include a
1-57 grievance or arbitration proceeding subject to a collective
1-58 bargaining agreement.

1-59 (6) "Office of court administration" means the Office
1-60 of Court Administration of the Texas Judicial System.

1-61 Sec. 181.003. APPLICABILITY. (a) Except as provided by
1-62 Subsection (b), the requirements of this chapter apply to any
1-63 consumer arbitration or employment arbitration conducted in this

state that is subject to Chapter 171 or Chapter 1, Federal Arbitration Act (9 U.S.C. Sections 1-16).

(b) This chapter does not apply to:

(1) an arbitration conducted or administered by a self-regulatory organization as defined by the Securities Exchange Act of 1934 (15 U.S.C. Section 78c), the Commodity Exchange Act (7 U.S.C. Section 1 et seq.), or regulations adopted under those acts; or

(2) a residential construction arbitration to which Chapter 437, Property Code, applies.

[Sections 181.004-181.050 reserved for expansion]

SUBCHAPTER B. DISCLOSURE PROCEDURES

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

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

(1) the name of the arbitration services provider administering the arbitration, if any;

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

(3) a description of the arbitrator's or the arbitration panel's decision and award that states in general terms which party prevailed and if that party received the relief requested;

(4) the date the award was signed;

(5) the date the arbitrator or arbitration panel was selected or appointed to conduct the arbitration;

(6) the fees and expenses charged by each arbitrator; and

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

Sec. 181.053. OPTION TO LIMIT DISCLOSURE.

(a) Notwithstanding Section 181.052, the parties may agree to except from disclosure the information required by Section 181.052(3).

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

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

(2) after the close of the arbitration hearing.

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

(d) If the parties agree to limit disclosure:

(1) the arbitrator or arbitration services provider shall:

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

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

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

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

[Sections 181.055-181.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 181.101. LATE FILING FEE. (a) The administrative

3-1 director of the office of court administration, under the
3-2 supervision of the chief justice, shall implement procedures for
3-3 the collection of a fee not to exceed \$100 for the late filing of an
3-4 arbitration disclosure in accordance with rules adopted by the
3-5 supreme court for the efficient administration of justice.

3-6 (b) A party to an arbitration, or an attorney for the party,
3-7 may report an overdue filing of the arbitration disclosure to the
3-8 office of court administration.

3-9 (c) An arbitration disclosure that is filed within the
3-10 period specified by Section 181.051 is not subject to a filing fee.

3-11 Sec. 181.102. LATE DISCLOSURE FILERS; INELIGIBILITY FOR
3-12 ARBITRATION ADMINISTRATION. (a) An arbitrator, including a
3-13 member of an arbitration panel, or arbitration services provider is
3-14 ineligible for a court appointment to arbitrate or administer an
3-15 arbitration under Section 171.041(b) during the period in which the
3-16 arbitrator or panel of which the arbitrator is a member or
3-17 arbitration services provider:

3-18 (1) fails to file an overdue arbitration disclosure;
3-19 or

3-20 (2) owes a fee for late filing.

3-21 (b) An arbitrator who personally or as a member of an
3-22 arbitration panel has failed, or an arbitration services provider
3-23 that has failed, three times in the preceding 12-month period to
3-24 timely file arbitration disclosures is ineligible for a court
3-25 appointment to arbitrate or administer an arbitration under Section
3-26 171.041(b) until the first anniversary of the date the office of
3-27 court administration receives the third report of an overdue filing
3-28 with respect to that arbitrator or arbitration services provider.

3-29 (c) The office of court administration shall compile,
3-30 maintain, and publish on the Internet an updated list of
3-31 arbitrators and arbitration services providers that are ineligible
3-32 to conduct or administer a court-ordered arbitration under
3-33 Subsection (a) or (b).

3-34 (d) The administrative director of the office of court
3-35 administration, under the supervision of the chief justice, shall
3-36 implement a procedure by which an arbitrator or arbitration
3-37 services provider can be removed from the published list, in
3-38 accordance with rules adopted by the supreme court for the
3-39 efficient administration of justice.

3-40 (e) The office of court administration and the Texas
3-41 Judicial Council shall include in the annual report under Section
3-42 71.034, Government Code, a list of the names of all arbitrators or
3-43 arbitration services providers who have been on the ineligible list
3-44 during the period included in that report.

3-45 [Sections 181.103-181.150 reserved for expansion]

3-46 SUBCHAPTER D. IMMUNITY

3-47 Sec. 181.151. IMMUNITY FROM CIVIL LIABILITY. An arbitrator
3-48 or arbitration services provider is immune from civil liability for
3-49 providing information required for compliance with this chapter
3-50 unless the complaining party proves that the arbitrator or
3-51 arbitration services provider recklessly or knowingly provided
3-52 false information.

3-53 SECTION 2. (a) For the purposes of this section, the date
3-54 an arbitration is commenced is the date an arbitrator, as defined by
3-55 Section 181.002, Civil Practice and Remedies Code, as added by this
3-56 Act, is selected or appointed.

3-57 (b) Chapter 181, Civil Practice and Remedies Code, as added
3-58 by this Act, applies only to an arbitration commenced on or after
3-59 January 1, 2006. An arbitration commenced before January 1, 2006,
3-60 is governed by the law applicable to arbitrations immediately
3-61 before January 1, 2006, and that law is continued in effect for that
3-62 purpose.

3-63 SECTION 3. This Act takes effect January 1, 2006.

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