

By: West, Royce

S.B. No. 539

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. This term does not include an
21 arbitration proceeding between members of the same real estate
22 trade association.

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

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

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

8 (b) This chapter does not apply to:

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

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

16 [Sections 181.004-181.050 reserved for expansion]

17 SUBCHAPTER B. DISCLOSURE PROCEDURES

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

25 Sec. 181.052. DISCLOSURE INFORMATION. (a) The disclosure
26 may not reveal the name of any party to the arbitration.

27 (b) Subject to Subsection (a), the disclosure must contain

1 the following information:

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

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

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

10 (4) the date the award was signed;

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

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

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

16 (8) a statement of whether the claimant or respondent
17 prevailed in the arbitration; and

18 (9) a description of the general nature of the
19 prevailing party, for example, whether the prevailing party is a
20 business, consumer, employer, employee, or other appropriate
21 category.

22 Sec. 181.053. OPTION TO LIMIT DISCLOSURE.

23 (a) Notwithstanding Section 181.052, the parties may agree to
24 except from disclosure the information required by Section
25 181.052(3).

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

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

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

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

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

9 (1) the arbitrator or arbitration services provider
10 shall:

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

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

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

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

25 [Sections 181.055-181.100 reserved for expansion]

26 SUBCHAPTER C. ENFORCEMENT PROVISIONS

27 Sec. 181.101. LATE FILING FEE. (a) The director of the

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

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

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

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

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

20 (2) owes a fee for late filing.

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

1 with respect to that arbitrator or arbitration services provider.

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

7 (d) The director of the office of court administration,
8 under the supervision of the chief justice, shall implement a
9 procedure by which an arbitrator or arbitration services provider
10 can be removed from the published list, in accordance with rules
11 adopted by the supreme court for the efficient administration of
12 justice.

13 (e) The office of court administration and the Texas
14 Judicial Council shall include in the annual report under Section
15 71.034, Government Code, a list of the names of all arbitrators or
16 arbitration services providers who have been on the ineligible list
17 during the period included in that report.

18 [Sections 181.103-181.150 reserved for expansion]

19 SUBCHAPTER D. IMMUNITY

20 Sec. 181.151. IMMUNITY FROM CIVIL LIABILITY. An arbitrator
21 or arbitration services provider is immune from civil liability for
22 providing information required for compliance with this chapter
23 unless the complaining party proves that the arbitrator or
24 arbitration services provider recklessly or knowingly provided
25 false information.

26 SECTION 2. (a) For the purposes of this section, the date
27 an arbitration is commenced is the date an arbitrator, as defined by

1 Section 181.002, Civil Practice and Remedies Code, as added by this
2 Act, is selected or appointed.

3 (b) Chapter 181, Civil Practice and Remedies Code, as added
4 by this Act, applies only to an arbitration commenced on or after
5 January 1, 2008. An arbitration commenced before January 1, 2008,
6 is governed by the law applicable to arbitrations immediately
7 before January 1, 2008, and that law is continued in effect for that
8 purpose.

9 SECTION 3. This Act takes effect January 1, 2008.