
SUBSTITUTE SENATE BILL 5280

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Rasmussen, A. Smith and Erwin; by request of Attorney General).

Read first time February 14, 1991.

1 AN ACT Relating to consumer and business dispute resolution;
2 amending RCW 7.75.040, 7.75.050, and 7.75.090; and adding a new chapter
3 to Title 19 RCW.

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

5 NEW SECTION. **Sec. 1.** The attorney general shall by rule
6 establish procedures for designating certain consumer complaints and
7 disputes which arise under chapter 19.86 RCW as appropriate for
8 mediation. In establishing such procedures, the attorney general shall
9 consult with the directors of dispute resolution centers created under
10 chapter 7.75 RCW.

11 NEW SECTION. **Sec. 2.** When a consumer complaint or dispute has
12 been designated as appropriate for mediation, the attorney general by
13 rule shall refer, in the following order of priority, the complaint or
14 dispute to:

1 (1) A dispute resolution center created under chapter 7.75 RCW
2 located in the county in which the consumer resides;

3 (2) Any other dispute resolution center or mediation service which
4 both parties to the dispute agree to use; or

5 (3) The attorney general mediation service established under
6 section 3 of this act.

7 NEW SECTION. **Sec. 3.** The attorney general shall establish by
8 rule a mediation service to resolve consumer complaints or disputes
9 which arise under chapter 19.86 RCW in locations where dispute
10 resolution centers authorized under chapter 7.75 RCW have not been
11 created or are unable to comply with rules established by the attorney
12 general and other mediation services which comply with such rules are
13 not available. The operation of the attorney general's mediation
14 services shall be independent of the attorney general's enforcement
15 function under RCW 19.86.080.

16 NEW SECTION. **Sec. 4.** A person who voluntarily enters into
17 mediation as authorized by this chapter may withdraw from the mediation
18 and seek judicial or administrative redress. No legal penalty,
19 sanction, or restraint may be imposed upon the person who thus
20 withdraws.

21 **Sec. 5.** RCW 7.75.040 and 1984 c 258 s 504 are each amended to read
22 as follows:

23 (1) In conducting a dispute resolution process, a center
24 established under this chapter or mediation proceedings authorized by
25 sections 1 through 3 of this act shall require:

1 (a) That the disputing parties enter into a written agreement which
2 expresses the method by which they shall attempt to resolve the issues
3 in dispute; and

4 (b) That at the conclusion of the dispute resolution process, the
5 parties enter into a written agreement which sets forth the settlement
6 of the issues and the future responsibilities, if any, of each party.

7 (2) A written agreement entered into with the assistance of a
8 center at the conclusion of the written dispute resolution process is
9 admissible as evidence in any judicial or administrative proceeding.

10 **Sec. 6.** RCW 7.75.050 and 1984 c 258 s 505 are each amended to read
11 as follows:

12 All memoranda, work notes or products, or case files of centers
13 established under this chapter or developed as a result of mediation
14 proceedings authorized by sections 1 through 3 of this act are
15 confidential and privileged and are not subject to disclosure in any
16 judicial or administrative proceeding unless the court or
17 administrative tribunal determines that the materials were submitted by
18 a participant to the center for the purpose of avoiding discovery of
19 the material in a subsequent proceeding. Any communication relating to
20 the subject matter of the resolution made during the resolution process
21 by any participant, mediator, or any other person is a privileged
22 communication and is not subject to disclosure in any judicial or
23 administrative proceeding unless all parties to the communication waive
24 the privilege. The foregoing privilege and limitation on evidentiary
25 use does not apply to any communication of a threat that injury or
26 damage may be inflicted on any person or on the property of a party to
27 the dispute, to the extent the communication may be relevant evidence
28 in a criminal matter.

1 **Sec. 7.** RCW 7.75.090 and 1984 c 258 s 509 are each amended to read
2 as follows:

3 Nothing in this chapter precludes any person or persons not
4 operating under RCW 7.75.020 from providing dispute resolution
5 services. However, the provisions of RCW 7.75.050, relating to
6 confidentiality, and RCW 7.75.080, relating to statutes of limitation,
7 apply only to proceedings conducted by a dispute resolution center
8 established under this chapter and mediation proceedings authorized by
9 sections 1 through 3 of this act.

10 NEW SECTION. **Sec. 8.** Sections 1 through 4 of this act shall
11 constitute a new chapter in Title 19 RCW.