

CERTIFICATION OF ENROLLMENT

SENATE BILL 5373

57th Legislature
2002 Regular Session

Passed by the Senate February 11, 2002
YEAS 37 NAYS 11

President of the Senate

Passed by the House March 7, 2002
YEAS 65 NAYS 28

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5373** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

Secretary of State
State of Washington

SENATE BILL 5373

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2001 Regular Session

By Senators Sheahan, Kline, McCaslin, Thibaudeau, Kastama, Long, Roach,
Johnson and Constantine

Read first time 01/19/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to mandatory arbitration of civil actions; amending
2 RCW 7.06.050 and 7.06.060; and adding a new section to chapter 7.06
3 RCW.

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

5 **Sec. 1.** RCW 7.06.050 and 1982 c 188 s 2 are each amended to read
6 as follows:

7 (1) Following a hearing as prescribed by court rule, the arbitrator
8 shall file his decision and award with the clerk of the superior court,
9 together with proof of service thereof on the parties. Within twenty
10 days after such filing, any aggrieved party may file with the clerk a
11 written notice of appeal and request for a trial de novo in the
12 superior court on all issues of law and fact. Such trial de novo shall
13 thereupon be held, including a right to jury, if demanded.

14 (a) Up to thirty days prior to the actual date of a trial de novo,
15 a nonappealing party may serve upon the appealing party a written offer
16 of compromise.

17 (b) In any case in which an offer of compromise is not accepted by
18 the appealing party within ten calendar days after service thereof, for
19 purposes of MAR 7.3, the amount of the offer of compromise shall

1 replace the amount of the arbitrator's award for determining whether
2 the party appealing the arbitrator's award has failed to improve that
3 party's position on the trial de novo.

4 (c) A postarbitration offer of compromise shall not be filed or
5 communicated to the court or the trier of fact until after judgment on
6 the trial de novo, at which time a copy of the offer of compromise
7 shall be filed for purposes of determining whether the party who
8 appealed the arbitrator's award has failed to improve that party's
9 position on the trial de novo, pursuant to MAR 7.3.

10 (2) If no appeal has been filed at the expiration of twenty days
11 following filing of the arbitrator's decision and award, a judgment
12 shall be entered and may be presented to the court by any party, on
13 notice, which judgment when entered shall have the same force and
14 effect as judgments in civil actions.

15 **Sec. 2.** RCW 7.06.060 and 1979 c 103 s 6 are each amended to read
16 as follows:

17 (1) The ((supreme)) superior court ((may by rule provide for))
18 shall assess costs and reasonable attorney's fees ((that may be
19 assessed)) against a party ((appealing from)) who appeals the award
20 ((who)) and fails to improve his or her position on the trial de novo.
21 The court may assess costs and reasonable attorneys' fees against a
22 party who voluntarily withdraws a request for a trial de novo if the
23 withdrawal is not requested in conjunction with the acceptance of an
24 offer of compromise.

25 (2) For the purposes of this section, "costs and reasonable
26 attorneys' fees" means those provided for by statute or court rule, or
27 both, as well as all expenses related to expert witness testimony, that
28 the court finds were reasonably necessary after the request for trial
29 de novo has been filed.

30 (3) If the prevailing party in the arbitration also prevails at the
31 trial de novo, even though at the trial de novo the appealing party may
32 have improved his or her position from the arbitration, this section
33 does not preclude the prevailing party from recovering those costs and
34 disbursements otherwise allowed under chapter 4.84 RCW, for both
35 actions.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 7.06 RCW
37 to read as follows:

1 RCW 7.06.050 and 7.06.060 apply to all requests for a trial de novo
2 filed pursuant to and in appeal of an arbitrator's decision and filed
3 on or after the effective date of this act.

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