

HB 1000 - H AMD 1276

By Representative Bronoske By Representative Bronoske

1 On page 1, line 2

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5 **Sec. 1.** RCW 7.04A.010 and 2005 c 433 s 1 are each amended to
6 read as follows:

7 The definitions set forth in this section apply throughout this
8 chapter.

9 (1) "Arbitration organization" means a neutral association,
10 agency, board, commission, or other entity that initiates, sponsors,
11 or administers arbitration proceedings or is involved in the
12 appointment of arbitrators.

13 (2) "Arbitrator" means an individual appointed to render an
14 award in a controversy between persons who are parties to an
15 agreement to arbitrate.

16 (3) "Authenticate" means:

17 (a) To sign; or

18 (b) To execute or adopt a record by attaching to or logically
19 associating with the record, an electronic sound, symbol, or process
20 with the intent to sign the record.

21 (4) "Court" means a court of competent jurisdiction in this state.

22 (5) "Knowledge" means actual knowledge.

23 (6) "Person" means an individual, corporation, business trust,
24 estate, trust, partnership, limited liability company, association,
25 joint venture, or government; governmental subdivision, agency, or
26 instrumentality; public corporation; or any other legal or
27 commercial entity.

1 (7) "Record" means information that is inscribed on a tangible
2 medium or that is stored in an electronic or other medium and is
3 retrievable in perceivable form.

4 [2005 c 433 s 1.]
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6 **Sec. 2.** RCW 7.04A.020 and 2005 c 433 s 2 are each amended to
7 read as follows:

8 Unless the parties to an agreement to arbitrate otherwise agree
9 or except as otherwise provided in this chapter, a person gives
10 notice to another person by taking action that is reasonably
11 necessary to inform the other person in ordinary course, whether or
12 not the other person acquires knowledge of the notice. A person has
13 notice if the person has knowledge of the notice or has received
14 notice. A person receives notice when it comes to the person's
15 attention or the notice is delivered at the person's place of
16 residence or place of business, or at another location held out by
17 the person as a place of delivery of such communications.

18 [2005 c 433 s 2.]
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20 **Sec. 3.** RCW 7.04A.030 and 2005 c 433 s 3 are each amended to
21 read as follows:

22 (1) Before July 1, 2006, this chapter governs agreements to
23 arbitrate entered into:

24 (a) On or after January 1, 2006; and

25 (b) Before January 1, 2006, if all parties to the agreement to
26 arbitrate or to arbitration proceedings agree in a record to be
27 governed by this chapter.

28 (2) On or after July 1, 2006, this chapter governs agreements to
29 arbitrate even if the arbitration agreement was entered into before
30 January 1, 2006.

31 (3) This chapter does not apply to any arbitration governed by
32 chapter 7.06 RCW.
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1 (4) This chapter does not apply to any arbitration agreement
2 between employers and employees or between employers and
3 associations of employees.

4 [2005 c 433 s 3.]

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6 **Sec. 4.** RCW 7.04A.040 and 2005 c 433 s 4 are each amended to
7 read as follows:

8 (1) Except as otherwise provided in subsections (2) and (3) of
9 this section, the parties to an agreement to arbitrate or to an
10 arbitration proceeding may waive or vary the requirements of this
11 chapter to the extent permitted by law.

12 (2) Before a controversy arises that is subject to an agreement
13 to arbitrate, the parties to the agreement may not:

14 (a) Waive or vary the requirements of RCW 7.04A.050(1), 7.04A.
15 060(1), 7.04A.080, 7.04A.170 (1) or (2), 7.04A.260, or 7.04A.280;

16 (b) Unreasonably restrict the right under RCW 7.04A.090 to
17 notice of the initiation of an arbitration proceeding;

18 (c) Unreasonably restrict the right under RCW 7.04A.120 to
19 disclosure of any facts by a neutral arbitrator; or

20 (d) Waive the right under RCW 7.04A.160 of a party to an
21 agreement to arbitrate to be represented by a lawyer at any
22 proceeding or hearing under this chapter.

23 (3) The parties to an agreement to arbitrate may not waive or
24 vary the requirements of this section or RCW 7.04A.030 (1)(a) or
25 (2), 7.04A.070, 7.04A.140, 7.04A.180, 7.04A.200 (3) or (4), 7.04A.
26 220, 7.04A.230, 7.04A.240, 7.04A.250 (1) or (2), 7.04A.901, 7.04A.
27 903, section 50, chapter 433, Laws of 2005, or section 51, chapter
28 433, Laws of 2005.

29 [2005 c 433 s 4.]

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31 **Sec. 5.** RCW 7.04A.050 and 2005 c 433 s 5 are each amended to
32 read as follows:

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1 (1) Except as otherwise provided in RCW 7.04A.280, an
2 application for judicial relief under this chapter must be made by
3 motion to the court and heard in the manner and upon the notice
4 provided by law or rule of court for making and hearing motions.

5 (2) Notice of an initial motion to the court under this chapter
6 must be served in the manner provided by law for the service of a
7 summons in a civil action unless a civil action is already pending
8 involving the agreement to arbitrate.

9 [2005 c 433 s 5.]

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11 **Sec. 6.** RCW 7.04A.060 and 2005 c 433 s 6 are each amended to
12 read as follows:

13 (1) An agreement contained in a record to submit to arbitration
14 any existing or subsequent controversy arising between the parties
15 to the agreement is valid, enforceable, and irrevocable except upon
16 a ground that exists at law or in equity for the revocation of
17 contract.

18 (2) The court shall decide whether an agreement to arbitrate
19 exists or a controversy is subject to an agreement to arbitrate.

20 (3) An arbitrator shall decide whether a condition precedent to
21 arbitrability has been fulfilled and whether a contract containing a
22 valid agreement to arbitrate is enforceable.

23 (4) If a party to a judicial proceeding challenges the existence
24 of, or claims that a controversy is not subject to, an agreement to
25 arbitrate, the arbitration proceeding may continue pending final
26 resolution of the issue by the court, unless the court otherwise
27 orders.

28 [2005 c 433 s 6.]

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30 **Sec. 7.** RCW 7.04A.070 and 2005 c 433 s 7 are each amended to
31 read as follows:

32 (1) On motion of a person showing an agreement to arbitrate and
33 alleging another person's refusal to arbitrate pursuant to the
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1 agreement, the court shall order the parties to arbitrate if the
2 refusing party does not appear or does not oppose the motion. If the
3 refusing party opposes the motion, the court shall proceed summarily
4 to decide the issue. Unless the court finds that there is no
5 enforceable agreement to arbitrate, it shall order the parties to
6 arbitrate. If the court finds that there is no enforceable
7 agreement, it may not order the parties to arbitrate.

8 (2) On motion of a person alleging that an arbitration
9 proceeding has been initiated or threatened but that there is no
10 agreement to arbitrate, the court shall proceed summarily to decide
11 the issue. If the court finds that there is an enforceable agreement
12 to arbitrate, it shall order the parties to arbitrate. If the court
13 finds that there is no enforceable agreement, it may not order the
14 parties to arbitrate.

15 (3) The court may not refuse to order arbitration because the
16 claim subject to arbitration lacks merit or grounds for the claim
17 have not been established.

18 (4) If a proceeding involving a claim referable to arbitration
19 under an alleged agreement to arbitrate is pending in court, a
20 motion under this section must be filed in that court. Otherwise a
21 motion under this section may be filed in any court as required by
22 RCW 7.04A.270.

23 (5) If a party files a motion with the court to order
24 arbitration under this section, the court shall on just terms stay
25 any judicial proceeding that involves a claim alleged to be subject
26 to the arbitration until the court renders a final decision under
27 this section.

28 (6) If the court orders arbitration, the court shall on just
29 terms stay any judicial proceeding that involves a claim subject to
30 the arbitration. If a claim subject to the arbitration is severable,
31 the court may sever it and limit the stay to that claim.

32 [2005 c 433 s 7.]

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1 **Sec. 8.** RCW 7.04A.080 and 2005 c 433 s 8 are each amended to
2 read as follows:

3 (1) Before an arbitrator is appointed and is authorized and able
4 to act, the court, upon motion of a party to an arbitration
5 proceeding and for good cause shown, may enter an order for
6 provisional remedies to protect the effectiveness of the arbitration
7 proceeding to the same extent and under the same conditions as if
8 the controversy were the subject of a civil action.

9 (2) After an arbitrator is appointed and is authorized and able
10 to act, the arbitrator may issue such orders for provisional
11 remedies, including interim awards, as the arbitrator finds
12 necessary to protect the effectiveness of the arbitration proceeding
13 and to promote the fair and expeditious resolution of the
14 controversy, to the same extent and under the same conditions as if
15 the controversy were the subject of a civil action. After an
16 arbitrator is appointed and is authorized and able to act, a party
17 to an arbitration proceeding may move the court for a provisional
18 remedy only if the matter is urgent and the arbitrator is not able
19 to act timely or if the arbitrator cannot provide an adequate remedy.

20 (3) A motion to a court for a provisional remedy under
21 subsection (1) or (2) of this section does not waive any right of
22 arbitration.

23 [2005 c 433 s 8.]

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25 **Sec. 9.** RCW 7.04A.090 and 2013 c 92 s 1 are each amended to
26 read as follows:

27 (1) A person initiates an arbitration proceeding by giving
28 notice in a record to the other parties to the agreement to
29 arbitrate in the agreed manner between the parties or, in the
30 absence of agreement, by mail certified or registered, return
31 receipt requested and obtained, or by service as authorized for the
32 initiation of a civil action. The notice must describe the nature of
33 the controversy and the remedy sought.

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1 (2) Unless a person interposes an objection as to lack or
2 insufficiency of notice under RCW 7.04A.150(3) not later than the
3 commencement of the arbitration hearing, the person's appearance at
4 the hearing waives any objection to lack of or insufficiency of
5 notice.

6 (3) A claim sought to be arbitrated is subject to the same
7 limitations of time for the commencement of actions as if the claim
8 had been asserted in a court.

9 [2013 c 92 s 1; 2005 c 433 s 9.]

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EFFECT:

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