

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1852

By: Lerblance

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5
6 AS INTRODUCED

7 An Act relating to the Uniform Arbitration Act;
8 Sections 2 and 5, Chapter 364, O.S.L. 2005 (12 O.S.
9 Supp. 2007, Sections 1852 and 1855), which relate to
10 definitions and waivers; defining terms; updating
11 statutory references; providing for unenforceability
12 of certain agreements; and providing an effective
13 date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY Section 2, Chapter 364, O.S.L.
16 2005 (12 O.S. Supp. 2007, Section 1852), is amended to read as
17 follows:

18 Section 1852. As used in the Uniform Arbitration Act:

19 1. "Arbitration organization" means an association, agency,
20 board, commission, or other entity that is neutral and initiates,
21 sponsors, or administers an arbitration proceeding or is involved in
22 the appointment of an arbitrator;

23 2. "Arbitrator" means an individual appointed to render an
24 award, alone or with others, in a controversy that is subject to an
agreement to arbitrate;

1 3. "Consumer" means an individual who:

2 a. uses, purchases, acquires, attempts to purchase or
3 acquire, or is offered or furnished any real or
4 personal property, tangible or intangible goods,
5 services, or credit for personal, family, or household
6 purposes, or

7 b. is an employee of or seeks employment from the other
8 party to a consumer arbitration agreement;

9 4. "Consumer arbitration agreement" means a standardized
10 contract where one party drafts a provision that requires disputes
11 arising after the contract's signing be submitted to binding
12 arbitration, and the other party is a consumer. Such an agreement
13 does not include a public or private sector collective bargaining
14 agreement;

15 5. "Court" means any court of competent jurisdiction in this
16 state;

17 ~~4.~~ 6. "Knowledge" means actual knowledge;

18 ~~5.~~ 7. "Person" means an individual, corporation, business
19 trust, estate, trust, partnership, limited liability company,
20 association, joint venture, government, governmental subdivision,
21 agency, or instrumentality, public corporation, or any other legal
22 or commercial entity; and

1 ~~6-~~ 8. "Record" means any information that is inscribed on a
2 tangible medium or that is stored in an electronic or other medium
3 and is retrievable in perceivable form.

4 SECTION 2. AMENDATORY Section 5, Chapter 364, O.S.L.
5 2005 (12 O.S. Supp. 2007, Section 1855), is amended to read as
6 follows:

7 Section 1855. A. Except as otherwise provided in subsections
8 B, C and D of this section and subject to the public policy of this
9 state as expressed in this act, including Section ~~30~~ 1880 of this
10 ~~act~~ title, and in the laws of this state outside of this act, a
11 party to an agreement to arbitrate or to an arbitration proceeding
12 may waive, or the parties may vary the effect of, the requirements
13 of the Uniform Arbitration Act to the extent permitted by law.

14 B. Before a controversy arises that is subject to an agreement
15 to arbitrate, a party to the agreement may not:

16 1. Waive or agree to vary the effect of the requirements of
17 subsection A of Section ~~6~~ 1856 of this ~~act~~ title, subsection A of
18 Section ~~7~~ 1857 of this ~~act~~ title, Section ~~9~~ 1859 of this ~~act~~ title,
19 subsection A or B of Section ~~18~~ 1868 of this ~~act~~ title, Section ~~27~~
20 1877 of this ~~act~~ title or Section ~~29~~ 1879 of this ~~act~~ title;

21 2. Agree to unreasonably restrict the right under Section ~~10~~
22 1860 of this ~~act~~ title to notice of the initiation of an arbitration
23 proceeding;

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1 3. Agree to unreasonably restrict the right under Section ~~13~~
2 1863 of this ~~act~~ title to disclosure of any facts by a neutral
3 arbitrator; or

4 4. Waive the right under Section ~~17~~ 1867 of this ~~act~~ title of a
5 party to an agreement to arbitrate to be represented by a lawyer at
6 any proceeding or hearing under the Uniform Arbitration Act, but an
7 employer and a labor organization may waive the right to
8 representation by a lawyer in a labor arbitration.

9 C. A party to an agreement to arbitrate or to an arbitration
10 proceeding may not waive, or the parties may not vary the effect of,
11 the requirements of this section or subsection A or C of Section 4
12 1854 of this ~~act~~ title, Section ~~8~~ 1858 of this ~~act~~ title, Section ~~15~~
13 1865 of this ~~act~~ title, Section ~~19~~ 1869 of this ~~act~~ title,
14 subsection D or E of Section ~~21~~ 1871 of this ~~act~~ title, Section ~~23~~
15 1873, ~~24~~ 1874 or ~~25~~ 1875 of this ~~act~~ title, subsection A or B of
16 Section ~~26~~ 1876 of this ~~act~~ title, or Section ~~30~~ 1880 of this ~~act~~
17 title.

18 D. The Uniform Arbitration Act shall not apply to collective
19 bargaining agreements and contracts which reference insurance.

20 E. A consumer arbitration agreement is void and unenforceable
21 except to the extent allowed by federal law.

22 SECTION 3. This act shall become effective November 1, 2008.
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