



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5477

Introduced 2/9/2024, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Amends the Uniform Arbitration Act. Allows a party to serve upon another party a demand for arbitration or a notice of intention to arbitrate, specifying the agreement under which arbitration is sought and the name and address of the party serving the notice and stating that unless the party served applies to stay the arbitration within 20 days after service the party shall be precluded from objecting that a valid agreement was not made or has not been complied with and from asserting in court the bar of a limitation of time. Provides that in an arbitration brought by a consumer or employee that requires the drafting party to pay certain fees and costs before the arbitration can proceed, if the fees or costs to initiate an arbitration proceeding are not paid within 30 days after the due date, the drafting party is in material breach of the arbitration agreement, is in default of the arbitration, and waives its right to compel arbitration. Sets forth various actions a party may take if the drafting party materially breaches the arbitration agreement. Includes sanctions an arbitrator or court may impose for materially breaching the agreement. Provides that, if a party is represented by an attorney, papers to be served on the party shall be served upon the attorney for that party, and any agreement which discriminates against or penalizes a party for retaining the services of counsel in an arbitration is null and void. In a provision regarding venue, provides that: if the name of the county is not specified, the application shall be brought in the county where the party seeking arbitration resides or is doing business, and other proceedings affecting arbitration are to be brought in the county where at least one of the parties resides or is doing business or where the arbitration was held or is pending; if there are multiple parties seeking arbitration against the same party or parties, the proceeding may be brought in any court and county where any of the parties seeking arbitration resides or is doing business or where the arbitration was held or is pending; and if there is no county in which the proceeding may be brought, the proceeding may be brought in any county.

LRB103 35069 LNS 65022 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Uniform Arbitration Act is amended by
5 changing Sections 6 and 17 and by adding Sections 1.1, 2.1,
6 2.2, 2.3, and 2.4 as follows:

7 (710 ILCS 5/1.1 new)

8 Sec. 1.1. Definitions. As used in this Act:

9 "Consumer" means an individual who seeks, uses, or
10 acquires, by purchase or lease, any goods or services for
11 personal, family, or household purposes.

12 "Employee" means any current employee, former employee, or
13 applicant for employment. "Employee" includes any person who
14 is, was, or who claims to have misclassified as an independent
15 contractor or otherwise improperly placed into a category
16 other than employee or applicant for employment.

17 (710 ILCS 5/2.1 new)

18 Sec. 2.1. Notice of intention to arbitrate. A party may
19 serve upon another party a demand for arbitration or a notice
20 of intention to arbitrate, specifying the agreement under
21 which arbitration is sought and the name and address of the
22 party serving the notice, or of an officer or agent if the

1 party is an association or corporation, and stating that
2 unless the party served applies to stay the arbitration within
3 20 days after service the party shall be precluded from
4 objecting that a valid agreement was not made or has not been
5 complied with and from asserting in court the bar of a
6 limitation of time. Notice or demand shall be served in the
7 same manner as a summons or by registered or certified mail,
8 return receipt requested. An application to stay arbitration
9 must be made by the party served within 20 days after service
10 upon the party of the notice or demand or the party shall be so
11 precluded. Notice of such application shall be served in the
12 same manner as a summons or by registered or certified mail,
13 return receipt requested. Service of the application may be
14 made upon the adverse party or upon the adverse party's
15 attorney if the attorney's name appears on the demand for
16 arbitration or the notice of intention to arbitrate. Service
17 of the application by mail shall be timely if the application
18 is posted within the prescribed period. Any provision in an
19 arbitration agreement or arbitration rules which waives the
20 right to apply for a stay of arbitration or proscribes a manner
21 of notifying a party of an intention to commence arbitration
22 that is more burdensome than that described in this Section is
23 null and void.

24 (710 ILCS 5/2.2 new)

25 Sec. 2.2. Fees and costs of arbitration initiation;

1 invoice; breach of agreement; sanctions.

2 (a) In an arbitration brought by a consumer or employee
3 that requires, either expressly or through application of
4 State or federal law or the rules of the arbitrator, the
5 drafting party to pay certain fees and costs before the
6 arbitration can proceed, if the fees or costs to initiate an
7 arbitration proceeding are not paid within 30 days after the
8 due date, the drafting party is in material breach of the
9 arbitration agreement, is in default of the arbitration, and
10 waives its right to compel arbitration under Section 2.

11 After an employee or consumer meets the filing
12 requirements necessary to initiate an arbitration, the
13 arbitrator shall immediately provide an invoice for any fees
14 and costs required before the arbitration can proceed to all
15 of the parties to the arbitration. The invoice shall be
16 provided in its entirety, shall state the full amount owed and
17 the date that payment is due, and shall be sent to all parties
18 by the same means on the same day. To avoid delay, absent an
19 express provision in the arbitration agreement stating the
20 number of days in which the parties to the arbitration must pay
21 any required fees or costs, the arbitrator shall issue all
22 invoices to the parties as due upon receipt.

23 (b) If the drafting party materially breaches the
24 arbitration agreement and is in default under subsection (a),
25 the employee or consumer may:

26 (1) withdraw the claim from arbitration and proceed in

1 a court of appropriate jurisdiction; or

2 (2) compel arbitration in which the drafting party
3 shall pay reasonable attorney's fees and costs related to
4 the arbitration.

5 (c) If the employee or consumer withdraws the claim from
6 arbitration and proceeds with an action in a court of
7 appropriate jurisdiction under paragraph (1) of subsection
8 (b), the statute of limitations with regard to all claims
9 brought or that relate back to any claim brought in
10 arbitration shall be tolled as of the date of the first filing
11 of a claim in a court, arbitration forum, or other dispute
12 resolution forum.

13 (d) If the employee or consumer proceeds with an action in
14 a court of appropriate jurisdiction, the court shall impose
15 sanctions on the drafting party in accordance with Section
16 2.4.

17 (710 ILCS 5/2.3 new)

18 Sec. 2.3. Fees and costs of arbitration continuance;
19 invoice; breach of agreement; sanctions.

20 (a) In an arbitration brought by a consumer or employee,
21 either expressly or through application of State or federal
22 law or the rules of the arbitrator, that the drafting party pay
23 certain fees and costs during the pendency of an arbitration
24 proceeding, if the fees or costs required to continue the
25 arbitration proceeding are not paid within 30 days after the

1 due date, the drafting party is in material breach of the
2 arbitration agreement, is in default of the arbitration, and
3 waives its right to compel the employee or consumer to proceed
4 with that arbitration as a result of the material breach.

5 The arbitrator shall provide an invoice for any fees and
6 costs required for the arbitration proceeding to continue to
7 all of the parties to the arbitration. The invoice shall be
8 provided in its entirety, shall state the full amount owed and
9 the date that payment is due, and shall be sent to all parties
10 by the same means on the same day. To avoid delay, absent an
11 express provision in the arbitration agreement stating the
12 number of days in which the parties to the arbitration must pay
13 any required fees or costs, the arbitrator shall issue all
14 invoices to the parties as due upon receipt. Any extension of
15 time for the due date shall be agreed upon by all parties.

16 (b) If the drafting party materially breaches the
17 arbitration agreement and is in default under subsection (a),
18 the employee or consumer may unilaterally elect to:

19 (1) withdraw the claim from arbitration and proceed in
20 a court of appropriate jurisdiction. If the employee or
21 consumer withdraws the claim from arbitration and proceeds
22 with an action in a court of appropriate jurisdiction, the
23 statute of limitations with regard to all claims brought
24 or that relate back to any claim brought in arbitration
25 shall be tolled as of the date of the first filing of a
26 claim in any court, arbitration forum, or other dispute

1 resolution forum;

2 (2) continue the arbitration proceeding, if the
3 arbitrator agrees to continue administering the
4 proceeding, notwithstanding the drafting party's failure
5 to pay fees or costs. The neutral arbitrator may institute
6 a collection action at the conclusion of the arbitration
7 proceeding against the drafting party that is in default
8 of the arbitration for payment of all fees associated with
9 the arbitration proceeding brought by a consumer or
10 employee, including the cost of administering any
11 proceedings after the default;

12 (3) petition the court for an order compelling the
13 drafting party to pay all arbitration fees that the
14 drafting party is obligated to pay under the arbitration
15 agreement or the rules of the arbitrator;

16 (4) pay the drafting party's fees and proceed with the
17 arbitration proceeding. As part of the award, the employee
18 or consumer shall recover all arbitration fees paid on
19 behalf of the drafting party without regard to any
20 findings on the merits in the underlying arbitration; or

21 (5) if the employee or consumer withdraws the claim
22 from arbitration and proceeds in a court of appropriate
23 jurisdiction under paragraph (1), both of the following
24 apply:

25 (A) The employee or consumer may bring a motion,
26 or a separate action, to recover all attorney's fees

1 and all costs associated with the abandoned
2 arbitration proceeding.

3 (B) The recovery of arbitration fees, interest,
4 and related attorney's fees shall be without regard to
5 any findings on the merits in the underlying action or
6 arbitration.

7 The court shall impose sanctions on the drafting party in
8 accordance with Section 2.4.

9 (c) If the employee or consumer continues in arbitration
10 under paragraphs (2) through (4) of subsection (b), the
11 arbitrator shall impose appropriate sanctions on the drafting
12 party, including monetary sanctions, issue sanctions, evidence
13 sanctions, or terminating sanctions.

14 (710 ILCS 5/2.4 new)

15 Sec. 2.4. Breach of arbitration agreement; monetary
16 sanctions; additional sanctions.

17 (a) The court shall impose a monetary sanction against a
18 drafting party that materially breaches an arbitration
19 agreement pursuant to subsection (a) of Section 2.2 or
20 subsection (a) of Section 2.3, by ordering the drafting party
21 to pay the reasonable expenses, including attorney's fees and
22 costs, incurred by the employee or consumer as a result of the
23 material breach.

24 (b) In addition to the monetary sanction described in
25 subsection (a), the court may order any of the following

1 sanctions against a drafting party that materially breaches an
2 arbitration agreement under subsection (a) of Section 2.2 or
3 subsection (a) of Section 2.3, unless the court finds that the
4 one subject to the sanction acted with substantial
5 justification or that other circumstances make the imposition
6 of the sanction unjust:

7 (1) an evidence sanction by an order prohibiting the
8 drafting party from conducting discovery in the civil
9 action;

10 (2) a terminating sanction by:

11 (A) an order striking out the pleadings or parts
12 of the pleadings of the drafting party; or

13 (B) an order rendering a judgment by default
14 against the drafting party; or

15 (3) a contempt sanction by an order treating the
16 drafting party as in contempt of court.

17 (710 ILCS 5/6) (from Ch. 10, par. 106)

18 Sec. 6. Representation by attorney.

19 A party has the right to be represented by an attorney at
20 any proceeding or hearing under this Act. A waiver thereof
21 prior to the proceeding or hearing is ineffective. If a party
22 is represented by an attorney, papers to be served on the party
23 shall be served upon the attorney for that party. Any
24 agreement which discriminates against or penalizes a party for
25 retaining the services of counsel in an arbitration is null

1 and void.

2 (Source: Laws 1961, p. 3844.)

3 (710 ILCS 5/17) (from Ch. 10, par. 117)

4 Sec. 17. Venue.

5 (a) An initial application shall be made to the court of
6 the county in which the agreement provides the arbitration
7 hearing shall be held or, if the hearing has been held, in the
8 county in which it was held. ~~Otherwise the application shall~~
9 ~~be made in the county where the adverse party resides or has a~~
10 ~~place of business or, if he has no residence or place of~~
11 ~~business in this State, to the court of any county. All~~
12 ~~subsequent applications shall be made to the court hearing the~~
13 ~~initial application unless the court otherwise directs.~~

14 (b) If the name of the county is not specified, the
15 application shall be brought in the county where the party
16 seeking arbitration resides or is doing business, and other
17 proceedings affecting arbitration are to be brought in the
18 county where at least one of the parties resides or is doing
19 business or where the arbitration was held or is pending.

20 (c) If there are multiple parties seeking arbitration
21 against the same party or parties, the proceeding may be
22 brought in any court and county where any of the parties
23 seeking arbitration resides or is doing business or where the
24 arbitration was held or is pending. All subsequent
25 applications shall be made to the court hearing the initial

1 application unless the court otherwise directs.

2 (d) If there is no county in which the proceeding may be
3 brought under this Section, the proceeding may be brought in
4 any county.

5 (Source: Laws 1961, p. 3844.)

1 INDEX

2 Statutes amended in order of appearance

3 710 ILCS 5/1.1 new

4 710 ILCS 5/2.1 new

5 710 ILCS 5/2.2 new

6 710 ILCS 5/2.3 new

7 710 ILCS 5/2.4 new

8 710 ILCS 5/6 from Ch. 10, par. 106

9 710 ILCS 5/17 from Ch. 10, par. 117