

1 A bill to be entitled
 2 An act relating to court-ordered nonbinding arbitration;
 3 amending s. 44.103, F.S.; revising provisions relating to
 4 presentation of testimony and evidence in court-ordered,
 5 nonbinding arbitration proceedings; revising provisions
 6 relating to award of specified costs of a trial de novo
 7 following arbitration against the party requesting the
 8 trial when the trial judgment differs from the arbitration
 9 award by a certain amount; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsections (4) and (6) of section 44.103,
 14 Florida Statutes, are amended to read:

15 44.103 Court-ordered, nonbinding arbitration.--

16 (4) An arbitrator or, in the case of a panel, the chief
 17 arbitrator~~,~~ shall have such power to administer oaths or
 18 affirmation and to conduct the proceedings as the rules of court
 19 shall provide. The hearing shall be conducted informally.
 20 Presentation of testimony and evidence shall be kept to a
 21 minimum, and matters shall be presented to the arbitrators
 22 primarily through the statements and arguments of counsel. At
 23 the request of Any party to the arbitration may petition the
 24 court in the underlying action, for good cause shown, to
 25 authorize the, such arbitrator to ~~shall~~ issue subpoenas for the
 26 attendance of witnesses and the production of books, records,
 27 documents, and other evidence at the arbitration and may
 28 petition apply to the court for orders compelling such

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29 attendance and production at the arbitration. Subpoenas shall be
30 served and shall be enforceable in the manner provided by law.

31 (6) Upon motion made by either party within 30 days after
32 entry of a judgment, the court may assess costs against the
33 party requesting a trial de novo, including arbitration costs,
34 court costs, reasonable attorney's fees, and other reasonable
35 costs such as investigation expenses and expenses for expert or
36 other testimony that were incurred after the arbitration hearing
37 and continuing through the trial of the case in accordance with
38 the guidelines for taxation of costs as adopted by the Supreme
39 Court. Such costs may be assessed if:

40 (a) The plaintiff, having filed for a trial de novo,
41 obtains a judgment at trial that is at least 25 percent less
42 than the arbitration award. In such instance, the costs and
43 attorney's fees pursuant to this section shall be set off
44 against the award. When the costs and attorney's fees pursuant
45 to this section total more than the amount of the judgment, the
46 court shall enter judgment for the defendant against the
47 plaintiff for the amount of the costs and attorney's fees, less
48 the amount of the award to the plaintiff. For purposes of a
49 determination under this paragraph, "judgment" means the amount
50 of the net judgment entered, plus all taxable costs under the
51 guidelines for taxation of costs adopted by the Supreme Court,
52 plus any post-arbitration collateral source payments received or
53 due as of the date of the judgment, and plus any post-
54 arbitration settlement amounts by which the verdict was reduced;
55 or

56 (b) The defendant, having filed for a trial de novo, has a

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57 judgment entered against the defendant that is a least 25
58 percent more than the arbitration award. For purposes of a
59 determination under this paragraph, "judgment" means the amount
60 of the net judgment entered, plus any post-arbitration
61 settlement amounts by which the verdict was reduced. The party
62 ~~having filed for a trial de novo may be assessed the arbitration~~
63 ~~costs, court costs, and other reasonable costs of the party,~~
64 ~~including attorney's fees, investigation expenses, and expenses~~
65 ~~for expert or other testimony or evidence incurred after the~~
66 ~~arbitration hearing if the judgment upon the trial de novo is~~
67 ~~not more favorable than the arbitration decision.~~

68 Section 2. This act shall take effect October 1, 2007.