

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

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

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

18 44.103 Court-ordered, nonbinding arbitration.--

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

1 compelling such attendance and production at the arbitration.
2 Subpoenas shall be served and shall be enforceable in the
3 manner provided by law.

4 (6) Upon motion made by either party within 30 days
5 after entry of judgment, the court may assess costs against
6 the party requesting a trial de novo, including arbitration
7 costs, court costs, reasonable attorney's fees, and other
8 reasonable costs such as investigation expenses and expenses
9 for expert or other testimony which were incurred after the
10 arbitration hearing and continuing through the trial of the
11 case in accordance with the guidelines for taxation of costs
12 as adopted by the Supreme Court. Such costs may be assessed
13 if:

14 (a) The plaintiff, having filed for a trial de novo,
15 obtains a judgment at trial which is at least 25 percent less
16 than the arbitration award. In such instance, the costs and
17 attorney's fees pursuant to this section shall be set off
18 against the award. When the costs and attorney's fees pursuant
19 to this section total more than the amount of the judgment,
20 the court shall enter judgment for the defendant against the
21 plaintiff for the amount of the costs and attorney's fees,
22 less the amount of the award to the plaintiff. For purposes of
23 a determination under this paragraph, the term "judgment"
24 means the amount of the net judgment entered, plus all taxable
25 costs pursuant to the guidelines for taxation of costs as
26 adopted by the Supreme Court, plus any postarbitration
27 collateral source payments received or due as of the date of
28 the judgment, and plus any postarbitration settlement amounts
29 by which the verdict was reduced; or

30 (b) The defendant, having filed for a trial de novo,
31 has a judgment entered against the defendant which is at least

1 25 percent more than the arbitration award. For purposes of a
2 determination under this paragraph, the term "judgment" means
3 the amount of the net judgment entered, plus any
4 postarbitration settlement amounts by which the verdict was
5 reduced. The party having filed for a trial de novo may be
6 assessed the arbitration costs, court costs, and other
7 reasonable costs of the party, including attorney's fees,
8 investigation expenses, and expenses for expert or other
9 testimony or evidence incurred after the arbitration hearing
10 if the judgment upon the trial de novo is not more favorable
11 than the arbitration decision.

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