



574288

LEGISLATIVE ACTION

Senate

House

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Floor: WD

04/03/2013 12:39 PM

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Senator Diaz de la Portilla moved the following:

**Senate Amendment (with title amendment)**

Delete lines 466 - 487

and insert:

(1) A clause in a consumer arbitration agreement which establishes a method for appointing arbitrators is valid only if the agreement is entered into while a controversy subject to arbitration exists or a subsequent controversy subject to arbitration arises. For purposes of this subsection, the term "consumer arbitration agreement" means a standardized contract between a consumer and a nonconsumer which:

(a) Is drafted by the nonconsumer party; and

(b) Includes a provision requiring that disputes arising



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14 after the contract is signed be submitted to binding  
15 arbitration.

16 (2) If the parties to an agreement to arbitrate agree on or  
17 ~~provision for arbitration subject to this law provides a method~~  
18 ~~for appointing an arbitrator the appointment of arbitrators or~~  
19 ~~an umpire, this method must shall be followed, unless the method~~  
20 ~~fails.~~

21 (3) The court, on motion of a party to an arbitration  
22 agreement, shall appoint one or more arbitrators, if:

23 (a) The parties have not agreed on a method;

24 (b) The agreed method fails;

25 (c) One or more of the parties failed to respond to the  
26 demand for arbitration; or

27 (d) An arbitrator fails to act and a successor has not been  
28 appointed.

29 ~~(4) In the absence thereof, or if the agreed method fails~~  
30 ~~or for any reason cannot be followed, or if an arbitrator or~~  
31 ~~umpire who has been appointed fails to act and his or her~~  
32 ~~successor has not been duly appointed, the court, on application~~  
33 ~~of a party to such agreement or provision shall appoint one or~~  
34 ~~more arbitrators or an umpire. An arbitrator or umpire so~~  
35 ~~appointed under subsection (3) has the same shall have like~~  
36 ~~powers as an arbitrator designated as if named or provided for~~  
37 ~~in the agreement to arbitrate appointed pursuant to the agreed~~  
38 ~~method or provision.~~

39 (5) An individual who has a known, direct, and material

40  
41 ===== T I T L E A M E N D M E N T =====

42 And the title is amended as follows:



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43           Between lines 42 and 43  
44 insert:  
45           establishing that a controversy subject to arbitration  
46           must exist before a method for appointing arbitrators  
47           can be agreed upon; defining a consumer arbitration  
48           agreement;