

Assembly Bill No. 802

CHAPTER 870

An act to amend Section 1281.96 of the Code of Civil Procedure, relating to consumer arbitration.

[Approved by Governor September 30, 2014. Filed with Secretary of State September 30, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 802, Wieckowski. Private arbitration companies: disclosures.

Existing law regulates arbitration conducted pursuant to an arbitration agreement, as specified. Existing law requires a private arbitration company involved in consumer arbitration cases to collect and make certain information regarding those cases available to the public in a computer-searchable format, accessible at the Internet Web site of the private arbitration company, if it has an Internet Web site, and on paper upon request.

This bill would require a private arbitration company to collect additional information related to a consumer arbitration case, as specified, and to provide the information in a single cumulative report. The bill would require a private arbitration company to make the report available in a format that allows the public to search and sort the information using readily available software, and to make the report accessible on the private arbitration company's Internet Web site, as specified. The bill would express the intent of the Legislature that private arbitration companies comply with all legal obligations under these provisions, and also would provide that any amendments made by this act to the reporting requirements of a private arbitration company would not apply to consumer arbitrations administered by the private arbitration company before January 1, 2015.

The people of the State of California do enact as follows:

SECTION 1. Section 1281.96 of the Code of Civil Procedure is amended to read:

1281.96. (a) Except as provided in paragraph (2) of subdivision (c), a private arbitration company that administers or is otherwise involved in a consumer arbitration, shall collect, publish at least quarterly, and make available to the public on the Internet Web site of the private arbitration company, if any, and on paper upon request, a single cumulative report that contains all of the following information regarding each consumer arbitration within the preceding five years:

(1) Whether arbitration was demanded pursuant to a pre-dispute arbitration clause and, if so, whether the pre-dispute arbitration clause designated the administering private arbitration company.

(2) The name of the nonconsumer party, if the nonconsumer party is a corporation or other business entity, and whether the nonconsumer party was the initiating party or the responding party, if known.

(3) The nature of the dispute involved as one of the following: goods; credit; other banking or finance; insurance; health care; construction; real estate; telecommunications, including software and Internet usage; debt collection; personal injury; employment; or other. If the dispute involved employment, the amount of the employee's annual wage divided into the following ranges: less than one hundred thousand dollars (\$100,000), one hundred thousand dollars (\$100,000) to two hundred fifty thousand dollars (\$250,000), inclusive, and over two hundred fifty thousand dollars (\$250,000). If the employee chooses not to provide wage information, it may be noted.

(4) Whether the consumer or nonconsumer party was the prevailing party. As used in this section, "prevailing party" includes the party with a net monetary recovery or an award of injunctive relief.

(5) The total number of occasions, if any, the nonconsumer party has previously been a party in an arbitration administered by the private arbitration company.

(6) The total number of occasions, if any, the nonconsumer party has previously been a party in a mediation administered by the private arbitration company.

(7) Whether the consumer party was represented by an attorney and, if so, the name of the attorney and the full name of the law firm that employs the attorney, if any.

(8) The date the private arbitration company received the demand for arbitration, the date the arbitrator was appointed, and the date of disposition by the arbitrator or private arbitration company.

(9) The type of disposition of the dispute, if known, identified as one of the following: withdrawal, abandonment, settlement, award after hearing, award without hearing, default, or dismissal without hearing. If a case was administered in a hearing, indicate whether the hearing was conducted in person, by telephone or video conference, or by documents only.

(10) The amount of the claim, whether equitable relief was requested or awarded, the amount of any monetary award, the amount of any attorney's fees awarded, and any other relief granted, if any.

(11) The name of the arbitrator, his or her total fee for the case, the percentage of the arbitrator's fee allocated to each party, whether a waiver of any fees was granted, and, if so, the amount of the waiver.

(b) The information required by this section shall be made available in a format that allows the public to search and sort the information using readily available software, and shall be directly accessible from a conspicuously displayed link on the Internet Web site of the private

arbitration company with the identifying description: “consumer case information.”

(c) (1) If the information required by subdivision (a) is provided by the private arbitration company in compliance with subdivision (b) and may be downloaded without a fee, the company may charge the actual cost of copying to any person who requests the information on paper. If the information required by subdivision (a) is not accessible by the Internet in compliance with subdivision (b), the company shall provide that information without charge to any person who requests the information on paper.

(2) Notwithstanding paragraph (1), a private arbitration company that receives funding pursuant to Chapter 8 (commencing with Section 465) of Division 1 of the Business and Professions Code and that administers or conducts fewer than 50 consumer arbitrations per year may collect and publish the information required by subdivision (a) semiannually, provide the information only on paper, and charge the actual cost of copying.

(d) This section shall apply to any consumer arbitration commenced on or after January 1, 2003.

(e) A private arbitration company shall not have any liability for collecting, publishing, or distributing the information required by this section.

(f) It is the intent of the Legislature that private arbitration companies comply with all legal obligations of this section.

(g) The amendments to subdivision (a) made by the act adding this subdivision shall not apply to any consumer arbitration administered by a private arbitration company before January 1, 2015.