

**ASSEMBLY BILL**

**No. 1067**

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**Introduced by Assembly Member Jackson**

February 23, 2001

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An act to add Sections 1281.85 and 1286.5 to the Code of Civil Procedure, relating to arbitration.

LEGISLATIVE COUNSEL'S DIGEST

AB 1067, as introduced, Jackson. Arbitration.

Existing law provides for arbitration proceedings as a means of alternative dispute resolution.

This bill would require arbitrators to meet minimum qualifications and comply with ethical standards established by the Legislature.

Existing law provides grounds and conditions for the vacation of arbitration awards.

This bill would expand these grounds and conditions by requiring a court to vacate an arbitration award and hold a de novo hearing on the matter if it determines the award is the result of legal or factual error by the arbitrator that has resulted in an injustice to the party, the agreement or contract with the consumer party contains a mandatory pre-dispute binding arbitration provision in a standardized contract drafted by or on behalf of the nonconsumer party, and the petition to vacate and hold a trial de novo is filed by the consumer party. This bill would define, for the purposes of this section, a consumer party. This bill would not allow the provisions of this section to be waived by contract or otherwise. This bill would require an arbitrator to include in the award a written explanation of the basis for the award, including findings of fact and conclusions of law. This bill would not apply to arbitration proceedings

conducted under a collective bargaining agreement between employers and employees or between their respective representatives.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 1281.85 is added to the Code of Civil  
2 Procedure, to read:

3 1281.85. Arbitrators shall meet minimum qualification  
4 standards and comply with ethical standards established by the  
5 Legislature.

6 SEC. 2. Section 1286.5 is added to the Code of Civil  
7 Procedure, to read:

8 1286.5. (a) In addition to any remedies and rights available  
9 under Sections 1286.2 and 1286.4, a court shall vacate an  
10 arbitration award and hold a de novo hearing on the matter if it  
11 determines all of the following exist:

12 (1) The award is the result of legal or factual error by the  
13 arbitrator that has resulted in an injustice to the party.

14 (2) The agreement or contract with the consumer party contains  
15 a mandatory pre-dispute binding arbitration provision in a  
16 standardized contract drafted by or on behalf of the nonconsumer  
17 party.

18 (3) The petition to vacate and hold a trial de novo is filed by the  
19 consumer party.

20 (b) For purposes of this section, a “consumer party” is any of  
21 the following:

22 (1) An individual who seeks or acquires by purchase or lease,  
23 any goods or services, including financial services, as defined in  
24 Section 1761 of the Civil Code, primarily for personal, family, or  
25 household purposes.

26 (2) An individual who is an enrollee or subscriber in a health  
27 care service plan within the meaning of Section 1345 of the Health  
28 and Safety Code.

29 (3) An employee in a dispute arising out of or relating to the  
30 employee’s employment.

31 (c) The provisions of this section may not be waived by  
32 contract or otherwise.



1 (d) For purposes of this section, an arbitrator shall include with  
2 his or her award a written explanation of the basis for the award,  
3 including findings of fact and conclusions of law.

4 (e) This section does not apply to arbitration proceedings  
5 conducted under a collective bargaining agreement between  
6 employers and employees or between their respective  
7 representatives.

