
A BILL FOR AN ACT

RELATING TO DISCLOSURE BY AN ARBITRATOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 658A-12, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~**658A-12**~~§~~ **Disclosure by arbitrator.** (a) Before
4 accepting appointment, an individual who is requested to serve
5 as an arbitrator, after making a reasonable inquiry, shall
6 disclose to all parties to the agreement to arbitrate and
7 arbitration proceeding and to any other arbitrators any known
8 facts that a reasonable person would consider likely to affect
9 the impartiality of the arbitrator in the arbitration
10 proceeding, including:

11 (1) A direct and material financial or personal interest
12 in the outcome of the arbitration proceeding; and

13 (2) An existing or past substantial relationship with any
14 of the parties to the agreement to arbitrate or the
15 arbitration proceeding, their counsel or
16 representatives, a witness, or another arbitrator.



1 (b) An arbitrator has a continuing obligation to disclose
2 to all parties to the agreement to arbitrate and arbitration
3 proceeding and to any other arbitrators any facts that the
4 arbitrator learns after accepting appointment which a reasonable
5 person would consider likely to affect the impartiality of the
6 arbitrator.

7 (c) If an arbitrator discloses a fact required by
8 subsection (a) or (b) to be disclosed and a party timely objects
9 to the appointment or continued service of the arbitrator based
10 upon the fact disclosed, the objection may be a ground under
11 section 658A-23(a)(2) for vacating an award made by the
12 arbitrator.

13 ~~(d) [If the arbitrator did not disclose a fact as required~~
14 ~~by subsection (a) or (b), upon timely objection by a party, the~~
15 ~~court under section 658A-23(a)(2) may vacate an award.]~~ If the
16 court, upon timely objection by a party, determines that the
17 arbitrator did not disclose a fact for which subsection (a) or
18 (b) requires disclosure, the court may determine that the
19 failure to disclose constitutes evident partiality and, pursuant
20 to section 658A-23(a)(2), may vacate the award made by the
21 arbitrator.



1 (e) ~~[An arbitrator appointed as a neutral arbitrator who~~
 2 ~~does not disclose a known, direct, and material interest in the~~
 3 ~~outcome of the arbitration proceeding or a known, existing, and~~
 4 ~~substantial relationship with a party is presumed to act with~~
 5 ~~evident partiality under section 658A-23(a)(2)].~~

6 (f) If the parties to an arbitration proceeding agree to
 7 the procedures of an arbitration organization or any other
 8 procedures for challenges to arbitrators before an award is
 9 made, substantial compliance with those procedures is a
 10 condition precedent to a motion to vacate an award on that
 11 ground under section 658A-23(a)(2)."

12 SECTION 2. This Act does not affect rights and duties that
 13 matured, penalties that were incurred, and proceedings that were
 14 begun before its effective date.

15 SECTION 3. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY  _____
 JAN 19 2017



H.B. NO. 164

Report Title:

Disclosures; Arbitrator

Description:

Clarifies laws regarding an arbitrator's failure to disclose certain facts prior to or during arbitration.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

