

REFERENCE TITLE: arbitrators; appointment requirements

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1046

Introduced by
Senator Kern

AN ACT

AMENDING SECTION 12-133, ARIZONA REVISED STATUTES; RELATING TO COURT
ARBITRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 12-133, Arizona Revised Statutes, is amended to
3 read:

4 12-133. Arbitration of claims; agreement of reference;
5 arbitration award; powers of arbitrators;
6 compensation of arbitrators; appeals; deposits;
7 costs

8 A. The superior court, by rule of court, shall do both of the
9 following:

10 1. Establish jurisdictional limits of not to exceed ~~sixty-five~~
11 ~~thousand dollars~~ \$65,000 for submission of disputes to arbitration.

12 2. Require arbitration in all cases ~~which~~ THAT are filed in
13 superior court in which the court finds or the parties agree that the
14 amount in controversy does not exceed the jurisdictional limit.

15 B. The court may waive the arbitration requirement on a showing of
16 good cause if all parties file a written stipulation waiving the
17 arbitration requirement.

18 C. The court shall maintain a list of qualified persons within its
19 jurisdiction who have ~~agreed~~ VOLUNTEERED to serve as arbitrators, subject
20 to the right of each person to refuse to serve in a particular assigned
21 case and subject further to the right of any party to show good cause why
22 an appointed arbitrator should not serve in a particular assigned case.
23 THE LIST OF QUALIFIED PERSONS SHALL CONSIST OF ANY PERSON WHO IS QUALIFIED
24 BY TRAINING, EXPERIENCE OR CREDENTIALS AS WELL AS ATTORNEYS. BEFORE BEING
25 PLACED ON THE LIST OF QUALIFIED PERSONS, THE COURT SHALL OBTAIN THE
26 PERSON'S WRITTEN CONSENT TO VOLUNTEER AS AN ARBITRATOR. THE COURT MAY NOT
27 REQUIRE AN ATTORNEY TO SERVE AS AN ARBITRATOR. The court rules shall
28 provide that the case subject to arbitration shall be assigned for hearing
29 to a panel of three arbitrators, or in the alternative, to a single
30 arbitrator, each of whom shall be selected by the court.

31 D. Regardless of whether or not suit has been filed, any case may
32 be referred to arbitration by an agreement of reference signed by the
33 parties or their respective counsel for both sides in the case. The
34 agreement of reference shall define the issues involved for determination
35 in the arbitration proceeding and may also contain stipulations with
36 respect to agreed facts, issues or defenses. In such cases, the agreement
37 of reference shall take the place of the pleadings in the case and shall
38 be filed of record.

39 E. The arbitration award shall be in writing, signed by a majority
40 of the arbitrators and filed with the court. The court shall enter the
41 award in its record of judgments. The award has the effect of a judgment
42 on the parties unless reversed on appeal.

43 F. The arbitrators shall administer oaths or affirmations and
44 conduct the hearings pursuant to court rule. The clerk of the superior
45 court shall issue subpoenas, which are enforceable as provided by law.

1 G. Each arbitrator shall be paid a reasonable sum, not to exceed
2 ~~one hundred forty dollars~~ \$140 per day, to be specified by the rules of
3 the appointing court, for each day necessarily expended by the arbitrator
4 in the hearing and determination of the case. The compensation of the
5 arbitrators shall be paid by the county, in which the court has
6 jurisdiction, from its general revenues and shall not be taxed as costs.

7 H. Any party to the arbitration proceeding may appeal from the
8 arbitration award to the court in which the award is entered by filing,
9 within the time limited by rule of court, a demand for trial de novo on
10 law and fact.

11 I. On appeal, at the time of filing the demand for trial de novo,
12 and as a condition of filing, the appellant shall deposit a sum equal to
13 the total compensation of the arbitrators, but not exceeding ten ~~per cent~~
14 PERCENT of the amount in controversy, which sum shall be deposited with
15 the county. If the court finds that the appellant is unable to make the
16 deposit by reason of lack of funds, the court shall allow the filing of
17 the appeal without the deposit. On motion of the appellant within thirty
18 days after the judgment on the trial de novo, the deposit shall be
19 refunded to the appellant if the judgment on the trial de novo is at least
20 twenty-three ~~per cent~~ PERCENT more favorable than the monetary relief or
21 other type of relief granted by the arbitration award. If the judgment on
22 trial de novo is not at least twenty-three ~~per cent~~ PERCENT more favorable
23 than the monetary relief or other type of relief granted by the
24 arbitration award, the court, on its own motion or on motion of the
25 appellee within thirty days after the judgment on the trial de novo, shall
26 order that the deposit be used to pay, or that the appellant pay if the
27 deposit is insufficient, the following costs and fees, unless the court
28 finds on motion that the imposition of the costs and fees would create
29 such a substantial economic hardship as not to be in the interest of
30 justice:

31 1. To the county, the compensation actually paid to the arbitrator.

32 2. To the appellee, those costs taxable in any civil action and
33 reasonable attorney fees as determined by the trial judge for services
34 necessitated by the appeal.

35 3. Reasonable expert witness fees that are incurred by the appellee
36 in connection with the appeal.

37 J. If the court does not provide an order for the disposition of
38 the deposit required by subsection I of this section within ninety days
39 after the final disposition of the trial de novo, the clerk of the court
40 shall transfer the deposit to the county general fund in an amount not to
41 exceed the deposit but sufficient to reimburse the county for the
42 compensation actually paid to the arbitrator and shall refund any balance
43 of the deposit to the appellant.

1 K. An arbitrator is personally immune from suit with respect to all
2 acts done and actions taken in furtherance of the purposes of this
3 section.

4 L. The jurisdictional limit under subsection A, paragraph 1 of this
5 section does not apply to arbitration that is conducted under an
6 alternative dispute resolution program approved by the supreme court.