

JAN 20 2017

A BILL FOR AN ACT

RELATING TO ARBITRATION.

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 known, direct, and material financial or personal
12 interest in the outcome of the arbitration proceeding;
13 and

14 (2) An existing or past substantial relationship with any
15 of the parties to the agreement to arbitrate or the
16 arbitration proceeding, their counsel or
17 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.~~

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



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1 (d) If the court, upon timely objection by a party,
 2 determines that the arbitrator did not disclose a fact required
 3 by subsection (a) or (b) to be disclosed, the court may
 4 determine that such failure to disclose constituted evident
 5 partiality and vacate an award made by the arbitrator pursuant
 6 to section 658-23(a)(2).

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

13 SECTION 2. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

~~Donna Carlin-Agona~~

Kal Rhoads

James Mercado
 Mike Sabbat



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Report Title:

Arbitration; Required Disclosure by Arbitrator

Description:

Clarifies provisions relating to required disclosures by arbitrators.

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

