

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1225

AN ACT

AMENDING SECTIONS 12-133, 13-4051 AND 14-1108, ARIZONA REVISED STATUTES;
RELATING TO THE CLERK OF THE SUPERIOR COURT.

(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; costs

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

9 1. Establish jurisdictional limits of not to exceed sixty-five
10 thousand dollars for submission of disputes to arbitration.

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

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

17 C. The court shall maintain a list of qualified persons within its
18 jurisdiction who have agreed to serve as arbitrators, subject to the right of
19 each person to refuse to serve in a particular assigned case and subject
20 further to the right of any party to show good cause why an appointed
21 arbitrator should not serve in a particular assigned case. The court rules
22 shall provide that the case subject to arbitration shall be assigned for
23 hearing to a panel of three arbitrators, or in the alternative, to a single
24 arbitrator, each of whom shall be selected by the court.

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

33 E. The arbitration award shall be in writing, signed by a majority of
34 the arbitrators and filed with the court. The court shall enter the award in
35 its record of judgments. The award has the effect of a judgment ~~upon~~ ON the
36 parties unless reversed ~~upon~~ ON appeal.

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

40 G. Each arbitrator shall be paid a reasonable sum, not to exceed one
41 hundred forty dollars per day, to be specified by the rules of the appointing
42 court, for each day necessarily expended by the arbitrator in the hearing and
43 determination of the case. The compensation of the arbitrators shall be paid
44 by the county, in which the court has jurisdiction, from its general revenues
45 and shall not be taxed as costs.

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

5 I. ~~Upon~~ ON appeal, at the time of filing the demand for trial de novo,
6 and as a condition of filing, the appellant shall deposit a sum equal to the
7 total compensation of the arbitrators, but not exceeding ten per cent of the
8 amount in controversy, which sum shall be deposited with the county. If the
9 court finds that the appellant is unable to make the deposit by reason of
10 lack of funds, the court shall allow the filing of the appeal without the
11 deposit. ON MOTION OF THE APPELLANT WITHIN THIRTY DAYS AFTER THE JUDGMENT ON
12 THE TRIAL DE NOVO, the deposit shall be refunded to the appellant if the
13 judgment on the trial de novo is at least twenty-three per cent more
14 favorable than the monetary relief or other type of relief granted by the
15 arbitration award. If the judgment on trial de novo is not at least twenty-
16 three per cent more favorable than the monetary relief or other type of
17 relief granted by the arbitration award, the court, ON ITS OWN MOTION OR ON
18 MOTION OF THE APPELLEE WITHIN THIRTY DAYS AFTER THE JUDGMENT ON THE TRIAL DE
19 NOVO, shall order that the deposit be used to pay, or that the appellant pay
20 if the deposit is insufficient, the following costs and fees, unless the
21 court finds on motion that the imposition of the costs and fees would create
22 such a substantial economic hardship as not to be in the interest of justice:

23 1. To the county, the compensation actually paid to the arbitrator.
24 2. To the appellee, those costs taxable in any civil action and
25 reasonable attorney fees as determined by the trial judge for services
26 necessitated by the appeal.

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

29 J. IF THE COURT DOES NOT PROVIDE AN ORDER FOR THE DISPOSITION OF THE
30 DEPOSIT REQUIRED BY SUBSECTION I OF THIS SECTION WITHIN NINETY DAYS AFTER THE
31 FINAL DISPOSITION OF THE TRIAL DE NOVO, THE CLERK OF THE COURT SHALL TRANSFER
32 THE DEPOSIT TO THE COUNTY GENERAL FUND IN AN AMOUNT NOT TO EXCEED THE DEPOSIT
33 BUT SUFFICIENT TO REIMBURSE THE COUNTY FOR THE COMPENSATION ACTUALLY PAID TO
34 THE ARBITRATOR AND SHALL REFUND ANY BALANCE OF THE DEPOSIT TO THE APPELLANT.

35 ~~J.~~ K. An arbitrator is personally immune from suit with respect to
36 all acts done and actions taken in furtherance of the purposes of this
37 section.

38 ~~K.~~ L. The jurisdictional limit under subsection A, paragraph 1 OF
39 THIS SECTION does not apply to arbitration that is conducted under an
40 alternative dispute resolution program approved by the supreme court.

41 Sec. 2. Section 13-4051, Arizona Revised Statutes, is amended to read:

42 13-4051. Entry on records; stipulation; court order

43 A. Any person who is wrongfully arrested, indicted or otherwise
44 charged for any crime may petition the superior court for entry ~~upon~~ ON all
45 court records, police records and any other records of any other agency

1 relating to such arrest or indictment a notation that the person has been
2 cleared.

3 B. After a hearing on the petition, if the judge believes that justice
4 will be served by such entry, the judge shall issue the order requiring the
5 entry that the person has been cleared on such records, with accompanying
6 justification therefor, and shall cause a copy of such order to be delivered
7 to all law enforcement agencies and courts. The order shall further require
8 that all law enforcement agencies and courts shall not release copies of OR
9 PROVIDE ACCESS TO such records to any person except ~~upon~~ ON order of the
10 court.

11 C. Any person who has notice of such order and fails to comply with
12 the court order issued pursuant to this section shall be liable to the person
13 for damages from such failure.

14 Sec. 3. Section 14-1108, Arizona Revised Statutes, is amended to read:

15 14-1108. Arbitration of disputes; alternative dispute
16 resolution

17 In a proceeding brought pursuant to this title, after the initial
18 appointment of a fiduciary, the court may require arbitration of a dispute
19 pursuant to the requirements of section 12-133, subsections B through ~~K~~ L,
20 or order alternative dispute resolution.