## Florida Senate - 2006

By Senator Aronberg

27-1068A-06 See HB 1 A bill to be entitled 2 An act relating to court-ordered nonbinding arbitration; amending s. 44.103, F.S.; revising 3 provisions relating to presentation of 4 testimony and evidence in court-ordered 5 б nonbinding arbitration proceedings; revising 7 provisions relating to award of specified costs of a trial de novo following arbitration 8 9 against the party requesting the trial when the trial judgment differs from the arbitration 10 award by a certain amount; providing an 11 12 effective date. 13 Be It Enacted by the Legislature of the State of Florida: 14 15 Section 1. Subsections (4) and (6) of section 44.103, 16 17 Florida Statutes, are amended to read: 44.103 Court-ordered, nonbinding arbitration.--18 (4) An arbitrator or, in the case of a panel, the 19 chief arbitrator, shall have such power to administer oaths or 20 affirmation and to conduct the proceedings as the rules of 21 22 court shall provide. The hearing shall be conducted 23 informally. Presentation of testimony and evidence shall be kept to a minimum, and matters shall be presented to the 2.4 arbitrators primarily through the statements and arguments of 25 counsel. At the request of Any party to the arbitration may 26 27 petition the court in the underlying action, for good cause 2.8 shown, to authorize the, such arbitrator to shall issue 29 subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence at the 30 arbitration and may petition apply to the court for orders 31

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1 compelling such attendance and production at the arbitration. 2 Subpoenas shall be served and shall be enforceable in the manner provided by law. 3 4 (6) Upon motion made by either party within 30 days 5 after entry of a judgment, the court may assess costs against 6 the party requesting a trial de novo, including arbitration 7 costs, court costs, reasonable attorney's fees, and other 8 reasonable costs such as investigation expenses and expenses for expert or other testimony which were incurred after the 9 10 arbitration hearing and continuing through the trial of the case in accordance with the quidelines for taxation of costs 11 as adopted by the Supreme Court. Such costs may be assessed 12 13 if: (a) Plaintiff, having filed for a trial de novo, 14 obtains a judgment at trial that is at least 25 percent less 15 16 than the arbitration award. In such instance, the costs and 17 attorney's fees pursuant to this section shall be set off 18 against the award. When the costs and attorney's fees pursuant to this section total more than the amount of the judgment, 19 20 the court shall enter judgment for the defendant against the 21 plaintiff for the amount of the costs and attorney's fees, 2.2 less the amount of the award to the plaintiff. For purposes of 23 a determination under this paragraph, the term "judgment" means the amount of the net judgment entered, plus all taxable 2.4 costs pursuant to the guidelines for taxation of costs as 25 adopted by the Supreme Court, plus any post-arbitration 26 27 collateral source payments received or due as of the date of 2.8 the judgment, and plus any post-arbitration settlement amounts by which the verdict was reduced; or 29 30 (b) Defendant, having filed for a trial de novo, has a judgment entered against the defendant that is a least 25 31

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percent more than the arbitration award. For purposes of a determination under this paragraph, the term "judgment" means the amount of the net judgment entered, plus any post-arbitration settlement amounts by which the verdict was reduced. The party having filed for a trial de novo may be assessed the arbitration costs, court costs, and other reasonable costs of the party, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. Section 2. This act shall take effect October 1, 2006. 2.4 

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