CHAPTER 2007-206

Senate Bill No. 978

An act relating to court-ordered nonbinding arbitration; amending s. 44.103, F.S.; revising provisions relating to the presentation of testimony and evidence in court-ordered nonbinding arbitration proceedings; revising provisions relating to an award of specified costs in a trial de novo following arbitration against the party requesting the trial when the trial judgment differs from the arbitration award by a certain amount; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1.   Subsections (4) and (6) of section 44.103, Florida Statutes, are amended to read:

44.103   Court-ordered, nonbinding arbitration.—

(4)   An arbitrator or, in the case of a panel, the chief arbitrator, shall have such power to administer oaths or affirmation and to conduct the proceedings as the rules of court shall provide. The hearing shall be conducted informally. Presentation of testimony and evidence shall be kept to a minimum, and matters shall be presented to the arbitrators primarily through the statements and arguments of counsel. At the request of Any party to the arbitration may petition the court in the underlying action, for good cause shown, to authorize the, such arbitrator to shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence at the arbitration and may petition apply to the court for orders compelling such attendance and production at the arbitration. Subpoenas shall be served and shall be enforceable in the manner provided by law.

(6)   Upon motion made by either party within 30 days after entry of judgment, the court may assess costs against the party requesting a trial de novo, including arbitration costs, court costs, reasonable attorney's fees, and other reasonable costs such as investigation expenses and expenses for expert or other testimony which were incurred after the arbitration hearing and continuing through the trial of the case in accordance with the guidelines for taxation of costs as adopted by the Supreme Court. Such costs may be assessed if:

(a)   The plaintiff, having filed for a trial de novo, obtains a judgment at trial which is at least 25 percent less than the arbitration award. In such instance, the costs and attorney's fees pursuant to this section shall be set off against the award. When the costs and attorney's fees pursuant to this section total more than the amount of the judgment, the court shall enter judgment for the defendant against the plaintiff for the amount of the costs and attorney's fees, less the amount of the award to the plaintiff. For purposes of a determination under this paragraph, the term "judgment" means the amount of the net judgment entered, plus all taxable costs pursuant to the guidelines for taxation of costs as adopted by the Supreme Court, plus

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any postarbitration collateral source payments received or due as of the date of the judgment, and plus any postarbitration settlement amounts by which the verdict was reduced; or

(b) The defendant, having filed for a trial de novo, has a judgment entered against the defendant which is at least 25 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 postarbitration 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, 2007.

Approved by the Governor June 20, 2007.

Filed in Office Secretary of State June 20, 2007.