

A-Engrossed
Senate Bill 659

Ordered by the Senate May 9
Including Senate Amendments dated May 9

Sponsored by Senator L GEORGE (at the request of Russell Walker, FreedomWorks)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Authorizes use of binding arbitration in lieu of civil action for injuries and damage suffered as result of receiving services from licensed professional.]

[Provides that claim is subject to binding arbitration if client and licensed professional enter into agreement to arbitrate. Provides that arbitration is exclusive remedy if claim is subject to binding arbitration.]

[Prescribes procedures for and contents of agreements to arbitrate. Establishes time limitations and processes for claims subject to binding arbitration.]

Establishes requirements for asserting claim of professional negligence against real estate licensee in binding arbitration proceeding. Requires certification that claimant or attorney for claimant has consulted real estate licensee who is qualified, available and willing to testify relating to liability of licensee.

A BILL FOR AN ACT

1
2 Relating to binding arbitration.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section, "real estate licensee" has the meaning given that**
5 **term in ORS 696.010.**

6 **(2) A claim, counterclaim or cross-claim in a binding arbitration proceeding asserting a**
7 **claim of professional negligence against a real estate licensee for conduct occurring within**
8 **the course and scope of the activities for which the person is licensed may not be made un-**
9 **less the claimant or the claimant's attorney certifies that the claimant or attorney has**
10 **consulted a real estate licensee who is qualified, available and willing to testify to admissible**
11 **facts and opinions sufficient to create a question of fact as to the liability of the real estate**
12 **licensee. The certification required by this section must be provided at the time an arbi-**
13 **tration proceeding is initiated as described in ORS 36.635 or at the time the claim is pre-**
14 **sented in the arbitration proceeding by counterclaim or cross-claim. The certification must**
15 **contain a statement that a real estate licensee who is qualified to testify as to the standard**
16 **of care applicable to the alleged facts is available and willing to testify in the proceeding that:**

17 **(a) The alleged conduct of the real estate licensee failed to meet the standard of profes-**
18 **sional care applicable to the real estate licensee in the circumstances alleged; and**

19 **(b) The alleged conduct was a cause of the claimed damages, losses or other harm.**

20 **(3) In lieu of providing the certification described in subsection (2) of this section, the**
21 **claimant or the claimant's attorney may provide an affidavit at the time the arbitration**
22 **proceeding is initiated as described in ORS 36.635, or at the time the claim is presented in**
23 **the arbitration proceeding by counterclaim or cross-claim, that states:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

- 1 **(a) The time allowed to make the claim is about to expire;**
2 **(b) The certification required under subsection (2) of this section will be provided within**
3 **30 days after the proceeding is initiated or after the claim is presented in the proceeding, or**
4 **such longer time as the arbitrator may allow for good cause shown; and**
5 **(c) The claimant or attorney has made such inquiry as is reasonable under the circum-**
6 **stances and has made a good faith attempt to consult with at least one real estate licensee**
7 **who is qualified to testify as to the standard of care applicable to the alleged facts, as re-**
8 **quired by subsection (2) of this section.**
9 **(4) Upon motion of the real estate licensee, an arbitrator may dismiss a claim, counter-**
10 **claim or cross-claim if a claimant or claimant's attorney fails to comply with the require-**
11 **ments of this section within such time as the arbitrator may determine.**
12 **(5) This section applies only to a claim in a binding arbitration proceeding by a claimant**
13 **who:**
14 **(a) Has contracted with or otherwise employed the real estate licensee; or**
15 **(b) Is a person for whose benefit the real estate licensee performed services.**
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