

HOUSE AMENDMENTS TO HOUSE BILL 2303

By COMMITTEE ON JUDICIARY

March 13

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages 2 and 3 and insert:

2 **“SECTION 1. (1) As used in this section and section 2 of this 2009 Act, ‘servicemember’**
3 **has the meaning given that term in 50 U.S.C. App. 511 as in effect on the effective date of**
4 **this 2009 Act.**

5 **“(2) An action brought by a servicemember to enforce a right or remedy under 50 U.S.C.**
6 **App. 501 et seq. is not subject to court-ordered arbitration under ORS 36.400 to 36.425 unless**
7 **the parties to the action stipulate in writing to arbitration after the action is commenced.**

8 **“(3) In addition to the counties specified in ORS 14.080, an action brought by a**
9 **servicemember to enforce a right or remedy under 50 U.S.C. App. 501 et seq. may be brought**
10 **in the Oregon county where the servicemember resides or where the servicemember was a**
11 **resident at the time of bringing the action.**

12 **“(4) Any contract term or provision providing for a choice of forum other than Oregon**
13 **in an agreement entered into by a servicemember who resides in Oregon or is a resident of**
14 **Oregon is voidable at the election of the servicemember.**

15 **“SECTION 2. (1) In addition to any other remedy payable to a servicemember for the**
16 **enforcement of a right under 50 U.S.C. App. 501 et seq., a court shall award a servicemember**
17 **reasonable attorney fees and the amounts specified in subsection (2) of this section if the**
18 **court finds that written demand as described in subsection (3) of this section was mailed to**
19 **the opposing party demanding relief under 50 U.S.C. App. 501 et seq., and the opposing party**
20 **failed to remedy the violation of 50 U.S.C. App. 501 et seq. within 30 days after the mailing**
21 **of the demand.**

22 **“(2) If a court finds that notice was mailed as required by this section, and the opposing**
23 **party failed to remedy the violation of 50 U.S.C. App. 501 et seq. within the time allowed, the**
24 **court shall award the servicemember:**

25 **“(a) The greater of \$1,000 or actual damages, including damages for emotional distress;**
26 **or**

27 **“(b) If the court finds that the opposing party’s conduct was willful, as described in ORS**
28 **646.605, the court shall award the servicemember the greater of \$5,000, or three times the**
29 **amount of actual damages, including damages for emotional distress.**

30 **“(3) A written demand under subsection (1) of this section must be sent by certified mail,**
31 **return receipt requested. The demand must include the servicemember’s name and address,**
32 **the date on which the servicemember went on active duty and a description of the alleged**
33 **violation of 50 U.S.C. App. 501 et seq.**

34 **“SECTION 3. ORS 36.405 is amended to read:**

35 **“36.405. (1) Except as provided in section 1 of this 2009 Act, in a civil action in a circuit**

1 court where all parties have appeared, the court shall refer the action to arbitration under ORS
2 36.400 to 36.425 if either of the following applies:

3 “(a) The only relief claimed is recovery of money or damages, and no party asserts a claim for
4 money or general and special damages in an amount exceeding \$50,000, exclusive of attorney fees,
5 costs and disbursements and interest on judgment.

6 “(b) The action is a domestic relations suit, as defined in ORS 107.510, in which the only con-
7 tested issue is the division or other disposition of property between the parties.

8 “(2) The presiding judge for a judicial district may do either of the following:

9 “(a) Exempt from arbitration under ORS 36.400 to 36.425 a civil action that otherwise would be
10 referred to arbitration under this section.

11 “(b) Remove from further arbitration proceedings a civil action that has been referred to arbi-
12 tration under this section, when, in the opinion of the judge, good cause exists for that exemption
13 or removal.

14 “(3) If a court has established a mediation program that is available for a civil action that would
15 otherwise be subject to arbitration under ORS 36.400 to 36.425, the court shall not assign the pro-
16 ceeding to arbitration if the proceeding is assigned to mediation pursuant to the agreement of the
17 parties. Notwithstanding any other provision of ORS 36.400 to 36.425, a party who completes a
18 mediation program offered by a court shall not be required to participate in arbitration under ORS
19 36.400 to 36.425.

20 “**SECTION 4. Sections 1 and 2 of this 2009 Act apply only to conduct that violates 50**
21 **U.S.C. App. 501 et seq. that occurs on or after the effective date of this 2009 Act.**

22 “**SECTION 5. This 2009 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
24 **on its passage.”**

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