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HOUSE BILL 26-1236

BY REPRESENTATIVE(S) Zokaie and Mabrey, Joseph, Lieder, Lindsay, Bacon, Brown, Nguyen, Sirota;
also SENATOR(S) Ball and Hinrichsen, Benavidez, Kipp, Coleman.

CONCERNING ARBITRATION REFORM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 13-22-204, **amend** (2)(a) as follows:

13-22-204. Effect of agreement to arbitrate - nonwaivable provisions.

(2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the agreement may not:

(a) Waive or agree to vary the effect of the requirements of section 13-22-205 (1), 13-22-206 (1), 13-22-208, ***13-22-209 (3)***, 13-22-217 (1) or (2), 13-22-226, or 13-22-228;

SECTION 2. In Colorado Revised Statutes, 13-22-209, **add** (3) as

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

follows:

13-22-209. Initiation of arbitration - application.

(3) EXCEPT AS PREEMPTED BY FEDERAL LAW, IF THE PARTIES TO THE ARBITRATION AGREEMENT OR PROCEEDING ARE AN EMPLOYER AND EMPLOYEE OR A BUSINESS AND CONSUMER, A PROVISION IN THE CONTRACT THAT REQUIRES THE PARTY THAT IS THE EMPLOYEE OR CONSUMER TO PAY FEES AND COSTS THAT SUBSTANTIALLY EXCEED THE FEES AND COSTS REQUIRED BY STATE COURTS TO BRING A STATE CLAIM FOR A CASE FILED IN STATE COURT, OR REQUIRED BY FEDERAL COURTS TO BRING A FEDERAL CLAIM FOR A CASE FILED IN FEDERAL COURT, IS VOID AND UNENFORCEABLE, AND THE PARTY THAT IS THE EMPLOYEE OR CONSUMER MAY FILE THE CASE IN COURT.

SECTION 3. In Colorado Revised Statutes, 13-22-211, **add** (3) as follows:

13-22-211. Appointment of arbitrator - service as a neutral arbitrator.

(3) AN INDIVIDUAL OR ARBITRATOR, OR AN INDIVIDUAL OR ARBITRATOR ASSOCIATED WITH AN ARBITRATION ORGANIZATION, IS INELIGIBLE TO INITIATE, SPONSOR, OR ADMINISTER AN ARBITRATION PROCEEDING OR TO APPOINT OR SERVE AS AN ARBITRATOR IF THE INDIVIDUAL, ARBITRATOR, OR ARBITRATION ORGANIZATION HAS A RULE, POLICY, PROCEDURE, OR DEMONSTRATED PATTERN OF CONDUCT THAT:

(a) DISCRIMINATES AGAINST A CERTAIN PARTY, TYPE OF PARTY, OR ATTORNEY, OR APPLIES DIFFERENT RULES, POLICIES, OR PROCEDURES BASED ON HOW MANY CLAIMANTS HAVE FILED SIMILAR CLAIMS OR HOW MANY CLAIMS HAVE BEEN FILED FROM THE SAME ATTORNEY; OR

(b) PREVENTS, OR HAS THE EFFECT OF PREVENTING, A CERTAIN PARTY, TYPE OF PARTY, OR ATTORNEY FROM:

(I) ASSERTING THE PARTY'S RIGHTS IN ARBITRATION; OR

(II) BRINGING A CLAIM IN ARBITRATION.

SECTION 4. In Colorado Revised Statutes, 13-22-219, **add** (3) as follows:

13-22-219. Award - application.

(3) (a) A PARTY THAT FAILS TO FULLY COMPLY WITH THE REQUIREMENTS OF A RECORD OF AN AWARD WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THAT AWARD IS LIABLE TO THE OTHER PARTY FOR DAMAGES CAUSED BY THE FAILURE TO FULLY COMPLY.

(b) NOTWITHSTANDING SUBSECTION (3)(a) OF THIS SECTION, IF THE PARTIES OF THE ARBITRATION AGREEMENT OR PROCEEDING ARE AN EMPLOYER AND EMPLOYEE OR BUSINESS AND CONSUMER AND THE PARTY THAT IS THE EMPLOYER OR BUSINESS FAILS TO FULLY COMPLY WITH THE REQUIREMENTS OF A RECORD OF AN AWARD WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DATE OF THAT AWARD, THE PARTY THAT IS THE EMPLOYER OR BUSINESS IS LIABLE TO THE OTHER PARTY FOR DAMAGES IN DOUBLE THE TOTAL AMOUNT IN THE RECORD OF AN AWARD CAUSED BY THE FAILURE TO FULLY COMPLY.

(c) THE LIABILITY DESCRIBED IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION IS IN ADDITION TO THE REQUIREMENTS OF A RECORD OF AN AWARD.

(d) THE ONE HUNDRED TWENTY DAY PERIODS DESCRIBED IN SUBSECTIONS (3)(a) AND (3)(b) OF THIS SECTION TOLL PENDING AN APPEAL, IF ANY.

SECTION 5. In Colorado Revised Statutes, 13-22-221, **repeal** (3) as follows:

13-22-221. Remedies - fees and expenses of arbitration proceeding.

~~(3) Nothing in this section shall be construed to alter or amend the provisions of section 13-21-102 (5).~~

SECTION 6. In Colorado Revised Statutes, 13-21-102, **amend** (5) as follows:

13-21-102. Exemplary damages.

(5) Unless otherwise provided by law, exemplary damages shall not be awarded in administrative ~~or arbitration~~ proceedings, even if the award or decision is enforced or approved in an action commenced in a court.

SECTION 7. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to arbitration agreements entered into or renewed on or after the applicable effective date of this act.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO