

SENATE BILL 5280

State of Washington

52nd Legislature

1991 Regular Session

By Senators Nelson, Rasmussen, A. Smith and Erwin; by request of Attorney General.

Read first time January 25, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to consumer and business dispute resolution; adding
2 a new section to chapter 4.16 RCW; and adding a new chapter to Title 19
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares
6 that:

7 (a) The attorney general through its consumer protection section
8 receives thousands of consumer complaints each year. While many of
9 these are resolved with existing dispute conciliation procedures, many
10 are not and must be resolved in the courts, or left unresolved;

11 (b) The resolution of many disputes can be costly and complex in a
12 judicial setting where the parties involved are necessarily in an
13 adversary posture and subject to formalized procedures;

14 (c) Alternative methods of dispute resolution can meet the needs of
15 Washington's citizens by providing forums in which persons may

1 voluntarily participate in the resolution of disputes in an informal
2 and less adversarial atmosphere;

3 (d) Many of the disputes which are not being resolved with existing
4 conciliation procedures are likely to be resolved if the attorney
5 general implements an alternative dispute resolution program; and

6 (e) Many disputes which are not presently being submitted to the
7 attorney general or courts for resolution could be resolved using an
8 alternative method with an informed and nonadversarial atmosphere.

9 (2) It is the intent of the legislature that the attorney general
10 establish programs pursuant to this chapter in order to:

11 (a) Help meet the need for alternatives to the courts for the
12 resolution of consumer disputes;

13 (b) Offer structures for dispute resolution which may serve as
14 models for resolution centers in other settings;

15 (c) Serve a specific community or locale and resolve disputes that
16 arise within that community or locale; and

17 (d) Educate the community on ways of using the services of the
18 dispute resolution program directly and in a preventive capacity.

19 NEW SECTION. **Sec. 2.** (1) The attorney general shall establish
20 consumer dispute resolution centers. The attorney general shall
21 establish procedures:

22 (a) For consumers to file requests for dispute resolution services
23 and for scheduling mediation sessions participated in by the parties to
24 the dispute;

25 (b) To ensure that each dispute mediated meets the criteria for
26 appropriateness for mediation set by the legislative authority and for
27 rejecting disputes which do not meet the criteria;

1 (c) To give notice of the time, place, and nature of the mediation
2 session to the parties, and for conducting mediation sessions that
3 comply with the provisions of this chapter;

4 (d) Which ensure that participation by all parties is voluntary;

5 (e) To obtain referrals from private and other public bodies;

6 (f) To meet the particular needs of the participants, including,
7 but not limited to, providing services at times convenient to the
8 participants, in sign language, and in languages other than English;

9 (g) To provide trained and certified mediators who, during the
10 dispute resolution process, shall make no decisions or determinations
11 of the issues involved, but who shall facilitate negotiations by the
12 participants themselves to achieve a voluntary resolution of the
13 issues; and

14 (h) To inform and educate the community about the dispute
15 resolution program and encourage the use of the program's services in
16 appropriate cases.

17 (2) The attorney general shall report annually beginning January 1,
18 1993, to the governor, the supreme court, and the legislature regarding
19 the operations of the centers established under this chapter.

20 NEW SECTION. **Sec. 3.** (1) The attorney general shall
21 establish:

22 (a) Procedures to assure the confidentiality of information
23 obtained during the dispute resolution process; and

24 (b) Procedures to identify when the dispute resolution process
25 begins and ends.

26 (2) These procedures shall allow for normal handling of alleged
27 violations of the consumer protection act and other laws.

1 NEW SECTION. **Sec. 4.** All memoranda, work notes or products,
2 or case files of the dispute resolution process under this chapter are
3 confidential and privileged and are not subject to disclosure in any
4 judicial or administrative proceeding unless the court or
5 administrative tribunal determines that the materials were submitted by
6 a participant for the purpose of avoiding discovery of the material in
7 a subsequent proceeding. Any communication relating to the subject
8 matter of the resolution made during the resolution process by any
9 participant, mediator, or any other person is a privileged
10 communication and is not subject to disclosure in any judicial or
11 administrative proceeding unless all parties to the communication waive
12 the privilege. This privilege and limitation on evidentiary use does
13 not apply to any communication of a threat that injury or damage may be
14 inflicted on any person or on the property of a party to the dispute,
15 to the extent the communication may be relevant evidence in a criminal
16 matter.

17 NEW SECTION. **Sec. 5.** A person who voluntarily enters a
18 dispute resolution process established under this chapter may withdraw
19 from dispute resolution and seek judicial or administrative redress.
20 No legal penalty, sanction, or restraint may be imposed upon the
21 person.

22 NEW SECTION. **Sec. 6.** This chapter may be known and cited as
23 the consumer and business dispute resolution act.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 4.16 RCW
25 to read as follows:

26 Any applicable statute of limitations shall be tolled as to
27 participants in dispute resolution established under chapter 19.-- RCW

1 (sections 1 through 6 of this act) during the period of the dispute
2 resolution process.

3 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act shall
4 constitute a new chapter in Title 19 RCW.