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HOUSE BILL 2126

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Wood, Tate, May and Bowman; by request of Attorney General.

Read first time February 27, 1991. Referred to Committee on Judiciary.

1            AN ACT Relating to consumer and business dispute resolution;  
2 amending RCW 7.75.040, 7.75.050, and 7.75.090; and adding a new chapter  
3 to Title 19 RCW.

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

5            NEW SECTION.    **Sec. 1.**            The attorney general shall by rule  
6 establish procedures for designating certain consumer complaints and  
7 disputes which arise under chapter 19.86 RCW as appropriate for  
8 mediation. In establishing such procedures, the attorney general shall  
9 consult with the directors of dispute resolution centers created under  
10 chapter 7.75 RCW.

11            NEW SECTION.    **Sec. 2.**            When a consumer complaint or dispute has  
12 been designated as appropriate for mediation, the attorney general by  
13 rule shall refer, in the following order of priority, the complaint or  
14 dispute to:

1 (1) A dispute resolution center created under chapter 7.75 RCW  
2 located in the county in which the consumer resides;

3 (2) Any other dispute resolution center or mediation service which  
4 both parties to the dispute agree to use; or

5 (3) The attorney general mediation service established under  
6 section 3 of this act.

7 NEW SECTION. **Sec. 3.** The attorney general shall establish by  
8 rule a mediation service to resolve consumer complaints or disputes  
9 which arise under chapter 19.86 RCW in locations where dispute  
10 resolution centers authorized under chapter 7.75 RCW have not been  
11 created or are unable to comply with rules established by the attorney  
12 general and other mediation services which comply with such rules are  
13 not available. The operation of the attorney general's mediation  
14 services shall be independent of the attorney general's enforcement  
15 function under RCW 19.86.080.

16 NEW SECTION. **Sec. 4.** A person who voluntarily enters into  
17 mediation as authorized by this chapter may withdraw from the mediation  
18 and seek judicial or administrative redress. No legal penalty,  
19 sanction, or restraint may be imposed upon the person who thus  
20 withdraws.

21 **Sec. 5.** RCW 7.75.040 and 1984 c 258 s 504 are each amended to read  
22 as follows:

23 (1) In conducting a dispute resolution process, a center  
24 established under this chapter or mediation proceedings authorized by  
25 sections 1 through 3 of this act shall require:

1 (a) That the disputing parties enter into a written agreement which  
2 expresses the method by which they shall attempt to resolve the issues  
3 in dispute; and

4 (b) That at the conclusion of the dispute resolution process, the  
5 parties enter into a written agreement which sets forth the settlement  
6 of the issues and the future responsibilities, if any, of each party.

7 (2) A written agreement entered into with the assistance of a  
8 center at the conclusion of the written dispute resolution process is  
9 admissible as evidence in any judicial or administrative proceeding.

10 **Sec. 6.** RCW 7.75.050 and 1984 c 258 s 505 are each amended to read  
11 as follows:

12 All memoranda, work notes or products, or case files of centers  
13 established under this chapter or developed as a result of mediation  
14 proceedings authorized by sections 1 through 3 of this act are  
15 confidential and privileged and are not subject to disclosure in any  
16 judicial or administrative proceeding unless the court or  
17 administrative tribunal determines that the materials were submitted by  
18 a participant to the center for the purpose of avoiding discovery of  
19 the material in a subsequent proceeding. Any communication relating to  
20 the subject matter of the resolution made during the resolution process  
21 by any participant, mediator, or any other person is a privileged  
22 communication and is not subject to disclosure in any judicial or  
23 administrative proceeding unless all parties to the communication waive  
24 the privilege. The foregoing privilege and limitation on evidentiary  
25 use does not apply to any communication of a threat that injury or  
26 damage may be inflicted on any person or on the property of a party to  
27 the dispute, to the extent the communication may be relevant evidence  
28 in a criminal matter.

1       **Sec. 7.** RCW 7.75.090 and 1984 c 258 s 509 are each amended to read  
2 as follows:

3       Nothing in this chapter precludes any person or persons not  
4 operating under RCW 7.75.020 from providing dispute resolution  
5 services. However, the provisions of RCW 7.75.050, relating to  
6 confidentiality, and RCW 7.75.080, relating to statutes of limitation,  
7 apply only to proceedings conducted by a dispute resolution center  
8 established under this chapter and mediation proceedings authorized by  
9 sections 1 through 3 of this act.

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