



Limits on arbitration burdens courts

Arbitration agreements allow consumers and businesses to resolve disputes quickly and fairly

Imagine if every time a consumer had a dispute with their credit card company, cell phone provider, bought a car or entered into any other business contract they had to hire an attorney and go to court to resolve the dispute and be adequately compensated. Our already clogged court system would be further strained by a significant number of civil suits filed to resolve business and commercial consumer disputes.

Instead, when a consumer has a dispute over a contract with their cell phone provider or credit card company, they are able to quickly and efficiently resolve their claim through alternative dispute resolution, or arbitration. Florida's arbitration system allows consumers and businesses to resolve minor disputes without costly and time consuming civil court proceedings.

Florida's current arbitration system provides significant benefits and cost-savings to consumers, businesses, our court system, and in turn our economy, by allowing consumers and business to resolve disputes much more quickly and efficiently.

The use of arbitration to resolve disputes is an effective and useful alternative to civil court proceedings which provides the following benefits:

- **Arbitration produces the same substantive outcomes as court.** Research shows that decisions on the merits are very similar in arbitration and in court.
- **Arbitration is faster and simpler for consumers.** Average civil court cases can take months and even years to be resolved, arbitration allows disputes to be resolved much more quickly.
- **Arbitration sets forth a streamlined process.** Arbitration allows disputes between consumers and businesses to be resolved without procedural wrangling used by attorneys to increase their fees.

Proposals to alter Florida's arbitration system are nothing more than an attempt by the plaintiff's bar to generate business and make dispute resolution more time consuming and costly. The proposed changes would upend all of the benefits Florida's arbitration system currently provides consumers.

Businesses have mechanisms in place to ensure that consumers are treated fairly

While many business contracts signed by consumers include a clause requiring them to agree to arbitration in the event of a dispute, businesses are required to make sure these agreements are clearly conveyed to consumers and include provisions that allow them to take action beyond arbitration in certain instances.

In fact, most businesses include the following provisions that ensure consumers' rights are protected in dispute resolution agreements:

- Arbitration proceedings do not limit the consumers ability to be represented by counsel.
- Most dispute resolution agreements allow for review by an appellate arbitrator.
- The cost of arbitration and attorneys' fees will not be shifted to the consumer.
- Signing an arbitration agreement does not preclude the consumer from the recovery of punitive damages.
- Consumers are allowed to arbitrate their claims through low-cost consumer arbitration programs.
- The arbitration agreement provides for a fair procedure to select an arbitrator or arbitration firm.

Proposed limits on arbitration will burden consumers, businesses and courts

Senate Bill 2076 proposed by Senator Ted Deutch and House Bill 1219 by Representative McBurney would significantly alter Florida's rules of arbitration and essentially limit the ability of consumers and businesses to utilize arbitration to resolve disputes quickly and efficiently. The proposal imposes a lengthy list of new requirements for dispute resolutions that will make the system more costly and procedurally burdensome.

The proposal includes several provisions that would:

- Allow an arbitrator to award punitive damages;
- Mandate that arbitration conform to the Florida Rules of Civil Procedure;
- Mandate extensive discovery;
- Award attorney's fees;
- Create an extensive database documenting arbitration awards (a tool for plaintiff's attorneys to target businesses as well identify potential clients);
- Subject actions to the Florida Deceptive and Unfair Trade Practices Act.

The proposal imposes additional requirements on arbitrators, typically retired judges, regarding disclosures and conflict. These requirements will inevitably reduce the number of arbitrators and increase the fees the remaining arbitrators will have to charge. The provisions could also preclude an arbitrator from ever arbitrating more than one case with the same party, or even the same attorney.

These proposed limitations could eliminate arbitration as a viable alternative for dispute resolution in Florida. While the system was created as an "alternative" to court proceedings to help reduce the burden on our civil justice system, this proposal will undo many of those benefits and result in long, drawn out court proceedings.

The Florida Justice Reform Institute's mission is to fight wasteful civil litigation through legislation, promote fair and equitable legal practices, and provide information about the state of civil justice in Florida. To facilitate these goals, the Institute employs research and advocacy in support of meaningful tort reform legislation.