

ASSEMBLY BILL NO. 381—ASSEMBLYMEN SEGERBLOM,  
OHRENSCHALL, ANDERSON; AND MORTENSON

MARCH 16, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions relating to arbitration.  
(BDR 52-931)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; making provisions in certain contracts that require arbitration void and unenforceable under certain circumstances; requiring certain disclosures by arbitral organizations; requiring certain disclosures in agreements to arbitrate; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1     **Sections 5 and 17** of this bill make unenforceable, to the extent allowed by
- 2 federal law, a consumer contract that mandates arbitration of disputes involving
- 3 subjects of the contract arising after formation of the contract.
- 4     **Section 6** of this bill mandates the inclusion of certain disclosures relating to
- 5 the costs of arbitration in consumer contracts.
- 6     **Section 10** of this bill mandates certain disclosures by certain arbitral
- 7 organizations.
- 8     **Sections 11 and 13** of this bill prohibit the conduct of consumer arbitration
- 9 proceedings by arbitral organizations under certain circumstances.
- 10    **Section 12** of this bill provides for waiver of arbitration fees that would
- 11 otherwise be charged or assessed against a consumer under certain circumstances.
- 12    **Section 14** of this bill provides for injunctive relief and other remedies for
- 13 certain violations by arbitral organizations.
- 14    **Sections 18 and 19** of this bill revise provisions establishing the circumstances
- 15 under which remedies may be awarded by a court or arbitrator. (NRS 38.222,
- 16 38.238)
- 17    **Section 20** of this bill makes unenforceable, to the extent allowed by federal
- 18 law, a consumer contract of insurance that mandates arbitration of disputes
- 19 involving insurance arising after formation of the contract.
- 20    **Sections 21-24** of this bill eliminate provisions in contracts of insurance for
- 21 health care that mandate arbitration of disputes involving the results of independent



22 evaluations, providing for second independent evaluations. (NRS 689A.0403,  
23 689B.270, 695B.182, 695C.265)

24 **Section 25** of this bill repeals NRS 690B.155, which requires a provision of  
25 mandatory arbitration in a contract of insurance for home protection.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 6, inclusive, of this  
3 act.

4 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act, unless*  
5 *the context otherwise requires, the words and terms defined in*  
6 *sections 3 and 4 of this act have the meanings ascribed to them in*  
7 *those sections.*

8 **Sec. 3.** *“Consumer” means a person who either:*

9 *1. Uses, purchases, acquires, attempts to purchase or acquire,*  
10 *or is offered or furnished any real or personal property, tangible*  
11 *or intangible goods, services or credit for personal, family or*  
12 *household purposes; or*

13 *2. Is an employee of or seeks employment with the other party*  
14 *to the agreement.*

15 **Sec. 4.** *“Consumer arbitration agreement” means a*  
16 *standardized contract where one party drafts a provision that*  
17 *requires disputes arising after the signing of the contract to be*  
18 *submitted to binding arbitration and the other party is a consumer.*  
19 *Such an agreement does not include a public or private sector*  
20 *collective bargaining agreement.*

21 **Sec. 5.** *A consumer arbitration agreement is void and*  
22 *unenforceable except to the extent federal law provides for its*  
23 *enforceability.*

24 **Sec. 6.** *1. A person drafting a consumer arbitration*  
25 *agreement shall clearly and conspicuously disclose in regard to*  
26 *any arbitration:*

27 *(a) The filing fee;*

28 *(b) The average daily cost for an arbitrator and hearing room*  
29 *if the consumer elects to appear in person;*

30 *(c) Other charges that the arbitrator or arbitration service*  
31 *provider will assess in conjunction with an arbitration where the*  
32 *consumer appears in person; and*

33 *(d) The proportion of these costs which each party bears in the*  
34 *event that the consumer prevails and in the event that the*  
35 *consumer does not prevail.*

36 *2. The costs specified in subsection 1 need not include*  
37 *attorney’s fees and, to the extent that, with regard to the*



1 *disclosures required by subsection 1, precise amounts of the fees,*  
2 *costs and charges are not known, the disclosures may be based on*  
3 *reasonable, good faith estimates. A person providing a reasonable,*  
4 *good faith estimate is not liable in any manner for the fact that the*  
5 *actual fees, costs and charges of a particular arbitration vary from*  
6 *the estimate provided.*

7 **3.** *Failure to comply with this section is not grounds to refuse*  
8 *to enforce a consumer arbitration agreement. However, the*  
9 *information provided in the disclosure can be considered in a*  
10 *determination of whether a consumer arbitration agreement is*  
11 *unconscionable or otherwise not enforceable under other law.*

12 **4.** *Whenever this section is violated, any affected person or*  
13 *entity, including the Attorney General, may request a court to*  
14 *enjoin the drafting party from violating this section as to*  
15 *agreements the drafting party enters in the future. The drafting*  
16 *party is liable to the person or entity requesting the injunction*  
17 *for the reasonable attorney's fees and costs of the person*  
18 *requesting the injunction where the court issues an injunction or*  
19 *where, after the action is commenced, the drafting party*  
20 *voluntarily complies with this section.*

21 **Sec. 7.** Chapter 38 of NRS is hereby amended by adding  
22 thereto the provisions set forth as sections 8 to 14, inclusive, of this  
23 act.

24 **Sec. 8.** *“Consumer” means a person who has a dispute*  
25 *relating to that person's status as:*

26 **1.** *A user of, purchaser of or person who attempts to use or*  
27 *purchase any real or personal property, tangible or intangible*  
28 *goods, services or credit for personal, family or household*  
29 *purposes;*

30 **2.** *An enrollee, subscriber or insured under a health care*  
31 *plan or health care insurance, or a person with a medical*  
32 *malpractice claim; or*

33 **3.** *An employee or applicant for employment, except where an*  
34 *arbitration is pursuant to the terms of a public or private sector*  
35 *collective bargaining agreement.*

36 **Sec. 9.** *“Consumer arbitration” means a binding arbitration*  
37 *where one party is a consumer.*

38 **Sec. 10.** **1.** *Any arbitral organization that administers or is*  
39 *otherwise involved in 50 or more consumer arbitrations a year*  
40 *shall collect, publish at least quarterly, and make available to the*  
41 *public in a computer-searchable format, which must be accessible*  
42 *on the Internet website of the arbitral organization, if any, and on*  
43 *paper upon request, all of the following information regarding*  
44 *each consumer arbitration within the preceding 5 years:*



1 (a) *The name of any corporation or other business entity that*  
2 *is a party to the arbitration;*

3 (b) *The type of dispute involved, including, without limitation,*  
4 *goods, banking, insurance, health care, debt collection,*  
5 *employment and, if the dispute involves employment, the amount*  
6 *of the employee's annual wage divided into the following ranges:*

7 (1) *Less than one hundred thousand dollars;*

8 (2) *One hundred thousand dollars or more but not more*  
9 *than two hundred fifty thousand dollars; and*

10 (3) *More than two hundred fifty thousand dollars;*

11 (c) *Whether the consumer was the prevailing party;*

12 (d) *On how many occasions, if any, a business entity that is a*  
13 *party to an arbitration has previously been a party in an*  
14 *arbitration or mediation administered by the arbitral organization;*

15 (e) *Whether the consumer was represented by an attorney;*

16 (f) *The date the arbitral organization received the demand for*  
17 *arbitration, the date the arbitrator was appointed and the date of*  
18 *disposition by the arbitrator or arbitral organization;*

19 (g) *The type of disposition of the dispute, if known, including,*  
20 *without limitation, withdrawal, abandonment, settlement, award*  
21 *after hearing, award without hearing, default or dismissal without*  
22 *hearing;*

23 (h) *The amount of the claim, the amount of the award and any*  
24 *other relief granted; and*

25 (i) *The name of the arbitrator, his total fee for the case and the*  
26 *percentage of the arbitrator's fee allocated to each party.*

27 2. *If the information that is required pursuant to subsection 1*  
28 *is provided by the arbitral organization in a computer-searchable*  
29 *format on the company's Internet website and may be downloaded*  
30 *without any fee, the arbitral organization may charge the actual*  
31 *cost of copying to any person who requests the information on*  
32 *paper. If the information required is not accessible on the*  
33 *Internet, the arbitral organization shall provide that information*  
34 *without charge to any person who requests the information on*  
35 *paper.*

36 3. *An arbitral organization that administers or conducts*  
37 *fewer than 50 consumer arbitrations per year may collect and*  
38 *publish the information required by subsection 1 semiannually,*  
39 *provide the information only on paper and charge the actual cost*  
40 *of copying.*

41 4. *No arbitral organization has any liability for collecting,*  
42 *publishing or distributing the information in compliance with this*  
43 *section.*



1       **Sec. 11.** *No arbitral organization may administer a consumer*  
2 *arbitration to be conducted in this State or provide any other*  
3 *services related to that consumer arbitration, if:*

4       1. *The arbitral organization has, or within the preceding year*  
5 *has had, a financial interest in any party or attorney for a party to*  
6 *the arbitration; or*

7       2. *Any party or attorney for a party to the arbitration has, or*  
8 *within the preceding year has had, any type of financial interest in*  
9 *the arbitral organization.*

10       **Sec. 12.** 1. *All fees and costs charged to or assessed in this*  
11 *State upon a consumer by an arbitral organization in a consumer*  
12 *arbitration must be waived for any person having a gross monthly*  
13 *income that is less than 300 percent of the federal poverty*  
14 *guidelines.*

15       2. *Nothing in this section affects the ability of an arbitral*  
16 *organization to shift fees that would otherwise be charged or*  
17 *assessed upon a consumer to another party.*

18       3. *Prior to requesting or obtaining any fee, an arbitral*  
19 *organization shall provide written notice of the right to obtain a*  
20 *waiver of fees in a manner calculated to bring the matter to the*  
21 *attention of a reasonable consumer, including, without limitation,*  
22 *prominently placing a notice in its first written communication to*  
23 *a consumer and in any invoice, bill, submission form, fee*  
24 *schedule, rules or code of procedure.*

25       4. *Any consumer requesting a waiver of fees or costs may*  
26 *establish eligibility by making a declaration under oath on a form*  
27 *provided by the arbitral organization indicating the monthly*  
28 *income of the consumer and the number of persons living in the*  
29 *household of the consumer. No arbitral organization may require*  
30 *a consumer to provide any further statement or evidence of*  
31 *indigency.*

32       5. *Any information obtained by an arbitral organization*  
33 *about a consumer's identity, financial condition, income, wealth*  
34 *or fee waiver request must be kept confidential and may not be*  
35 *disclosed to any adverse party or any nonparty to the arbitration,*  
36 *except that an arbitral organization may not keep confidential the*  
37 *number of waiver requests received or granted, or the total*  
38 *amount of fees waived.*

39       **Sec. 13.** *A neutral arbitrator or an arbitral organization shall*  
40 *not administer a consumer arbitration under any agreement or*  
41 *rule requiring that a consumer who is a party to the arbitration*  
42 *pay the fees and costs incurred by an opposing party if the*  
43 *consumer does not prevail in the arbitration, including, without*  
44 *limitation, the fees and costs of the arbitrator, arbitral*  
45 *organization, attorney or witnesses.*



1       **Sec. 14.** *Whenever a provision of sections 10 to 14, inclusive,*  
2 *of this act is violated, any affected person or entity, including the*  
3 *Attorney General, may request a court to enjoin the arbitral*  
4 *organization from violating the applicable provision of sections 10*  
5 *to 14, inclusive, of this act and order such restitution as*  
6 *appropriate. The arbitral organization is liable for the reasonable*  
7 *attorney's fees and costs of that person or entity where that person*  
8 *or entity prevails or where, after the action is commenced, the*  
9 *arbitral organization voluntarily complies with the provisions of*  
10 *sections 10 to 14, inclusive, of this act.*

11       **Sec. 15.** NRS 38.207 is hereby amended to read as follows:

12       38.207 As used in NRS 38.206 to 38.248, inclusive, *and*  
13 *sections 8 to 14, inclusive, of this act*, the words and terms defined  
14 in NRS 38.208 to 38.213, inclusive, *and sections 8 and 9 of this act*  
15 have the meanings ascribed to them in those sections.

16       **Sec. 16.** NRS 38.216 is hereby amended to read as follows:

17       38.216 1. NRS 38.206 to 38.248, inclusive, *and sections 8 to*  
18 *14, inclusive, of this act* govern an agreement to arbitrate made on  
19 or after October 1, 2001.

20       2. NRS 38.206 to 38.248, inclusive, *and sections 8 to 14,*  
21 *inclusive, of this act* govern an agreement to arbitrate made before  
22 October 1, 2001, if all the parties to the agreement or to the arbitral  
23 proceeding so agree in a record.

24       3. On or after October 1, 2003, NRS 38.206 to 38.248,  
25 inclusive, *and sections 8 to 14, inclusive, of this act* govern an  
26 agreement to arbitrate whenever made.

27       **Sec. 17.** NRS 38.219 is hereby amended to read as follows:

28       38.219 1. An agreement contained in a record to submit to  
29 arbitration any existing or subsequent controversy arising between  
30 the parties to the agreement is valid, enforceable and irrevocable  
31 except : ~~upon~~

32       (a) *As provided in sections 5 and 20 of this act; or*

33       (b) *Upon* a ground that exists at law or in equity for the  
34 revocation of a contract.

35       2. The court shall decide whether an agreement to arbitrate  
36 exists or a controversy is subject to an agreement to arbitrate.

37       3. An arbitrator shall decide whether a condition precedent to  
38 arbitrability has been fulfilled and whether a contract containing a  
39 valid agreement to arbitrate is enforceable.

40       4. If a party to a judicial proceeding challenges the existence  
41 of, or claims that a controversy is not subject to, an agreement to  
42 arbitrate, the arbitral proceeding may continue pending final  
43 resolution of the issue by the court, unless the court otherwise  
44 orders.



1 **Sec. 18.** NRS 38.222 is hereby amended to read as follows:

2 38.222 1. *Except as otherwise provided in section 13 of this*  
3 *act:*

4 (a) Before an arbitrator is appointed and is authorized and able  
5 to act, the court, upon motion of a party to an arbitral proceeding  
6 and for good cause shown, may enter an order for provisional  
7 remedies to protect the effectiveness of the arbitral proceeding to the  
8 same extent and under the same conditions as if the controversy  
9 were the subject of a civil action.

10 ~~(2)~~ (b) After an arbitrator is appointed and is authorized and  
11 able to act:

12 ~~(a)~~ (1) The arbitrator may issue such orders for provisional  
13 remedies, including interim awards, as he finds necessary to protect  
14 the effectiveness of the arbitral proceeding and to promote the fair  
15 and expeditious resolution of the controversy, to the same extent and  
16 under the same conditions as if the controversy were the subject of a  
17 civil action; and

18 ~~(b)~~ (2) A party to an arbitral proceeding may move the court  
19 for a provisional remedy only if the matter is urgent and the  
20 arbitrator is not able to act timely or the arbitrator cannot provide an  
21 adequate remedy.

22 ~~(3)~~ 2. A party does not waive a right of arbitration by making  
23 a motion under subsection 1. ~~(or 2.)~~

24 **Sec. 19.** NRS 38.238 is hereby amended to read as follows:

25 38.238 *Except as otherwise provided in section 13 of this act:*

26 1. An arbitrator may award reasonable attorney's fees and  
27 other reasonable expenses of arbitration if such an award is  
28 authorized by law in a civil action involving the same claim or by  
29 the agreement of the parties to the arbitral proceeding.

30 2. As to all remedies other than those authorized by subsection  
31 1, an arbitrator may order such remedies as he considers just and  
32 appropriate under the circumstances of the arbitral proceeding. The  
33 fact that such a remedy could not or would not be granted by the  
34 court is not a ground for refusing to confirm an award under NRS  
35 38.239 or for vacating an award under NRS 38.241.

36 3. An arbitrator's expenses and fees, together with other  
37 expenses, must be paid as provided in the award.

38 **Sec. 20.** Chapter 687B of NRS is hereby amended by adding  
39 thereto a new section to read as follows:

40 1. *Any provisions in any contract of insurance that require a*  
41 *consumer to submit a controversy relating to insurance thereafter*  
42 *arising to arbitration are contrary to the established public policy*  
43 *of this State.*

44 2. *A contract of insurance with a consumer that requires the*  
45 *submission to arbitration of any controversy related to the*





1 *insurance transaction thereafter arising between the parties is*  
2 *hereby prohibited and any such arbitration provision is hereby*  
3 *declared invalid, unenforceable and void. Any such arbitration*  
4 *provision shall be considered severable and other provisions of the*  
5 *contract for insurance will remain in effect and given full force.*

6 *3. If a written agreement that involves both insurance and*  
7 *any other services, goods, property or credit includes a mandatory*  
8 *arbitration provision, there must be a clear and conspicuous*  
9 *disclosure that the mandatory arbitration provision does not apply*  
10 *to any dispute related to insurance.*

11 *4. A person violating this section is liable to the consumer in*  
12 *an amount equal to the sum of any actual damage sustained by the*  
13 *consumer as a result of the violation plus \$100, even if no actual*  
14 *damage is proved, plus costs of the action, together with a*  
15 *reasonable attorney's fee. Any provision in a contract of insurance*  
16 *that requires an action to enforce this section to be submitted to*  
17 *arbitration is void and unenforceable unless the consumer agrees*  
18 *to arbitration after filing suit or after otherwise notifying the other*  
19 *party of the violation.*

20 *5. For the purposes of this section, "consumer" means a*  
21 *person who uses, purchases, acquires, attempts to purchase or*  
22 *acquire, or is offered or furnished insurance for personal, family*  
23 *or household purposes.*

24 **Sec. 21.** NRS 689A.0403 is hereby amended to read as  
25 follows:

26 689A.0403 1. ~~Each policy of health insurance must include~~  
27 ~~a procedure for binding arbitration to resolve disputes concerning~~  
28 ~~independent medical evaluations pursuant to the rules of the~~  
29 ~~American Arbitration Association.~~

30 ~~—2.]~~ If an insurer, for any final determination of benefits or care,  
31 requires an independent evaluation of the medical or chiropractic  
32 care of any person for whom such care is covered under the terms of  
33 the contract of insurance, only a physician or chiropractor who is  
34 certified to practice in the same field of practice as the primary  
35 treating physician or chiropractor or who is formally educated in  
36 that field may conduct the independent evaluation.

37 ~~[3.]~~ 2. The independent evaluation must include a physical  
38 examination of the patient, unless he is deceased, and a personal  
39 review of all X rays and reports prepared by the primary treating  
40 physician or chiropractor. A certified copy of all reports of findings  
41 must be sent to the primary treating physician or chiropractor and  
42 the insured person within 10 working days after the evaluation.

43 3. If the insured person disagrees with the finding of the  
44 evaluation, he must submit an appeal to the insurer ~~[pursuant to the~~  
45 ~~procedure for binding arbitration set forth in the policy of insurance]~~





1 within 30 days after he receives the finding of the evaluation. Upon  
2 its receipt of an appeal, the insurer shall so notify in writing the  
3 primary treating physician or chiropractor ~~[ ]~~ *and obtain a second*  
4 *independent evaluation in compliance with the provisions of*  
5 *subsections 1 and 2.*

6 4. The insurer shall not limit or deny coverage for care related  
7 to a disputed claim while the dispute is ~~[in arbitration,]~~ *being*  
8 *appealed*, except that, if the insurer prevails in the ~~[arbitration,]~~  
9 *appeal*, the primary treating physician or chiropractor may not  
10 recover any payment from either the insurer, insured person or the  
11 patient for services that he provided to the patient after receiving  
12 written notice from the insurer pursuant to subsection ~~[3]~~ **2**  
13 concerning the appeal of the insured person.

14 **Sec. 22.** NRS 689B.270 is hereby amended to read as follows:

15 689B.270 1. ~~[Each policy of group or blanket health~~  
16 ~~insurance must include a procedure for binding arbitration to resolve~~  
17 ~~disputes concerning independent medical evaluations pursuant to the~~  
18 ~~rules of the American Arbitration Association.~~

19 ~~—2.]~~ If an insurer, for any final determination of benefits or care,  
20 requires an independent evaluation of the medical or chiropractic  
21 care of any person for whom such care is covered under the terms of  
22 a policy of group or blanket health insurance, only a physician or  
23 chiropractor who is certified to practice in the same field of practice  
24 as the primary treating physician or chiropractor or who is formally  
25 educated in that field may conduct the independent evaluation.

26 ~~[3]~~ **2.** The independent evaluation must include a physical  
27 examination of the patient, unless he is deceased, and a personal  
28 review of all X rays and reports prepared by the primary treating  
29 physician or chiropractor. A certified copy of all reports of findings  
30 must be sent to the primary treating physician or chiropractor and  
31 the insured person within 10 working days after the evaluation.

32 **3.** If the insured person disagrees with the finding of the  
33 evaluation, he must submit an appeal to the insurer ~~[pursuant to the~~  
34 ~~procedure for binding arbitration set forth in the policy of insurance]~~  
35 within 30 days after he receives the finding of the evaluation. Upon  
36 its receipt of an appeal, the insurer shall so notify in writing the  
37 primary treating physician or chiropractor ~~[ ]~~ *and obtain a second*  
38 *independent evaluation in compliance with the provisions of*  
39 *subsections 1 and 2.*

40 4. The insurer shall not limit or deny coverage for care related  
41 to a disputed claim while the dispute is ~~[in arbitration,]~~ *being*  
42 *appealed*, except that, if the insurer prevails in the ~~[arbitration,]~~  
43 *appeal*, the primary treating physician or chiropractor may not  
44 recover any payment from either the insurer, insured person or the  
45 patient for services that he provided to the patient after receiving



1 written notice from the insurer pursuant to subsection ~~[3]~~ 2  
2 concerning the appeal of the insured person.

3 **Sec. 23.** NRS 695B.182 is hereby amended to read as follows:

4 695B.182 1. ~~[Each contract for hospital or medical services~~  
5 ~~must include a procedure for binding arbitration to resolve disputes~~  
6 ~~concerning independent medical evaluations pursuant to the rules of~~  
7 ~~the American Arbitration Association.~~

8 ~~—2.]~~ If a corporation subject to the provisions of this chapter, for  
9 any final determination of benefits or care, requires an independent  
10 evaluation of the medical or chiropractic care of any person for  
11 whom such care is covered under a contract for hospital or medical  
12 services, only a physician or chiropractor who is certified to practice  
13 in the same field of practice as the primary treating physician or  
14 chiropractor or who is formally educated in that field may conduct  
15 the independent evaluation.

16 ~~[3.]~~ 2. The independent evaluation must include a physical  
17 examination of the patient, unless he is deceased, and a personal  
18 review of all X rays and reports prepared by the primary treating  
19 physician or chiropractor. A certified copy of all reports of findings  
20 must be sent to the primary treating physician or chiropractor and  
21 the insured person within 10 working days after the evaluation.

22 3. If the insured person disagrees with the finding of the  
23 evaluation, he must submit an appeal to the insurer ~~[pursuant to the~~  
24 ~~procedure for binding arbitration set forth in the contract for~~  
25 ~~services]~~ within 30 days after he receives the finding of the  
26 evaluation. Upon its receipt of an appeal, the insurer shall so notify  
27 in writing the primary treating physician or chiropractor ~~[.]~~ and  
28 *obtain a second independent medical evaluation in compliance*  
29 *with the provisions of subsections 1 and 2.*

30 4. The insurer shall not limit or deny coverage for care related  
31 to a disputed claim while the dispute is in arbitration, except that, if  
32 the insurer prevails in the arbitration, the primary treating physician  
33 or chiropractor may not recover any payment from either the  
34 insurer, insured person or the patient for services that he provided to  
35 the patient after receiving written notice from the insurer pursuant to  
36 subsection ~~[3]~~ 2 concerning the appeal of the insured person.

37 **Sec. 24.** NRS 695C.265 is hereby amended to read as follows:

38 695C.265 1. If a health maintenance organization, for any  
39 final determination of benefits or care, requires an independent  
40 evaluation of the medical or chiropractic care of any person for  
41 whom such care is provided under the evidence of coverage ~~[:~~

42 ~~—(a) The evidence of coverage must include a procedure for~~  
43 ~~binding arbitration to resolve disputes concerning independent~~  
44 ~~medical evaluations pursuant to the rules of the American~~  
45 ~~Arbitration Association; and~~



1 ~~—(b) Only~~, *only* a physician or chiropractor who is certified to  
2 practice in the same field of practice as the primary treating  
3 physician or chiropractor or who is formally educated in that field  
4 may conduct the independent evaluation.

5 2. The independent evaluation must include a physical  
6 examination of the patient, unless he is deceased, and a personal  
7 review of all X rays and reports prepared by the primary treating  
8 physician or chiropractor. A certified copy of all reports of findings  
9 must be sent to the primary treating physician or chiropractor and  
10 the insured person within 10 working days after the evaluation.

11 3. If the insured person disagrees with the finding of the  
12 evaluation, he must submit an appeal to the insurer ~~[pursuant to the~~  
13 ~~procedure for binding arbitration set forth in the evidence of~~  
14 ~~coverage]~~ within 30 days after he receives the finding of the  
15 evaluation. Upon its receipt of an appeal, the insurer shall so notify  
16 in writing the primary treating physician or chiropractor ~~[.]~~ *and*  
17 *obtain a second independent medical evaluation in compliance*  
18 *with the provisions of subsections 1 and 2.*

19 ~~[3.]~~ 4. The insurer shall not limit or deny coverage for care  
20 related to a disputed claim while the dispute is ~~[in arbitration,]~~ *being*  
21 *appealed*, except that, if the insurer prevails in the ~~[arbitration,]~~  
22 *appeal*, the primary treating physician or chiropractor may not  
23 recover any payment from either the insurer, insured person or the  
24 patient for services that he provided to the patient after receiving  
25 written notice from the insurer pursuant to subsection ~~[2]~~ 3  
26 concerning the appeal of the insured person.

27 **Sec. 25.** NRS 690B.155 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**690B.155 Provision requiring binding arbitration  
authorized; procedures for arbitration.**

1. Subject to the approval of the Commissioner, a contract of insurance for home protection may include a provision which requires the parties to the contract to submit for binding arbitration any dispute between the parties concerning any matter directly or indirectly related to, or associated with, the contract.

2. Except as otherwise provided in subsection 3, the arbitration must be conducted pursuant to the rules for commercial arbitration established by the American Arbitration Association. The insurer is responsible for any administrative fees and expenses relating to the arbitration, except that the insurer is not responsible for attorney's



fees and fees for expert witnesses unless those fees are awarded by the arbitrator.

3. If a provision described in subsection 1 is included in a contract of insurance for home protection, the provision shall not be deemed unenforceable as an unreasonable contract of adhesion if the provision is included in compliance with the provisions of subsection 1.

