

Union Calendar No. 577

110TH CONGRESS
2D SESSION

H. R. 6126

[Report No. 110-894]

To amend chapter 1 of title 9 of United States Code with respect to arbitration.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2008

Ms. LINDA T. SÁNCHEZ of California (for herself, Ms. ROS-LEHTINEN, Mr. CONYERS, Mr. JOHNSON of Georgia, Mr. KUCINICH, and Mr. DELAHUNT) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 26, 2008

Additional sponsors: Ms. ZOE LOFGREN of California, Mr. COHEN, Mr. PASTOR, Mr. WAXMAN, Ms. JACKSON-LEE of Texas, Ms. WASSERMAN SCHULTZ, Mr. WATT, Ms. SUTTON, Mr. SHERMAN, Ms. SCHAKOWSKY, Mr. PAYNE, Mr. BERMAN, Mr. STARK, Ms. MATSUI, Ms. LEE, Mr. CARSON, Mr. DEFAZIO, and Mr. FRANK of Massachusetts

SEPTEMBER 26, 2008

Committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

A BILL

To amend chapter 1 of title 9 of United States Code with respect to arbitration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fairness in Nursing
5 Home Arbitration Act of 2008”.

6 **SEC. 2. AMENDMENTS.**

7 (a) **ARBITRATION OF CERTAIN CONTROVERSIES.**—
8 Chapter 1 of title 9, United States Code, is amended by
9 adding at the end the following:

10 **“§ 17. Validity and enforceability**

11 “(a) **DEFINITIONS.**—For purposes of this section:

12 “(1) **LONG-TERM CARE FACILITY.**—The term
13 ‘long-term care facility’ means—

14 “(A) any skilled nursing facility as defined
15 in 1819(a) of the Social Security Act;

16 “(B) any nursing facility as defined in
17 1919(a) of the Social Security Act; or

18 “(C) a public facility, proprietary facility,
19 or facility of a private nonprofit corporation
20 that—

21 “(i) makes available to adult residents
22 supportive services to assist the residents
23 in carrying out activities such as bathing,
24 dressing, eating, getting in and out of bed
25 or chairs, walking, going outdoors, using

1 the toilet, or obtaining or taking medica-
2 tion; and

3 “(ii) provides a dwelling place (which
4 may contain a full kitchen and bathroom)
5 for residents in order to deliver supportive
6 services described in clause (i), that in-
7 cludes common rooms and other facilities
8 appropriate for the provision of such serv-
9 ices to residents of the facility;

10 but excludes a facility, or portion of a facility,
11 that either does not provide the services de-
12 scribed in clause (i) or has as its primary pur-
13 pose to educate or to treat substance abuse
14 problems.

15 “(2) PRE-DISPUTE ARBITRATION AGREE-
16 MENT.—The term ‘pre-dispute arbitration agree-
17 ment’ means any agreement to arbitrate a dispute
18 that arises after such agreement is made.

19 “(b) INVALIDITY OF PRE-DISPUTE ARBITRATION
20 AGREEMENTS.—A pre-dispute arbitration agreement be-
21 tween a long-term care facility and a resident of such facil-
22 ity (or person acting on behalf of such resident, including
23 a person with financial responsibility for such resident)
24 shall not be valid or specifically enforceable.

1 “(c) APPLICATION TO AGREEMENTS.—This section
2 shall apply to any pre-dispute arbitration agreement be-
3 tween a long-term care facility and a resident of such facil-
4 ity (or a person acting on behalf of such a resident, includ-
5 ing a person with financial responsibility for such resi-
6 dent), and shall apply to a pre-dispute arbitration agree-
7 ment entered into either at any time during the admission
8 process or at any time after the admission process.

9 “(d) APPLICATION OF FEDERAL LAW.—A determina-
10 tion as to whether this chapter applies to an arbitration
11 agreement described in this section shall be determined
12 under Federal law. Except as otherwise provided in this
13 chapter, the validity or enforceability of such agreement
14 shall be determined by the court, rather than the arbi-
15 trator, irrespective of whether the party opposing arbitra-
16 tion challenges such agreement specifically or in conjunc-
17 tion with any other term of the contract containing such
18 agreement.”.

19 (b) CONFORMING AMENDMENT.—The table of sec-
20 tions in chapter 1 of title 9, United States Code, is amend-
21 ed by adding at the end the following:

“17. Validity and enforcement.”.

22 **SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

23 (a) EFFECTIVE DATE.—Except as provided in sub-
24 section (b), this Act and the amendments made by this

1 Act shall take effect on the date of the enactment of this
2 Act.

3 (b) APPLICATION OF AMENDMENTS.—The amend-
4 ments made by this Act shall apply with respect to agree-
5 ments made, amended, altered, modified, renewed, or ex-
6 tended on or after the date of the enactment of this Act.

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