

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2811 Session of
1992

INTRODUCED BY NOYE AND VROON, JUNE 8, 1992

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 8, 1992

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for an
3 alternative dispute resolution plan.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 74

9 ALTERNATIVE DISPUTE RESOLUTION PLAN

10 Sec.

11 7401. Short title of chapter.

12 7402. Definitions.

13 7403. Alternative dispute resolution plan.

14 7404. Conference with counsel.

15 7405. Alternative dispute resolution procedures.

16 7406. Nonjudicial personnel.

17 7407. Determination.

18 § 7401. Short title of chapter.

1 This chapter shall be known and may be cited as the
2 Alternative Dispute Resolution Plan Act.

3 § 7402. Definitions.

4 The following words and phrases when used in this chapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Nonjudicial personnel." Neutrals, mediators or arbitrators.

8 "Outcome-determinative mediation." A procedure in which
9 either a single mediator or a panel of three mediators selected
10 by or under the direction of a court provides the parties with a
11 dollar amount determination that the mediators believe would be
12 awarded if the case were tried.

13 "Plan." The alternative dispute resolution plan.

14 § 7403. Alternative dispute resolution plan.

15 (a) Establishment.--There is hereby established in each
16 judicial district an alternative dispute resolution plan.

17 (b) Contents.--The plan shall include, but not be limited
18 to:

19 (1) Procedures for limited discovery.

20 (2) Confidentiality of proceedings as to possible
21 subsequent pretrial and trial actions.

22 (3) The selection, use and payment of nonjudicial
23 personnel who may conduct alternative dispute resolution
24 procedures.

25 (4) Standards for determining which cases are
26 appropriate for alternative dispute resolution, considering
27 such factors as whether factual issues predominate over legal
28 issues, whether the case involves complex or novel legal
29 issues requiring judicial action and any other factors the
30 court considers relevant.

1 § 7404. Conference with counsel.

2 Each judge shall conduct a conference with counsel within 120
3 days after a complaint is filed to review voluntary alternative
4 dispute resolution procedures that may be used in lieu of
5 litigation to resolve the claims in controversy.

6 § 7405. Alternative dispute resolution procedures.

7 (a) Procedures.--Each plan shall authorize the parties, if
8 they so choose, to utilize alternative dispute resolution
9 procedures that may be used in lieu of litigation to resolve the
10 claims in controversy.

11 (b) Contents.--These voluntary alternative dispute
12 resolution procedures shall include, but not be limited to,
13 early neutral evaluation mediation, outcome-determinative
14 mediation, minitrials, summary jury trials and arbitration.

15 § 7406. Nonjudicial personnel.

16 The parties may choose to utilize the alternative dispute
17 resolution procedures and nonjudicial personnel made available
18 by the court or may, if all parties and the court agree, utilize
19 the services of other nonjudicial personnel not designated in
20 accordance with the court's alternative dispute resolution plan.

21 § 7407. Determination.

22 Each plan shall also provide that, if the parties choose
23 outcome-determinative mediation and in the event a determination
24 is reached:

25 (1) Any party may give notice that it intends to accept
26 that determination while the other parties remain free to
27 reject the determination and continue with the litigation.

28 (2) A plaintiff in an action seeking monetary relief who
29 rejects the determination and fails to obtain a final
30 judgment that is at least 10% greater than the determination

1 shall pay the defendant's reasonable costs and reasonable
2 attorney fees incurred after the rejection of the
3 determination.

4 (3) A defendant in an action seeking monetary relief who
5 rejects the determination and fails to obtain a final
6 judgment that is at least 10% less than the determination
7 shall pay the plaintiff's reasonable costs and reasonable
8 attorney fees incurred after rejection of the determination.

9 Section 2. This act shall take effect in 60 days.