



TENTH GUAM LEGISLATURE
1970 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This certifies that Bill No. 447, "An Act to add Sections 2110 through 2120, inclusive, to the Code of Civil Procedure to provide for civil arbitration", was on the 5th day of February, 1970, duly and regularly passed.


JOAQUIN C. ARRIOLA
Speaker

ATTESTED:


JAMES T. SABLAN
Legislative Secretary

This Act was received by the Governor this 12th day
of February, 1970 at 3:11 o'clock P.M.

/s/ Kurt S. Moylan

KURT S. MOYLAN
Secretary of Guam

APPROVED:


CARLOS G. CAMACHO

CARLOS G. CAMACHO
Governor of Guam

DATED: MAR 14 1970

1:35 P.M.

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TENTH GUAM LEGISLATURE
1970 (SECOND) Regular Session

Bill No. 447

Introduced by J. C. Arriola

AN ACT TO ADD SECTIONS 2110 THROUGH 2120,
INCLUSIVE, TO THE CODE OF CIVIL PROCEDURE
TO PROVIDE FOR CIVIL ARBITRATION.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Sections 2110 through 2120, inclusive, are
3 hereby added to the Code of Civil Procedure to read as follows:

4 "Section 2110. Validity, irrevocability, and enforce-
5 ment of agreements to arbitrate. A written provision in any
6 transaction or contract to settle by arbitration a contro-
7 versy thereafter arising out of such contract or transac-
8 tion, or the refusal to perform the whole or any part
9 thereof, or an agreement in writing to submit to arbitra-
10 tion an existing controversy arising out of such a con-
11 tract, transaction, or refusal, shall be valid, irre-
12 vocable, and enforceable, save upon such grounds as exist
13 at law or in equity for the revocation of any contract.

14 Section 2111. Stay of proceedings where issue
15 therein referable to arbitration. If any suit or pro-
16 ceeding be brought in the courts of Guam upon
17 any issue referable to arbitration under an agreement
18 in writing for such arbitration, the court in which such
19 suit is pending, upon being satisfied that the issue
20 involved in such suit or proceeding is referable to
21 arbitration under such an agreement, shall on application
22 of one of the parties stay the trial of the action until
23 such arbitration has been had in accordance with the
24 terms of the agreement, providing the applicant for the
25 stay is not in default in proceeding with such arbitration.

1 Section 2112. Failure to arbitrate under agreement;
2 petition to court having jurisdiction for order to com-
3 pel arbitration; notice and service thereof; hearing and
4 determination. A party aggrieved by the alleged failure,
5 neglect, or refusal of another to arbitrate under a written
6 agreement for arbitration may petition any court in Guam
7 having jurisdiction, for an order directing that such
8 arbitration proceed in the manner provided for in such
9 agreement. Five days' notice in writing of such applica-
10 tion shall be served upon the party in default. Service
11 thereof shall be made in the manner provided by law for
12 the service of summons in the jurisdiction in which the
13 proceeding is brought. The court shall hear the parties,
14 and upon being satisfied that the making of the agreement
15 for arbitration or the failure to comply therewith is not
16 in issue, the court shall make an order directing the
17 parties to proceed to arbitration in accordance with the
18 terms of the agreement. The hearing and proceedings, under
19 such agreement, shall be in Guam. If the making of the
20 arbitration agreement or the failure, neglect, or refusal
21 to perform the same be in issue, the court shall proceed
22 summarily to the trial thereof. If no jury trial be
23 demanded by the party alleged to be in default, the court
24 shall hear and determine such issue. Where such an issue
25 is raised, the party alleged to be in default may, on or
26 before the return day of the notice of application, demand
27 a jury trial of such issue, and upon such demand the
28 court shall make an order referring the issue or
29 issues to a jury in the manner provided by law for
30 referring to a jury issues in an equity action, or may
31 specially call a jury for that purpose. If the jury
32 find that no agreement in writing for arbitration was

1 made or that there is no default in proceeding thereunder,
2 the proceeding shall be dismissed. If the jury find
3 that an agreement for arbitration was made in writing
4 and that there is a default in proceeding thereunder, the
5 court shall make an order summarily directing the parties
6 to proceed with the arbitration in accordance with the
7 terms thereof.

8 Section 2113. Appointment of arbitrator or umpire.
9 If in the agreement provision be made for a method of
10 naming or appointing an arbitrator or arbitrators or an
11 umpire, such method shall be followed; but if no method
12 be provided therein, or if a method be provided and any
13 party thereto shall fail to avail himself of such method,
14 or if for any other reason there shall be a lapse in the
15 naming of an arbitrator or arbitrators or umpire, or in
16 filling a vacancy, then upon the application of either
17 party to the controversy the court shall designate and
18 appoint an arbitrator or arbitrators or umpire, as the
19 case may require, who shall act under the said agreement
20 with the same force and effect as if he or they had been
21 specifically named therein; and unless otherwise provided
22 in the agreement the arbitration shall be by a single
23 arbitrator.

24 Section 2114. Witnesses before arbitrators; fees;
25 compelling attendance. The arbitrators selected either
26 as prescribed in this Title or otherwise, or a majority
27 of them, may summon in writing any person to attend before
28 them or any of them as a witness and in a proper case
29 to bring with him or them any book, record, document,
30 or paper which may be deemed material as evidence in
31 the case. The fees for such attendance shall be the same
32 as the fees of witnesses before the District Court. Said

1 summons shall issue in the name of the arbitrator or
2 arbitrators, or a majority of them, and shall be directed
3 to the said person and shall be served in the same
4 manner as subpoenas to appear and testify before the
5 court; if any person or persons so summoned to testify
6 shall refuse or neglect to obey said summons, upon
7 petition the court may compel the attendance of such
8 person or persons before said arbitrator or arbitrators,
9 or punish said person or persons for contempt in the same
10 manner provided by law for securing the attendance of
11 witnesses or their punishment for neglect or refusal
12 to attend in the courts of Guam.

13 Section 2115. Proceedings begun by libel in admiralty
14 and seizure of vessel or property. If the basis of juris-
15 diction be a cause of action otherwise justiciable in
16 admiralty, then, notwithstanding anything herein to the
17 contrary, the party claiming to be aggrieved may begin
18 his proceeding hereunder by libel and seizure of the
19 vessel or other property of the other party according
20 to the usual course of admiralty proceedings, and the
21 court shall then have jurisdiction to direct the parties
22 to proceed with the arbitration and shall retain juris-
23 diction to enter its decree upon the award.

24 Section 2116. Award of arbitrators; confirmation;
25 jurisdiction; procedure. If the parties in their agree-
26 ment have agreed that a judgment of the court shall be
27 entered upon the award made pursuant to the arbitration,
28 and shall specify the court, then at any time within one
29 year after the award is made any party to the arbitration
30 may apply to the court so specified for an order confirming
31 the award, and thereupon the court must grant such an order
32 unless the award is vacated, modified, or corrected as
33 prescribed in Sections 2117 and 2118 of this Title.

1 If no court is specified in the agreement of the parties,
2 then such application may be made to the District Court
3 of Guam. Notice of the application shall be served upon
4 the adverse party, and thereupon the court shall have
5 jurisdiction of such party as though he had appeared
6 generally in the proceeding. If the adverse party is a
7 resident of Guam, such service shall be made upon the
8 adverse party or his attorney as prescribed by law for
9 service of notice of motion in an action in the District
10 Court. If the adverse party shall be a nonresident, then
11 the notice of the application shall be served in like man-
12 ner as other process of the courts served on nonresidents.

13 Section 2117. Same: vacation; grounds; rehearing. In
14 either of the following cases the District Court of Guam
15 may make an order vacating the award upon the application
16 of any party to the arbitration -

17 (a) Where the award was procured by corruption,
18 fraud, or undue means.

19 (b) Where there was evident partiality or cor-
20 ruption in the arbitrators, or either of them.

21 (c) Where the arbitrators were guilty of mis-
22 conduct in refusing to postpone the hearing, upon
23 sufficient cause shown, or in refusing to hear
24 evidence pertinent and material to the controversy;
25 or of any other misbehavior by which the rights of
26 any party have been prejudiced.

27 (d) Where the arbitrators exceeded their
28 powers, or so imperfectly executed them so that a
29 mutual, final, and definite award upon the subject
30 matter submitted was not made.

31 (e) Where an award is vacated and the time
32 within which the agreement required the award to be

1 made has not expired the court may, in its discretion,
2 direct a rehearing by the arbitrators.

3 Section 2118. Same; modification or correction;
4 grounds; order. In either of the following cases the
5 District Court of Guam may make an order modifying or
6 correcting the award upon the application of any party
7 to the arbitration -

8 (a) Where there was an evident material mis-
9 calculation of figures or an evident material mis-
10 take in the description of any person, thing, or
11 property referred to in the award.

12 (b) Where the arbitrators have awarded upon a
13 matter not submitted to them, unless it is a matter
14 not affecting the merits of the decision upon the
15 matter submitted.

16 (c) Where the award is imperfect in matter of
17 form not affecting the merits of the controversy.

18 The order may modify and correct the award,
19 so as to effect the intent thereof and promote jus-
20 tice between the parties.

21 Section 2119. Notice of motions to vacate or modify;
22 service; stay of proceedings. Notice of a motion to
23 vacate, modify, or correct an award must be served upon
24 the adverse party or his attorney within three months
25 after the award is filed or delivered. If the adverse
26 party is a resident of Guam, such service shall be made
27 upon the adverse party or his attorney as prescribed by
28 law for service of notice of motion in an action in the
29 District Court. If the adverse party shall be a non-
30 resident then the notice of the application shall be
31 served by in like manner as other process of the court is
32 served on nonresidents. For the purposes of the motion

1 any judge who might make an order to stay the proceedings
2 in an action brought in the same court may make an order,
3 to be served with the notice of motion, staying the pro-
4 ceedings of the adverse party to enforce the award.

5 Section 2120. Papers filed with order on motions;
6 judgment; docketing; force and effect; enforcement. The
7 party moving for an order confirming, modifying, or cor-
8 recting an award shall, at the time such order is filed
9 with the clerk for the entry of judgment thereon, also
10 file the following papers with the clerk:

11 (a) The agreement; the selection or appointment,
12 if any, of an additional arbitrator or umpire; and
13 each written extension of the time, if any, within
14 which to make the award.

15 (b) The award.

16 (c) Each notice, affidavit, or other paper
17 used upon an application to confirm, modify, or
18 correct the award, and a copy of each order of
19 the court upon such an application.

20 The judgment shall be docketed as if it was
21 rendered in an action.

22 The judgment so entered shall have the same
23 force and effect, in all respects, as, and be
24 subject to all the provisions of law relating to, a
25 judgment in an action; and it may be enforced as
26 if it had been rendered in an action in the court
27 in which it is entered."

28 Section 2. This Act is an urgency measure.