Regular Session, 2010 SENATE BILL NO. 457 BY SENATOR APPEL

1 AN ACT 2 To amend and reenact R.S. 9:4203 and 4206, relative to the Louisiana Binding Arbitration 3 Law; to provide certain procedures, requirements, and conditions regarding 4 evidence; to provide relative to payment of deposits, fees, or expenses; and to 5 provide for related matters. Be it enacted by the Legislature of Louisiana: 6 7 Section 1. R.S. 9:4203 and 4206 are hereby amended and reenacted to read as follows: 8 9 §4203. Remedy in case of default; petition and notice; hearing and proceedings 10 A. The party aggrieved by the alleged failure or refusal of another to perform under a written agreement for arbitration, may petition any court of record having 11 12 jurisdiction of the parties, or of the property, for an order directing that the 13 arbitration proceed in the manner provided for in the agreement. Five days' written 14 notice of the application shall be served upon the party in default. Service shall be 15 made in the manner provided by law for the service of a summons. **B.** The court shall hear the parties, and upon being satisfied that the making 16 17 of the agreement for arbitration or the failure to comply therewith is not an issue, the 18 court shall issue an order directing the parties to proceed to arbitration in accordance 19 with the terms of the agreement. If the making of the arbitration agreement or the 20 failure or refusal to perform is an issue, the court shall proceed summarily to the trial 21 thereof. 22 **<u>C.</u>** If no jury trial is demanded, the court shall hear and determine the issue. 23 Where such an issue is raised, either party may, on or before the return day of the 24 notice of application, demand a jury trial of the issue, and upon such demand the 25 court shall issue an order referring the issue or issues to a jury called and empanelled 26 in the manner provided by law.

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1	<u>D</u> . If the jury finds that no agreement in writing for arbitration was made or
2	that there is no default in proceeding thereunder, the proceeding shall be dismissed.
3	If the jury finds that an agreement for arbitration was made in writing and that there
4	is a default in proceeding thereunder, the court shall issue an order summarily
5	directing the parties to proceed with the arbitration in accordance with the terms
6	thereof.
7	E. Failure to pay within ten business days any deposit, fee, or expense
8	required under the arbitration process shall constitute default in the arbitration
9	proceeding. A party aggrieved by the default shall be entitled to remove the
10	matter under arbitration in its entirety to a court of competent jurisdiction and
11	shall be entitled to attorney fees and costs in addition to other remedies as
12	provided in this Section.
13	* * *
14	§4206. Witnesses; summoning; compelling attendance; evidence
15	A. When more than one arbitrator is agreed to, all the arbitrators shall sit at
16	the hearing of the case unless, by consent in writing, all parties agree to proceed with
17	the hearing with a less number. The arbitrators, selected either as prescribed in this
18	Chapter or otherwise, or a majority of them, may, at the request of a party or
19	independently, summon in writing any person to attend before them or any of them
20	as a witness and in a proper case to bring with him or them any book, record,
21	document, or paper which may be deemed material as evidence in the case. The fees
22	for attendance shall be the same as the fees of witnesses in courts of general
23	jurisdiction.
24	<u>B.</u> The summons shall issue in the name of the arbitrator or arbitrators, or a
25	majority of them, and shall be signed by the arbitrator, arbitrators, or a majority of
26	them, and shall be directed to the person and shall be served in the same manner as
27	subpoenas to appear and testify before the court. If any person or persons summoned
28	to testify refuses or neglects to obey the summons, upon petition, the court in and for
29	the parish in which the arbitrators are sitting may compel the attendance or punish
30	the person or persons for contempt in the same manner provided by law for securing

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1	the attendance of witnesses or their punishment for neglect or refusal to attend in the
2	courts of this state.
3	$\underline{C.(1)}$ The parties to the arbitration may offer evidence as is relevant and
4	material to the dispute and shall produce evidence as the arbitrator may deem
5	necessary to an understanding and determination of the dispute. Strict
6	conformity to the Code of Evidence shall not be required, except for laws
7	pertaining to testimonial privileges.
8	(2) The arbitrator shall determine the admissibility, relevance, and
9	materiality of the evidence offered, including the admissibility of expert
10	evidence, and may exclude evidence deemed by the arbitrator to be cumulative
11	<u>or irrelevant.</u>
12	Section 2. The provisions of this Act shall not apply to any cause of action or claim
13	in existence on or prior to the effective date of this Act.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____