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# A BILL FOR AN ACT

RELATING TO DISCLOSURE BY AN ARBITRATOR.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 658A-12, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           " [H] §658A-12 [H]   **Disclosure by arbitrator.** (a) Before  
4 accepting appointment, an individual who is requested to serve  
5 as an arbitrator, after making a reasonable inquiry, shall  
6 disclose to all parties to the agreement to arbitrate and  
7 arbitration proceeding and to any other arbitrators any known  
8 facts that a reasonable person would consider likely to affect  
9 the impartiality of the arbitrator in the arbitration  
10 proceeding, including:

11           (1) A direct and material financial or personal interest  
12           in the outcome of the arbitration proceeding; and

13           (2) An existing or past substantial relationship with any  
14           of the parties to the agreement to arbitrate or the  
15           arbitration proceeding, their counsel or  
16           representatives, a witness, or another arbitrator.



1 (b) An arbitrator has a continuing obligation to disclose  
2 to all parties to the agreement to arbitrate and arbitration  
3 proceeding and to any other arbitrators any facts that the  
4 arbitrator learns after accepting appointment which a reasonable  
5 person would consider likely to affect the impartiality of the  
6 arbitrator.

7 (c) If an arbitrator discloses a fact required by  
8 subsection (a) or (b) to be disclosed and a party timely objects  
9 to the appointment or continued service of the arbitrator based  
10 upon the fact disclosed, the objection may be a ground under  
11 section 658A-23(a)(2) for vacating an award made by the  
12 arbitrator.

13 (d) ~~[If the arbitrator did not disclose a fact as required~~  
14 ~~by subsection (a) or (b), upon timely objection by a party, the~~  
15 ~~court under section 658A-23(a)(2) may vacate an award.]~~ If the  
16 court, upon timely objection by a party, determines that the  
17 arbitrator did not disclose a fact for which subsection (a) or  
18 (b) requires disclosure, the court may determine that the  
19 failure to disclose constitutes evident partiality and, pursuant  
20 to section 658A-23(a)(2), may vacate the award made by the  
21 arbitrator.



1           (e) ~~[An arbitrator appointed as a neutral arbitrator who~~  
2 ~~does not disclose a known, direct, and material interest in the~~  
3 ~~outcome of the arbitration proceeding or a known, existing, and~~  
4 ~~substantial relationship with a party is presumed to act with~~  
5 ~~evident partiality under section 658A-23(a)(2)].~~

6           ~~(f)]~~ If the parties to an arbitration proceeding agree to  
7 the procedures of an arbitration organization or any other  
8 procedures for challenges to arbitrators before an award is  
9 made, substantial compliance with those procedures is a  
10 condition precedent to a motion to vacate an award on that  
11 ground under section 658A-23(a)(2)."

12           SECTION 2. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15           SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17           SECTION 4. This Act shall take effect on July 1, 2050.



**Report Title:**

Disclosures; Arbitrator

**Description:**

Clarifies laws regarding an arbitrator's failure to disclose certain facts prior to or during arbitration. (HB164 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

