

111TH CONGRESS
1ST SESSION

H. R. 1237

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2009

Ms. LINDA T. SÁNCHEZ of California (for herself, Mr. GRIJALVA, Ms. MATSUI, Mr. JOHNSON of Georgia, Ms. LEE of California, Ms. ZOE LOFGREN of California, Mr. STARK, Mr. WATT, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on the Judiciary

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 2009”.

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:

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

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

3 “(1) LONG-TERM CARE FACILITY.—The term
4 ‘long-term care facility’ means—

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

7 “(B) any nursing facility as defined in
8 1919(a) of the Social Security Act; or

9 “(C) a public facility, proprietary facility,
10 or facility of a private nonprofit corporation
11 that—

12 “(i) makes available to adult residents
13 supportive services to assist the residents
14 in carrying out activities such as bathing,
15 dressing, eating, getting in and out of bed
16 or chairs, walking, going outdoors, using
17 the toilet, or obtaining or taking medica-
18 tion; and

19 “(ii) provides a dwelling place (which
20 may contain a full kitchen and bathroom)
21 for residents in order to deliver supportive
22 services described in clause (i), that in-
23 cludes common rooms and other facilities
24 appropriate for the provision of such serv-
25 ices to residents of the facility;

1 but excludes a facility, or portion of a facility,
2 that either does not provide the services de-
3 scribed in clause (i) or has as its primary pur-
4 pose to educate or to treat substance abuse
5 problems.

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

10 “(b) INVALIDITY OF PRE-DISPUTE ARBITRATION
11 AGREEMENTS.—A pre-dispute arbitration agreement be-
12 tween a long-term care facility and a resident of such facil-
13 ity (or person acting on behalf of such resident, including
14 a person with financial responsibility for such resident)
15 shall not be valid or specifically enforceable.

16 “(c) APPLICATION TO AGREEMENTS.—This section
17 shall apply to any pre-dispute arbitration agreement be-
18 tween a long-term care facility and a resident of such facil-
19 ity (or a person acting on behalf of such a resident, includ-
20 ing a person with financial responsibility for such resi-
21 dent), and shall apply to a pre-dispute arbitration agree-
22 ment entered into either at any time during the admission
23 process or at any time after the admission process.

24 “(d) APPLICATION OF FEDERAL LAW.—A determina-
25 tion as to whether this chapter applies to an arbitration

1 agreement described in this section shall be determined
2 under Federal law. Except as otherwise provided in this
3 chapter, the validity or enforceability of such agreement
4 shall be determined by the court, rather than the arbitra-
5 tor, irrespective of whether the party opposing arbitra-
6 tion challenges such agreement specifically or in conjunc-
7 tion with any other term of the contract containing such
8 agreement.”.

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

“17. Validity and enforcement.”.

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

13 (a) EFFECTIVE DATE.—Except as provided in sub-
14 section (b), this Act and the amendments made by this
15 Act shall take effect on the date of the enactment of this
16 Act.

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

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