

HOUSE Substitute for SENATE BILL No. 140

By Committee on Insurance

3-18

9 AN ACT concerning arbitration; relating to the validity of an agreement;
10 amending K.S.A. 5-401 and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 5-401 is hereby amended to read as follows: 5-401.

14 (a) A written agreement to submit any existing controversy to arbitration
15 is valid, enforceable and irrevocable except upon such grounds as exist at
16 law or in equity for the revocation of any contract.

17 (b) Except as provided in subsection (c), a provision in a written con-
18 tract to submit to arbitration any controversy thereafter arising between
19 the parties is valid, enforceable and irrevocable except upon such grounds
20 as exist at law or in equity for the revocation of any contract.

21 (c) ~~The provisions of subsection (b) shall not apply to: (1) Contracts~~
22 ~~of insurance, except for those contracts between insurance companies,~~
23 ~~including reinsurance contracts; (2) contracts between an employer and~~
24 ~~employees, or their respective representatives; or (3) any provision of a~~
25 ~~contract providing for arbitration of a claim in tort. The provisions of~~
26 ~~subsection (b) shall not apply to:~~

27 (1) *Contracts of insurance, except for those contracts between insur-*
28 *ance companies, including reinsurance contracts; or*

29 (2) *contracts between an employer and employees, or the respective*
30 *representatives thereof.*

31 (d) *A provision of a contract providing for arbitration of a claim in*
32 *tort between a medical care facility and a patient or a health care provider*
33 *and a patient or an adult care home and a resident, or the respective*
34 *representatives thereof, shall be valid and enforceable only where the fol-*
35 *lowing three conditions are satisfied:*

36 (1) *Such provision is not made a condition precedent to the rendition*
37 *or receipt of care, treatment or services;*

38 (2) *the patient or resident, or the respective representative thereof, is*
39 *authorized to strike or otherwise avoid the force or effect of such provision*
40 *by submitting written notice to the other party within 30 days after sign-*
41 *ing the contract; and*

42 (3) *such provision, including the substance of paragraphs (2) and (3)*
43 *of this subsection, is set forth in a separate writing signed by the patient*

1 *or resident, or the respective representative thereof.*

2 Sec. 2. K.S.A. 5-401 is hereby repealed.

3 Sec. 3. This act shall take effect and be in force from and after its

4 publication in the statute book.