

## Minnesota Legislative Session 2009

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Selected Highlights of Proposed Legislation Relating to ADR (Final Update)

June 30, 2009

### New Legislation 2009

#### [I-35W bridge collapse survivor compensation process clarification](#)

**HF0100** - Chief Author: Winkler [SF0094 - Chief Author: Latz]

**Revisor Number – 09-1047; Session Law Chapter 4**

**DISPOSITION:** SF 0094 was passed by the House on 2/23 and by the Senate on 2/25; The Governor signed the bill on 2/24/09; Effective Date: 5/8/08 (retroactive)

**Description:** SF0094 - Relating to claims against the state; clarifying certain provisions relating to the I-35W bridge collapse survivor compensation process; limiting access to certain records of the special master panel named to consider claims; classifying members of the panel, employees and consultants as employees of the state; restricting testimony from members of the panel under certain conditions; clarifying certain prohibitions of third party subrogation

**Commentary:** Panelists records are generally not discoverable; panelists are immune from liability and considered employees of state; panelists will not voluntarily testify.

#### [Payday lending regulated. penalties and remedies provided](#)

**HF0914** – Chief Author: Davnie [SF0806 - Chief Author: Dahle]

**Revisor Number – 09-2030; Session Law Chapter 68**

**DISPOSITION:** SF806 was passed by the Senate on 4/24 and by the House on 5/7; The Governor signed the bill on 5/12/09; Effective Date: Sec. 1 & 4 – 1/1/09 (retroactive); Sec. 2 & 3 – 8/1/09

**Commentary:** Section 3 [Minn. Stat. Sec 47.601], Subd. 2(2) shall state that “No contract or agreement between a consumer short-term loan lender and a borrower residing in Minnesota may contain the following:...(2) a provision choosing a forum for dispute resolution other than the state of Minnesota.”

## Omnibus Public Finance Bill

**HF1298** – Chief Author: Lenczewski; [**SF1257** – Chief Author: Bakk]

**Revisor Number – 09-2281; Session Law Chapter 88**

**DISPOSITION:** HF1298 was passed by the Senate and the House on 5/12; The Governor signed the bill on 5/16/09; Effective Date: varies

**Commentary:** As it relates to arbitration, the legislation provides that if a contract between a tax preparer and client contains a mandatory arbitration clause, the tax preparer must provide separate written notice that: (1) arbitration is the exclusive means of dispute resolution for any dispute about the written agreement; (2) the client has the right to affirmatively opt out of the arbitration clause within 30 days of entering into an agreement; and (3) the client is not bound to arbitration if the claim or dispute involves a violation of this section or the client invokes the remedies provided in subdivision 7.

Furthermore, the legislation requires that the "tax preparer must advise the client, both orally and in writing, of the process by which the client may exercise the right to opt out of the mandatory arbitration clause."

## Omnibus environment and natural resources bill

**HF2123**- Chief Author: Wagenius; [**SF1915** – Chief Author: Rummel]

**Revisor Number – 09-3481; Session Law Chapter 37**

**DISPOSITION:** HF2123 was passed by the Senate on 5/4 and the House on 5/5; The Governor signed the bill on 5/11/09; Line item veto, p. 8 lines 8.5-8.9; Effective Date: varies

**Commentary:** A bill relating to the appropriation of money for environment and natural resources. Subdivision 4 prohibits the inclusion of a mandatory arbitration clause or a clause selecting a law other than the laws of Minnesota in written debt management services agreements.

## Regulation of Damages Recoverable in Breach of Insurance Policy

**HF0417** – Chief Author: Atkins; [**SF0528** – Chief Author: Bakk]

**Revisor Number – 09-0480; Session Law Chapter – 148**

**DISPOSITION:** HF0417 was passed by the House on 5/17 and by the Senate on 5/18; The Governor signed the bill on 5/22/09; Effective Date: Sec. 1 – 8/1/09; Sec. 2 – 5, 5/23/09

**Commentary:** A bill relating to insurance. The legislation provides that the insured may not recover attorney fees if the insurer agrees or is required to submit to binding arbitration for a personal injury protection claim.

### **Proposed Legislation which passed, but was VETOED**

#### **Homestead-Lender Mediation Act**

**HF0354** - Chief Author: Hilstrom [SF0340 - Chief Author: Scheid]

**Revisor Number - 09-1328; Session Law Chapter - 154 - VETOED**

**DISPOSITION:** HF0354 was passed by the House on 5/15 and by the Senate on 5/18; the bill was presented to the Governor on 5/20 and vetoed on 5/22/09.

**Description:** Mortgage foreclosure proceedings notice and mandatory mediation required prior to commencement on homestead property, and homestead-lender mediation account created.

**Commentary :** Proposed 583.42 described Mandatory Mediation Proceedings; Proposed 583.43 set forth a good faith participation in mediation requirement; required mediators to assess fulfillment of requirement and preparation of affidavit if any party failed to participate in good faith; court review of mediator affidavit or failure to file affidavit eliminated from final version.

### **Proposed Legislation which did not pass**

**HF0009** - Chief Author: Davnie [SF0242 - Chief Author: Anderson]

**Description:** Minnesota Subprime Borrower Relief Act of 2009.

**Commentary:** Section 7 (583.381) provides that a volunteer arbitrator would resolve whether a foreclosing lender negotiated in good faith with the foreclosed borrower to modify the loan.

**HF0722** - Chief Author: Thissen [SF0616 - Chief Author: Rest]

**Description:** Tax preparation services law modified.

**Commentary:** The bill proposes to regulate tax preparers. The bill had previously prohibited a tax preparation contract from including a mandatory arbitration clause, but was amended on 3/23/09 to instead permit pre-dispute arbitration agreements, but require a 30 day opt out period.

**HF1147** - Chief Author: Reinert

**Description:** Payday lending regulated, penalties and remedies provided.

**Commentary:** The bill provides that contracts or agreements between consumer short-term loan lenders and borrowers in Minnesota may not contain a mandatory arbitration provision.

**HF1181** - Chief Author: Olin [**SF1083** - Chief Author: Ortman]

**Description:** Conciliation court civil claim limit increased.

**Commentary:** The bill increases the conciliation court jurisdictional claim limit from \$7,500 to \$15,000 generally and from \$4,000 to \$7,500 for consumer credit claims.

**SF0200** - Chief Author: Foley

**Description:** Judicial reform provisions; infraction offense adjudication procedure; offense penalty reduction; judicial hearing officer establishment; state judges reduction.

**Commentary:** The bill reduces certain offenses to infractions and provided an adjudication procedure, establishes infraction violation bureaus in judicial districts to be supervised by the chief district judge, permits infraction citation issuance, requires payment or contest for citations, eliminates local government authority to enact certain criminal ordinances; and repeals the crime of petty misdemeanor.

**SF0891** - Chief Author: Olson, M. [**HF 1692:** Chief Author: Morrow]

**Description:** Uniform Arbitration Act

**Commentary:** The bill adopts the Uniform Arbitration Act in Minnesota.

**SF1111** - Chief Author: Dahle [**HF 1691:** Chief Author - Liebling]

**Description:** Rice and Olmsted counties conciliation court alternative dispute resolution programs.

**Commentary:** The bill provides for conciliation court alternative dispute resolution

programs in Rice and Olmsted counties.

**HF2353**- Chief author : Morgan

**Description:** Manufactured Home Park Lot Rentals

**Commentary:** The bill relates to manufactured home park lot rentals, and establishes an administrative remedy for violations of Minnesota Statutes, sections 327C.01 to 327C.14. Sec. 4, Subd. 4 provides that "if the complainant and respondent both agree to mediation of some or all of the claims in the complaint, the office shall proceed to schedule mediation in accordance with Minnesota Rules, chapter 1400."

**HF1619** – Chief Author: Atkins [**SF1742** – Chief Author: Scheid]

**Description :** Minnesota No-Fault Automobile Act's funeral and burial expenses

**Commentary:** This bill deals with no fault auto insurance reform. Subdivision 3 provides for the regulation of arbitration awards in instances of fraud, excessiveness, unreasonableness.