

CHAPTER 439
FORMERLY
HOUSE BILL NO. 433

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CHOICE
OF LAW AND CHOICE OF FORUM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 10 of the Delaware Code by inserting the following new section which shall read as follows:

§ 546. Mediation and arbitration proceedings for business disputes.

(a) Without limiting the jurisdiction of any court of this State, the Superior Court shall have the power to mediate and arbitrate business disputes when:

(1) The parties have consented by agreement or by stipulation to the mediation or arbitration by Courts of this State;

(2) At least one party is a business entity formed or organized under the laws of this State or having its principal place of business in this State, or the business dispute is governed by Delaware law;

(3) No party is a consumer, as that term is defined in § 2731 of Title 6 of the Delaware Code, with respect to the business dispute;

(4) The amount in controversy is no less than one-hundred thousand dollars (\$100,000) or such other amount as the Superior Court determines by rule; and

(5) The Superior Court, without regard to this Section, would have subject matter jurisdiction to adjudicate the business dispute.

(b) A mediation pursuant to this section shall involve a request by parties to have a member of the Superior Court act as a mediator to assist the parties in reaching a mutually satisfactory resolution of their business dispute. Mediation proceedings shall be considered confidential and not of public record.

(c) Arbitration proceedings shall be considered confidential and not of public record until such time, if any, as the proceedings are the subject of an appeal. In the case of an appeal, the record shall be filed by the parties with the Supreme Court in accordance with its rules, and to the extent applicable, the rules of the Superior Court.

(d) The parties in any matter may stipulate that the decision of the Superior Court, or a Commissioner of the Superior Court if they so choose, shall be final and binding and not subject to appeal.

(e) This section is intended to encourage the resolution of business disputes by means of arbitration and mediation. The Superior Court should interpret its rule-making authority broadly to effectuate that intention.

Approved July 27, 2010