



General Assembly

January Session, 2011

Raised Bill No. 6598

LCO No. 4577

04577 _____ JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT CONCERNING OFFERS OF COMPROMISE IN
CONSTRUCTION CONTRACT ARBITRATION PROCEEDINGS AND
MEDIATION AND ARBITRATION OF CONSTRUCTION CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) For the purposes of
2 this section, "construction contract" means any contract entered into on
3 or after October 1, 2011, for construction, renovation or rehabilitation
4 in this state, including any improvements to real property that are
5 associated with such construction, renovation or rehabilitation, or any
6 subcontract for construction, renovation or rehabilitation between an
7 owner and a contractor, a contractor and a subcontractor or a
8 subcontractor and another subcontractor. "Construction contract" does
9 not include (1) any public works or other contract entered into with
10 this state, any other state or the United States, or (2) a contract or
11 project funded or insured by the United States Department of Housing
12 and Urban Development.

13 (b) After a party to a construction contract has made a demand for
14 arbitration pursuant to the dispute resolution provision of the
15 construction contract, such party may, not more than once and at any

16 time before a final award is rendered by the arbitration panel, send by
17 certified mail, return receipt requested, to the opposing party or the
18 opposing party's attorney a written offer of compromise, signed by the
19 party or attorney and directed to the opposing party or attorney,
20 offering to settle all of the claims set forth in the arbitration for a sum
21 certain. Not later than thirty days after being notified of the offer of
22 compromise and before a final award is rendered by the arbitration
23 panel, the opposing party or the opposing party's attorney may reply,
24 by certified mail, return receipt requested, with a written acceptance of
25 the offer of compromise agreeing to settle all claims set forth in the
26 arbitration for the sum certain specified in the offer of compromise. If
27 the opposing party or attorney does not accept the offer of compromise
28 not later than thirty days after being notified of the offer of
29 compromise and before a final award is rendered by the arbitration
30 panel, the offer of compromise shall be considered rejected and not
31 subject to acceptance under this section.

32 (c) After issuance of a final arbitration award and upon the
33 application of any party to a construction contract to confirm, vacate,
34 modify or correct the award, any party who made an offer of
35 compromise pursuant to subsection (b) of this section which the
36 opposing party failed to accept may file with the court proof of the
37 party's offer of compromise. If the court confirms the arbitration award
38 and ascertains from the record that the party has recovered an
39 arbitration award in an amount equal to or greater than the sum
40 certain specified in the party's offer of compromise, the court shall add
41 to the amount of the award eight per cent annual interest on the total
42 amount of such award, in addition to any interest awarded by the
43 arbitrator. The interest shall be computed from the date the original
44 arbitration demand for the subject proceeding was filed. The court
45 shall further award reasonable attorney's fees and costs for bringing
46 the action to confirm, vacate, modify or correct the award and shall
47 render judgment accordingly. This section shall not be interpreted to
48 abrogate or modify the contractual rights of any party concerning the
49 recovery of attorney's fees in accordance with the provisions of any

50 written contract between the parties to the arbitration.

51 Sec. 2. Section 42-158m of the general statutes is repealed and the
52 following is substituted in lieu thereof (*Effective October 1, 2011*):

53 Any provision in a construction contract for the performance of
54 work on a construction site located in this state that purports to require
55 that any dispute arising under the construction contract be mediated,
56 arbitrated or otherwise adjudicated in or under the laws of a state
57 other than Connecticut shall be void and of no effect, regardless of
58 whether the construction contract was executed in this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>October 1, 2011</i>	42-158m

Statement of Purpose:

To: (1) Allow a party in an arbitration proceeding on a construction contract to submit an offer of compromise to the other party and provide that the party who files such offer of compromise may recover eight per cent annual interest on the amount of any award equal to or in excess of the amount in the party's offer; and (2) clarify that certain construction contract provisions may not include the requirement that disputes be adjudicated outside this state by mediation or arbitration.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]