

(Added Pub. L. 101-369, §1, Aug. 15, 1990, 104 Stat. 449.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States (Oct. 27, 1990), see section 3 of Pub. L. 101-369, set out as a note under section 301 of this title.

§ 306. Applicable rules of Inter-American Commercial Arbitration Commission

(a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on July 1, 1988.

(b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of that Commission, the Secretary of State, by regulation in accordance with section 553 of title 5, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.

(Added Pub. L. 101-369, §1, Aug. 15, 1990, 104 Stat. 449.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States (Oct. 27, 1990), see section 3 of Pub. L. 101-369, set out as a note under section 301 of this title.

§ 307. Application

Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States. This chapter applies to the extent that this chapter is not in conflict with chapter 4.

(Added Pub. L. 101-369, §1, Aug. 15, 1990, 104 Stat. 449; amended Pub. L. 117-90, §2(b)(1)(C), Mar. 3, 2022, 136 Stat. 27.)

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-90 substituted “Application” for “Chapter 1; residual application” in section catchline and inserted at end “This chapter applies to the extent that this chapter is not in conflict with chapter 4.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-90 applicable with respect to any dispute or claim that arises or accrues on or after Mar. 3, 2022, see section 3 of Pub. L. 117-90, set out as an Effective Date note under section 401 of this title.

EFFECTIVE DATE

Section effective upon the entry into force of the Inter-American Convention on International Commer-

cial Arbitration of January 30, 1975, with respect to the United States (Oct. 27, 1990), see section 3 of Pub. L. 101-369, set out as a note under section 301 of this title.

CHAPTER 4—ARBITRATION OF DISPUTES INVOLVING SEXUAL ASSAULT AND SEXUAL HARASSMENT

Sec.

401. Definitions.

402. No validity or enforceability.

§ 401. Definitions

In this chapter:

(1) **PREDISPUTE ARBITRATION AGREEMENT.**—The term “predispute arbitration agreement” means any agreement to arbitrate a dispute that had not yet arisen at the time of the making of the agreement.

(2) **PREDISPUTE JOINT-ACTION WAIVER.**—The term “predispute joint-action waiver” means an agreement, whether or not part of a predispute arbitration agreement, that would prohibit, or waive the right of, one of the parties to the agreement to participate in a joint, class, or collective action in a judicial, arbitral, administrative, or other forum, concerning a dispute that has not yet arisen at the time of the making of the agreement.

(3) **SEXUAL ASSAULT DISPUTE.**—The term “sexual assault dispute” means a dispute involving a nonconsensual sexual act or sexual contact, as such terms are defined in section 2246 of title 18 or similar applicable Tribal or State law, including when the victim lacks capacity to consent.

(4) **SEXUAL HARASSMENT DISPUTE.**—The term “sexual harassment dispute” means a dispute relating to conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law.

(Added Pub. L. 117-90, §2(a), Mar. 3, 2022, 136 Stat. 26.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117-90, §3, Mar. 3, 2022, 136 Stat. 28, provided that: “This Act [see Short Title of 2022 Amendment note set out under section 1 of this title], and the amendments made by this Act, shall apply with respect to any dispute or claim that arises or accrues on or after the date of enactment of this Act [Mar. 3, 2022].”

§ 402. No validity or enforceability

(a) **IN GENERAL.**—Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute.

(b) **DETERMINATION OF APPLICABILITY.**—An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this

chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.

(Added Pub. L. 117-90, §2(a), Mar. 3, 2022, 136 Stat. 27.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section applicable with respect to any dispute or claim that arises or accrues on or after Mar. 3, 2022, see section 3 of Pub. L. 117-90, set out as a note under section 401 of this title.