

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1423) TO AMEND TITLE 9 OF THE UNITED STATES CODE WITH RESPECT TO ARBITRATION; WAIVING A REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES; AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

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SEPTEMBER 17, 2019.—Referred to the House Calendar and ordered to be printed

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Mrs. TORRES of California, from the Committee on Rules,  
submitted the following

## R E P O R T

[To accompany H. Res. 558]

The Committee on Rules, having had under consideration House Resolution 558, by a record vote of 6 to 3, report the same to the House with the recommendation that the resolution be adopted.

### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1423, the Forced Arbitration Injustice Repeal Act, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of Rules Committee Print 116-32, modified by the amendment printed in part A of this report, and provides that it shall be considered as read. The resolution waives all points of order against that amendment in the nature of a substitute. The resolution makes in order only those further amendments printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of this report. The resolution provides one motion to recommit with or without in-

structions. The resolution waives the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House with respect to any resolution reported through the legislative day of September 20, 2019, relating to a measure making or continuing appropriations for the fiscal year ending September 30, 2020. The resolution provides that it shall be in order at any time on the legislative day of September 19, 2019, or September 20, 2019, for the Speaker to entertain motions that the House suspend the rules and that the Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill includes waivers of the following:

- Clause 12(b) of rule XXI, which prohibits consideration of a bill unless there is a searchable electronic comparative print that shows how the text of the bill as proposed to be considered differs from the text of the bill as reported.
- Clause 3(d)(1) of rule XIII, which requires the inclusion of committee cost estimate in a committee report.

The waiver of all points of order against the amendment in the nature of a substitute includes a waiver of clause 12(a)(2) of rule XXI, which prohibits consideration of an amendment in the nature of a substitute unless there is a searchable electronic comparative print that shows how the amendment proposes to change current law.

Although the resolution waives all points of order against the amendments printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

#### COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

##### *Rules Committee record vote No. 167*

Motion by Mrs. Lesko to amend the rule to H.R. 1423 to make in order amendment #8, offered by Rep. Sensenbrenner Jr. (WI), which preserves the enforceability of any covered pre-dispute mandatory binding arbitration agreement or pre-dispute joint-action waiver unless the claimant's attorney in alternatively-filed court litigation files with the court an affidavit describing the manner in which counsel will receive attorneys' fees, with such fees being limited to a reasonable level. Defeated: 4–6.

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	Nay	Mr. Cole .....	Yea
Mrs. Torres .....	Nay	Mr. Woodall .....	Yea
Mr. Perlmutter .....	Nay	Mr. Burgess .....	Yea
Mr. Raskin .....		Mrs. Lesko .....	Yea
Ms. Scanlon .....			
Mr. Morelle .....	Nay		
Ms. Shalala .....	Nay		
Mr. DeSaulnier .....			

Majority Members	Vote	Minority Members	Vote
Mr. McGovern, Chairman .....	Nay		

*Rules Committee record vote No. 168*

Motion by Mr. Cole to report an open rule. Defeated: 3–6.

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	Nay	Mr. Cole .....	Yea
Mrs. Torres .....	Nay	Mr. Woodall .....	Yea
Mr. Perlmutter .....	Nay	Mr. Burgess .....	Yea
Mr. Raskin .....		Mrs. Lesko .....	
Ms. Scanlon .....			
Mr. Morelle .....	Nay		
Ms. Shalala .....	Nay		
Mr. DeSaulnier .....			
Mr. McGovern, Chairman .....	Nay		

*Rules Committee record vote No. 169*

Motion by Mrs. Torres to report the rule. Adopted: 6–3.

Majority Members	Vote	Minority Members	Vote
Mr. Hastings .....	Yea	Mr. Cole .....	Nay
Mrs. Torres .....	Yea	Mr. Woodall .....	Nay
Mr. Perlmutter .....	Yea	Mr. Burgess .....	Nay
Mr. Raskin .....		Mrs. Lesko .....	
Ms. Scanlon .....			
Mr. Morelle .....	Yea		
Ms. Shalala .....	Yea		
Mr. DeSaulnier .....			
Mr. McGovern, Chairman .....	Yea		

SUMMARY OF THE AMENDMENT TO H.R. 1423 IN PART A CONSIDERED AS ADOPTED

1. Nadler (NY): Makes technical corrections to the bill.

SUMMARY OF THE AMENDMENTS TO H.R. 1423 IN PART B MADE IN ORDER

1. Jordan (OH), Collins, Doug (GA), Lesko (AZ): Strikes from the bill safe-harbor provisions that allow unions and union employees to keep and enforce union-negotiated pre-dispute mandatory binding arbitration agreements with employers or other unions, while the bill's other provisions abrogate non-union employees' rights to keep and enforce their own agreements. (10 minutes)

2. Fletcher (TX): Clarifies that nothing in this act shall be construed to prohibit the use of arbitration on a voluntary basis when consent is given after the dispute arises. (10 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 1423 CONSIDERED AS ADOPTED

Page 2, strike the matter between line 3 and line 4, and insert the following:

“Sec.  
“401. Definitions.  
“402. No validity or enforceability.”

Page 7, line 6, strike the comma.

Page 8, strike the matter between line 18 and line 19, and insert the following:

“4. Arbitration of Employment, Consumer, Antitrust, and Civil Rights Dis-  
putes ..... 401”.

PART B—TEXT OF AMENDMENTS TO H.R. 1423 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JORDAN OF OHIO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, strike lines 16 through 25.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLETCHER OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end, add the following:

**SEC. 5. RULE OF CONSTRUCTION.**

Nothing in this Act, or the amendments made by this Act, shall be construed to prohibit the use of arbitration on a voluntary basis after the dispute arises.