S T A T E O F N E W Y O R K

9545

I N A S S E M B L Y

March 16, 2016

Introduced by M. of A. DINOWITZ, WEINSTEIN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring notice of mandatory arbitration clauses in certain consumer contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 399-c of the general business law, as added by chapter 946 of the laws of 1984, is amended to read as follows:

S 399-c. Mandatory arbitration clauses in certain consumer contracts [prohibited]. 1. Definitions.

a. The term "consumer" shall mean a natural person residing in this state.

b. The term "consumer goods" shall mean goods, wares, paid merchandise or services purchased or paid for by a consumer, OR EMPLOYMENT, the intended use or benefit of which is intended for the personal, family or household purposes of such consumer.

c. The term "mandatory arbitration clause" shall mean a term or provision contained in a written contract for the sale or purchase of consumer goods OR EMPLOYMENT, which requires the parties to such contract to submit any controversy thereafter arising under such contract to arbitration prior to the commencement of any legal action to enforce the provisions of such contract and which also further provides language to the effect that the decision of the arbitrator or panel of arbitrators in its application to the consumer party shall be final and not subject to court review.

d. The term "arbitration" shall mean the use of a decision making forum conducted by an arbitrator or panel of arbitrators within the meaning and subject to the provisions of article seventy-five of the civil practice law and rules.

E. THE TERM "REPRESENTATIVE" SHALL MEAN AN EMPLOYEE OR AGENT OF A COMPANY WHO IS RESPONSIBLE FOR ADMINISTERING A CONTRACT FOR CONSUMER GOODS, SERVICES, OR EMPLOYMENT TO A CONSUMER.

2. a. Prohibition. No written contract for the sale or purchase of consumer goods, entered into on or after the effective date of this

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD14283-02-6

section, to which a consumer is a party, shall contain a mandatory arbitration clause. Nothing contained herein shall be construed to prohibit a non-consumer party from incorporating a provision within such contract that such non-consumer party agrees that the decision of the arbitrator or panel of arbitrators shall be final in its application to such non-consumer party and not subject to court review.

b. Mandatory arbitration clause null and void. The provisions of a mandatory arbitration clause shall be null and void. The inclusion of such clause in a written contract for the sale or purchase of consumer goods shall not serve to impair the enforceability of any other provision of such contract.

3. IN THE EVENT THAT A CONSUMER IS REQUIRED TO SIGN A CONTRACT FOR CONSUMER GOODS, SERVICES, OR EMPLOYMENT CONTAINING A MANDATORY ARBITRATION CLAUSE THE REPRESENTATIVE SHALL DISCLOSE THE MANDATORY ARBITRATION CLAUSE TO THE CONSUMER AND CLEARLY EXPLAIN, IN PLAIN LANGUAGE, WHAT AN ARBITRATION CLAUSE IS. IF THE CONSUMER IS AGREEING TO A CONTRACT BY ANY FORM OF CONTACT THAT IS NOT PERSONAL, INCLUDING BUT NOT LIMITED TO, ELECTRONICALLY, USING THE INTERNET OR THROUGH THE MAIL, SUCH CONTRACT SHALL HAVE, AT THE END OF SUCH CONTRACT, INFORMATION INFORMING THE CONSUMER THAT THEY ARE SIGNING A MANDATORY ARBITRATION CLAUSE AND AN INTERNET LINK TO A VALID AND PLAIN WRITTEN EXPLANATION OF WHAT AN ARBITRATION CLAUSE IS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.