

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:

- 1 Section 1. Section 399-c of the general business law, as added by
2 chapter 946 of the laws of 1984, is amended to read as follows:
3 S 399-c. Mandatory arbitration clauses in certain consumer contracts
4 [prohibited]. 1. Definitions.
5 a. The term "consumer" shall mean a natural person residing in this
6 state.
7 b. The term "consumer goods" shall mean goods, wares, paid merchandise
8 or services purchased or paid for by a consumer, OR EMPLOYMENT, the
9 intended use or benefit of which is intended for the personal, family or
10 household purposes of such consumer.
11 c. The term "mandatory arbitration clause" shall mean a term or
12 provision contained in a written contract for the sale or purchase of
13 consumer goods OR EMPLOYMENT, which requires the parties to such
14 contract to submit any controversy thereafter arising under such
15 contract to arbitration prior to the commencement of any legal action to
16 enforce the provisions of such contract and which also further provides
17 language to the effect that the decision of the arbitrator or panel of
18 arbitrators in its application to the consumer party shall be final and
19 not subject to court review.
20 d. The term "arbitration" shall mean the use of a decision making
21 forum conducted by an arbitrator or panel of arbitrators within the
22 meaning and subject to the provisions of article seventy-five of the
23 civil practice law and rules.
24 E. THE TERM "REPRESENTATIVE" SHALL MEAN AN EMPLOYEE OR AGENT OF A
25 COMPANY WHO IS RESPONSIBLE FOR ADMINISTERING A CONTRACT FOR CONSUMER
26 GOODS, SERVICES, OR EMPLOYMENT TO A CONSUMER.
27 2. a. Prohibition. No written contract for the sale or purchase of
28 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.

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

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

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

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