

# STATE OF NEW YORK

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2608

2019-2020 Regular Sessions

## IN ASSEMBLY

January 24, 2019

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Introduced by M. of A. DINOWITZ, WEINSTEIN, GALEF, WILLIAMS, M. G. MILLER, COLTON, DICKENS, GOTTFRIED, D'URSO, SEAWRIGHT, JAFFEE, ZEBROWSKI, MOSLEY -- 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 § 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.

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

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1 e. The term "representative" shall mean an employee or agent of a  
2 company who is responsible for administering a contract for consumer  
3 goods, services, or employment to a consumer.

4 2. a. Prohibition. No written contract for the sale or purchase of  
5 consumer goods, entered into on or after the effective date of this  
6 section, to which a consumer is a party, shall contain a mandatory arbi-  
7 tration clause. Nothing contained herein shall be construed to prohibit  
8 a non-consumer party from incorporating a provision within such contract  
9 that such non-consumer party agrees that the decision of the arbitrator  
10 or panel of arbitrators shall be final in its application to such non-  
11 consumer party and not subject to court review.

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

17 3. In the event that a consumer is required to sign a contract for  
18 consumer goods, services, or employment containing a mandatory arbi-  
19 tration clause the representative shall disclose the mandatory arbi-  
20 tration clause to the consumer and clearly explain, in plain language,  
21 what an arbitration clause is. If the consumer is agreeing to a contract  
22 by any form of contact that is not personal, including but not limited  
23 to, electronically, using the internet or through the mail, such  
24 contract shall have, at the end of such contract, information informing  
25 the consumer that they are signing a mandatory arbitration clause and an  
26 internet link to a valid and plain written explanation of what an arbi-  
27 tration clause is.

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