

ASSEMBLY, No. 4097

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JANUARY 15, 2015

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Assemblyman CHARLES MAINOR

District 31 (Hudson)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Co-Sponsored by:

Assemblymen C.A.Brown and Wilson

SYNOPSIS

Prohibits certain provisions in consumer contracts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2015)

1 AN ACT concerning consumer contracts and amending P.L.1981,
2 c.454.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 3 of P.L.1981, c.454 (C.56:12-16) is amended to
8 read as follows:

9 3. **[No]** a. A consumer contract, warranty, notice or sign, as
10 provided for in **[this act]** P.L.1981, c.454, (C.56:12-14 et seq.),
11 shall not contain any provision by which the consumer waives **[his]**
12 any rights provided under **[this]** that act.

13 b. Notwithstanding any law, rule, or regulation to the contrary,
14 a consumer contract, warranty, notice or sign, as provided for in
15 P.L.1981, c.454, (C.56:12-14 et seq.), shall not contain any
16 provision by which the consumer waives or limits:

17 (1) any rights under the provisions of P.L.1960, c.39 (C.56:8-1
18 et seq.), P.L.1988, c.123 (C.56:12-29 et seq.), P.L.1995, c.373
19 (C.56:8-67 et seq.), or any other federal or State consumer
20 protection law;

21 (2) the right to contact a law enforcement agency, State or local
22 government entity, or any other entity for the purpose of reporting a
23 consumer complaint;

24 (3) the right to bring a complaint or civil action within the time
25 limits prescribed by N.J.S.2A:14-1;

26 (4) the right to have this State serve as the forum, jurisdiction, or
27 venue for the resolution of any dispute;

28 (5) the right to bring a class action or serve as a class
29 representative in any dispute;

30 (6) the right to discovery as provided by the Rules of Court;

31 (7) the right to bring a claim for injury to person or property; or

32 (8) the right to a jury trial, except that a consumer may waive
33 this right upon the advice of counsel, as evidenced by counsel's
34 signature on the contract.

35 c. Any **[such]** provision contrary to subsection a. or b. of this
36 section shall be null and void. No consumer contract, notice or sign
37 shall state that any **[of its provisions]** provision contained therein is
38 or may be void, unenforceable or inapplicable in some jurisdictions
39 without specifying which provisions are or are not void,
40 unenforceable or inapplicable within the State of New Jersey;
41 provided, however, that this shall not apply to warranties.

42 (cf: P.L.1981, c.454, s.3)

43

44 2. This act shall take effect immediately.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

This bill revises the "Truth-in-Consumer Contract, Warranty and Notice Act," P.L.1981, c.454 (C.56:12-14 et seq.) to prohibit consumer contracts from forcing consumers to waive or limit certain rights.

Consumer contracts increasingly contain provisions that violate the rights of consumers or make it difficult or impossible for consumers to pursue remedies for misrepresentations, deception, fraud, negligence or even simple breach of contract. These contracts are typically standardized forms drafted with no input from the consumer, and offered on a take-it-or-leave-it basis. A consumer, usually the less sophisticated party in a transaction, generally has no choice but to agree to the unfair terms.

Accordingly, this bill prohibits consumer contracts from containing provisions that require a consumer to waive or limit:

- (1) any rights under the provisions of the consumer fraud act, the new car lemon law, the used car lemon law, or any other federal or State consumer protection law;
- (2) the right to contact a law enforcement agency, State or local government entity, or any other entity for the purpose of reporting a consumer complaint;
- (3) the right to bring a complaint or civil action within the six-year statute of limitations, afforded under current law;
- (4) the right to have this State serve as the forum, jurisdiction, or venue for the resolution of any dispute;
- (5) the right to bring a class action or serve as a class representative in any dispute;
- (6) the right to discovery as provided by the Rules of Court;
- (7) the right to bring a claim for injury to person or property; or
- (8) the right to a jury trial, except that a consumer may waive this right upon the advice of counsel, as evidenced by counsel's signature on the contract.