

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 4972**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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ADOPTED MARCH 7, 2019

**Sponsored by:**

**Assemblyman PAUL D. MORIARTY**  
**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Establishes certain consumer protections related to arbitration organizations.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Consumer Affairs Committee.



1 AN ACT concerning arbitration organizations and supplementing  
2 P.L.2003, c.95 (C.2A:23B-1 et seq.).

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

6

7 1. As used in this act:

8 "Consumer" means a party to an arbitration agreement who, in  
9 the context of that agreement, is an individual who seeks or  
10 acquires, including by lease, any goods or services primarily for  
11 personal, family, or household purposes including, but not limited  
12 to, financial services, healthcare services, or real property.  
13 "Consumer" shall not include a business.

14 "Consumer arbitration" means arbitration pursuant to a  
15 standardized contract, written by one party, with a provision  
16 requiring that disputes arising after the contract's signing shall be  
17 submitted to binding arbitration, and the party not writing the  
18 contract is a consumer. "Consumer arbitration" shall not include an  
19 arbitration conducted or administered by a self-regulatory  
20 organization as defined by the "Securities Exchange Act of  
21 1934" (15 U.S.C. s.78c), the "Commodity Exchange Act"  
22 (7 U.S.C. s.1 et seq.), or regulations adopted under those acts.

23 "Financial interest" means:

24 (1) holding a position in a business as officer, director, trustee,  
25 or partner, or holding any position in management of the business;  
26 or

27 (2) ownership of more than five percent interest in a business.

28 "Indigent consumer" means a consumer having a gross monthly  
29 income that is less than 300 percent of the federal poverty  
30 guidelines issued annually by the United States Department of  
31 Health and Human Services.

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33 2. An arbitration organization shall not administer a consumer  
34 arbitration, or provide any other services related to a consumer  
35 arbitration, if:

36 a. the arbitration organization has, or within the preceding year  
37 has had, a financial interest in any party or attorney for a party; or

38 b. any party or attorney for a party has, or within the preceding  
39 year has had, any type of financial interest in the arbitration  
40 organization.

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42 3. a. A consumer arbitration shall not require a consumer who  
43 is a party to the arbitration to pay the fees and costs incurred by an  
44 opposing party if the consumer does not prevail in the arbitration,  
45 including, but not limited to, the fees and costs of the arbitrator,  
46 arbitration organization, attorney, or witnesses.

47 b. (1) All fees and costs charged to or assessed upon a  
48 consumer by an arbitration organization in a consumer arbitration,

1 exclusive of arbitrator fees, shall be waived for an indigent  
2 consumer.

3 (2) Before requesting or obtaining any fee, an arbitration  
4 organization shall provide written notice of the right to obtain a  
5 waiver of fees in a manner calculated to bring the matter to the  
6 attention of a reasonable consumer, including, but not limited to,  
7 prominently placing a notice in its first written communication to  
8 the consumer and in any invoice, bill, submission form, fee  
9 schedule, or rule or code of procedure.

10 (3) Any consumer requesting a waiver of fees or costs may  
11 establish eligibility by making a declaration under oath of the  
12 consumer's monthly income on a form provided by the arbitration  
13 organization and signed by the consumer. An arbitration  
14 organization shall not require a consumer to provide any further  
15 statement or evidence of indigence.

16 (4) Any information obtained by an arbitration organization  
17 regarding a consumer's identity, financial condition, income,  
18 wealth, or fee waiver request shall be kept confidential and may not  
19 be disclosed to any adverse party or any nonparty to the arbitration,  
20 except an arbitration organization may not keep confidential the  
21 number of waiver requests received or granted, or the total amount  
22 of fees waived.

23 c. Nothing in this section shall affect the ability of an  
24 arbitration organization to shift fees that would otherwise be  
25 charged or assessed upon a consumer party to another party.

26 d. This section shall only apply to arbitration pursuant to a  
27 standardized contract, written by one party, with a provision  
28 requiring that disputes arising after the contract's signing shall be  
29 submitted to binding arbitration, and the party not writing the  
30 contract is a consumer.

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32 4. a. Any arbitration organization that administers or  
33 otherwise is involved in more than 50 consumer arbitrations per  
34 year shall collect, publish at least quarterly, and make available to  
35 the public, all of the following information regarding each  
36 consumer arbitration within the preceding five years:

37 (1) the name of any corporation or other business entity that is  
38 party to the arbitration;

39 (2) the type of dispute involved, including, but not limited to,  
40 goods, banking, insurance, health care, or employment. In the case  
41 of arbitration involving employment, the amount of the employees'  
42 annual wage divided into the following ranges:

43 (a) less than \$100,000;

44 (b) \$100,000 to \$250,000, inclusive; and

45 (c) more than \$250,000;

46 (3) whether the consumer was the prevailing party;

1 (4) the number of occasions a business entity, which is a party  
2 to an arbitration, has previously been a party in an arbitration or  
3 mediation administered by the arbitration organization;

4 (5) whether the consumer was represented by an attorney;

5 (6) the date the arbitration organization received the demand for  
6 arbitration, the date the arbitrator was appointed, and the date of  
7 disposition by the arbitrator or arbitration organization;

8 (7) the type of disposition of the dispute, if known, including  
9 withdrawal, abandonment, settlement, award after hearing, award  
10 without hearing, default, or dismissal without hearing;

11 (8) the amount of the claim, the amount of the award, and any  
12 other relief granted, if any; and

13 (9) the name of the arbitrator, the total fee for the case, and the  
14 percentage of the arbitrator's fee allocated to each party.

15 b. If the information required by subsection a. of this section is  
16 provided by the arbitration organization in a computer-searchable  
17 format through the company's Internet website and may be  
18 downloaded without any fee, the company may charge the actual  
19 cost of copying to any person who requests the information on  
20 paper. If the information required by subsection a. of this section is  
21 not accessible through the Internet, the company shall provide that  
22 information without charge to any person who requests the  
23 information on paper.

24 c. An arbitration organization shall not be liable for collecting,  
25 publishing, or distributing the information required by this section.

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27 5. This act shall take effect on the first day of the fourth month  
28 next following enactment. This act shall apply to consumer  
29 arbitration commenced on or after the effective date of this act, and  
30 shall operate only prospectively so as not to prohibit the  
31 administration of consumer arbitrations on the basis of financial  
32 interests held prior to the effective date of this act.