

SENATE, No. 1826

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Provides that certain fraudulent arbitration agreements are invalid.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning fraud and arbitration agreements and amending
2 P.L.2003, c.95.

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

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7 1. Section 6 of P.L.2003, c.95 (C.2A:23B-6) is amended to
8 read as follows:

9 6. Validity of Agreement to Arbitrate.

10 a. An agreement contained in a record to submit to arbitration
11 any existing or subsequent controversy arising between the parties
12 to the agreement is valid, enforceable, and irrevocable except upon
13 a ground that exists at law or in equity for the revocation of a
14 contract.

15 b. The court shall decide whether an agreement to arbitrate
16 exists or a controversy is subject to an agreement to arbitrate.

17 c. An arbitrator shall decide whether a condition precedent to
18 arbitrability has been fulfilled and whether a contract containing a
19 valid agreement to arbitrate is enforceable.

20 d. If a party to a judicial proceeding challenges the existence
21 of, or claims that a controversy is not subject to, an agreement to
22 arbitrate, the arbitration proceeding may continue pending final
23 resolution of the issue by the court, unless the court otherwise
24 orders.

25 e. An agreement to arbitrate shall not be valid if a business
26 entity is seeking to apply an agreement contained in a contract
27 consented to by a consumer to a purported contractual relationship
28 with that consumer that was created by the entity fraudulently
29 without the consumer's consent and by unlawfully using the
30 consumer's personal identifying information.

31 (P.L.2003, c.95, s.6)

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33 2. This act shall take effect on the 30th day next following the
34 date of enactment.

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STATEMENT

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39 This bill provides that certain fraudulent arbitration agreements
40 are invalid. Specifically, the bill provides that an agreement to
41 arbitrate is not valid if a business entity seeking to apply an
42 agreement contained in a contract consented to by a consumer is for
43 a purported contractual relationship created by the entity
44 fraudulently without the consumer's consent and by unlawfully
45 using the consumer's personal identifying information.

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.

1 This bill is in response to the misuse of consumer information by
2 Wells Fargo Bank employees to create new accounts without
3 consumer consent. The employees received commissions for selling
4 consumers more products and services, and fraudulently created
5 new accounts in consumers' names to inflate their sales numbers.
6 Because the commission program was not properly managed,
7 employees were able, and in some cases encouraged, to take
8 advantage of it. The fraudulent practices led to many consumers
9 being subject to various fees and charges.

10 When consumers brought suit against Wells Fargo in court, the
11 bank successfully compelled many consumers to arbitrate their
12 claims, as the consumers had signed arbitration agreements when
13 opening their original accounts. The arbitrations were carried out
14 behind closed doors, without the due process protections available
15 to claimants who pursue litigation before the civil courts. This bill
16 prevents banks and other business entities with access to
17 consumers' personal identifying information from compelling
18 arbitration in these situations.