

CHAPTER 493

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

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

C.2A:23B-33 Definitions relative to arbitration organizations.

1. As used in this act:

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

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

"Financial interest" means:

(1) holding a position in a business as officer, director, trustee, or partner, or holding any position in management of the business, except that any position-holder in a non-profit organization who is not compensated for holding that position shall not be considered to have a financial interest in the organization; or

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

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

C.2A:23B-34 Prohibited actions for arbitration organization.

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

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

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

C.2A:23B-35 Payment of fees, costs.

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

b. (1) All fees and costs charged to or assessed upon a consumer by an arbitration organization in a consumer arbitration, exclusive of arbitrator fees, shall be waived for an indigent consumer.

(2) Before requesting or obtaining any fee, an arbitration organization shall provide written notice of the right to obtain a waiver of fees in a manner calculated to bring the matter to the attention of a reasonable consumer, including, but not limited to, prominently

placing a notice in its first written communication to the consumer and in any invoice, bill, submission form, fee schedule, or rule or code of procedure.

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

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

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

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

C.2A:23B-36 Collection, publishing, availability of certain information.

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

- (1) the name of any corporation or other business entity that is party to the arbitration;
- (2) the type of dispute involved, including, but not limited to, goods, banking, insurance, health care, or employment. In the case of arbitration involving employment, the amount of the employees' annual wage divided into the following ranges:
 - (a) less than \$100,000;
 - (b) \$100,000 to \$250,000, inclusive; and
 - (c) more than \$250,000;
- (3) whether the consumer was the prevailing party;
- (4) the number of occasions a business entity, which is a party to an arbitration, has previously been a party in an arbitration or mediation administered by the arbitration organization;
- (5) whether the consumer was represented by an attorney;
- (6) the date the arbitration organization received the demand for arbitration, the date the arbitrator was appointed, and the date of disposition by the arbitrator or arbitration organization;
- (7) the type of disposition of the dispute, if known, including withdrawal, abandonment, settlement, award after hearing, award without hearing, default, or dismissal without hearing;
- (8) the amount of the claim, the amount of the award, and any other relief granted, if any; and
- (9) the name of the arbitrator, the total fee for the case, and the percentage of the arbitrator's fee allocated to each party.

b. If the information required by subsection a. of this section is provided by the arbitration organization in a computer-searchable format through the company's Internet website and may be downloaded without any fee, the company may charge the actual cost of

copying to any person who requests the information on paper. If the information required by subsection a. of this section is not accessible through the Internet, the company shall provide that information without charge to any person who requests the information on paper.

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

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

Approved January 21, 2020.