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

Provides that certain fraudulent arbitration agreements are invalid.

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Same as _____ 16/17

Same as _____ 18/19

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

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

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

6. Validity of Agreement to Arbitrate.

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

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

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

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

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

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

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

STATEMENT

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

created new accounts in consumers' names to inflate their sales numbers. Because the commission program was not properly managed, employees were able, and in some cases encouraged, to take advantage of it. The fraudulent practices led to many consumers being subject to various fees and charges.

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

Provides that certain fraudulent arbitration agreements are invalid.