

111TH CONGRESS
1ST SESSION

H. R. 991

To treat arbitration clauses which are unilaterally imposed on consumers as an unfair and deceptive trade practice and prohibit their use in consumer transactions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2009

Mr. GUTIERREZ introduced the following bill; which was referred to the
Committee on Financial Services

A BILL

To treat arbitration clauses which are unilaterally imposed on consumers as an unfair and deceptive trade practice and prohibit their use in consumer transactions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Fairness
5 Act of 2009”.

1 **SEC. 2. PROHIBITION ON ARBITRATION CLAUSES IMPOSED**
 2 **ON CONSUMERS WITHOUT THEIR CONSENT.**

3 (a) IN GENERAL.—The Consumer Credit Protection
 4 Act (15 U.S.C. 1601 et seq.) is amended by adding at
 5 the end the following new title:

6 **“TITLE X—DISPUTE**
 7 **RESOLUTION**

8 **“SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.**

9 “(a) SHORT TITLE.—This title may be cited as the
 10 ‘Consumer Fairness Act’.

11 “(b) TABLE OF CONTENTS.—The table of contents
 12 for this title is as follows:

“TITLE X—DISPUTE RESOLUTION

“Sec. 1001. Short title; table of contents.

“Sec. 1002. Definitions.

“Sec. 1003. Prohibition on arbitration clauses imposed on consumers without
 their consent.

13 **“SEC. 1002. DEFINITIONS.**

14 “For purposes of this title, the following definitions
 15 shall apply:

16 “(1) CONSUMER.—The term ‘consumer’ means
 17 any individual.

18 “(2) CONSUMER TRANSACTION.—The term
 19 ‘consumer transaction’ means the sale or rental of
 20 goods, services, or real property, including an exten-
 21 sion of credit or the provision of any other financial
 22 product or service, to an individual in a transaction

1 entered into primarily for personal, family, or house-
2 hold purposes.

3 “(3) CONSUMER CONTRACT.—The term ‘con-
4 sumer contract’ means any written, standardized
5 form contract between the parties to a consumer
6 transaction.

7 **“SEC. 1003. PROHIBITION ON ARBITRATION CLAUSES IM-
8 POSED ON CONSUMERS WITHOUT THEIR
9 CONSENT.**

10 “(a) IN GENERAL.—A written provision in any con-
11 sumer transaction or consumer contract which requires
12 binding arbitration (whether by the terms of such trans-
13 action or contract directly or at the request of any party
14 to the transaction or contract) to resolve any controversy
15 arising out of or related to the transaction or contract,
16 or the failure to perform the whole or any part of the
17 transaction or contract shall constitute a violation of this
18 title, shall not be enforceable, and shall be treated as an
19 unfair and deceptive trade act or practice under Federal
20 or State law.

21 “(b) POST-CONTROVERSY AGREEMENTS.—Sub-
22 section (a) shall not apply with respect to a written agree-
23 ment to determine by binding arbitration an existing con-
24 troversy arising out of a consumer transaction or con-
25 sumer contract if the written agreement has been entered

1 into by the parties to the consumer transaction or con-
2 sumer contract after the controversy has arisen.

3 “(c) COMPLIANCE.—Compliance with the require-
4 ments of this title shall be enforced in the same manner
5 as compliance with the requirements imposed under the
6 preceding title are enforced under section 917 of such
7 title.

8 “(d) COORDINATION WITH OTHER LAW.—No provi-
9 sion of this section shall be construed as annulling, alter-
10 ing, affecting, or superseding any Federal law, or the laws
11 of any State, relating to arbitration in connection with
12 consumer transactions or consumer contracts, except to
13 the extent that those laws are inconsistent with the provi-
14 sions of this section, and then only to the extent of the
15 inconsistency.”.

16 (b) APPLICABILITY.—The amendments made by this
17 section shall apply to all consumer transactions and con-
18 sumer contracts entered into on, or after the date of the
19 enactment of this Act, amendments entered into on or
20 after such date of enactment to any consumer transaction
21 or consumer contract without regard to the date such
22 transaction was consummated or such contract entered
23 into, and to all controversies pending or filed on, or arising
24 after, the date of such date of enactment.

○