

**First Regular Session
Seventy-Seventh General Assembly
STATE OF SAN ANDREAS**

INTRODUCED

LLS NO. 26-0737.01 Gabby Pizzola x2917

HOUSE BILL 26-032

SENATE SPONSORSHIP

Daugherty

HOUSE SPONSORSHIP

Gomes, Cardenas

House Committees

Not assigned

Senate Committees

Not assigned

A BILL FOR AN ACT

CONCERNING THE LIMITATION OF MANDATORY ARBITRATION AGREEMENTS, AND, IN
CONNECTION THEREWITH, ENSURING ACCESS TO THE COURTS FOR DISPUTE
RESOLUTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <https://saleg.uscgov.com>)

This bill limits the use of mandatory pre-dispute arbitration agreements in employment, consumer, housing, and financial service contracts. The bill provides that such agreements are void and unenforceable when imposed as a condition of employment, service, or access to housing.

Shading denotes HOUSE amendment. Underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

The bill permits arbitration only where all parties voluntarily agree after a dispute arises or in limited commercial circumstances involving parties of comparable bargaining power. The bill preserves the right of individuals to bring actions in court, participate in class actions, and seek judicial remedies. The bill also establishes disclosure requirements for permissible arbitration agreements and authorizes enforcement by the attorney general and private parties.

1 *Be it enacted by the General Assembly of the State of San*
2 *Andreas:*
3 **SECTION 1. SHORT TITLE.** This act shall be known and may
4 be cited as the “Fair Access to Courts Act.” **SECTION 2.**
5 **LEGISLATIVE DECLARATION.** The general assembly hereby
6 finds and declares that: (a) Mandatory arbitration agreements are
7 frequently imposed in employment and consumer contracts as a
8 condition of participation; (b) Such agreements often limit access
9 to the courts and reduce transparency and accountability in
10 dispute resolution; (c) Individuals should retain meaningful access
11 to a judicial forum for the resolution of disputes; and (d) It is
12 therefore necessary to limit the use of mandatory arbitration and
13 ensure that arbitration is used only when knowingly and
14 voluntarily agreed to. **SECTION 3. DEFINITIONS.** For the
15 purposes of this act, unless the context otherwise requires: (a)
16 “Arbitration agreement” means an agreement requiring a dispute
17 to be resolved by arbitration rather than in a court of law. (b)
18 “Pre-dispute arbitration agreement” means any arbitration
19 agreement entered into before a dispute arises. (c) “Covered
20 contract” means any agreement involving: (I) Employment; (II)
21 Consumer goods or services; (III) Housing or tenancy; or (IV)
22 Insurance or financial services. (d) “Post-dispute arbitration”
23 means arbitration agreed to by all parties after a dispute has
24 arisen. **SECTION 4. PROHIBITION ON PRE-DISPUTE**
25 **ARBITRATION.** (a) A person or entity shall not require a

1 pre-dispute arbitration agreement as a condition of: (I)
2 Employment or continued employment; (II) The purchase or use
3 of consumer goods or services; (III) Access to housing or rental
4 agreements; or (IV) Access to financial or insurance services. (b)
5 Any pre-dispute arbitration agreement entered into in violation of
6 this section is void and unenforceable as contrary to public policy.
7 **SECTION 5. PERMITTED ARBITRATION.** (a) Arbitration may
8 be used only where all parties voluntarily agree after a dispute has
9 arisen. (b) Arbitration may also be used in disputes between
10 commercial entities of comparable bargaining power where the
11 agreement: (I) Is individually negotiated; and (II) Clearly
12 discloses the waiver of the right to a judicial forum. (c) This
13 section does not apply where arbitration is required by federal
14 law. **SECTION 6. PRESERVATION OF COURT ACCESS.** (a)
15 Any person subject to an agreement prohibited under this act
16 retains the right to: (I) Bring an action in a court of competent
17 jurisdiction; and (II) Participate in a class or collective action as
18 otherwise permitted by law. (b) Any waiver of rights described in
19 this section is void and unenforceable. **SECTION 7.**
20 **DISCLOSURE REQUIREMENTS.** (a) Any arbitration agreement
21 permitted under this act shall: (I) Be in writing; (II) Be clear and
22 conspicuous; and (III) State that arbitration is voluntary and not
23 required as a condition of service or employment. (b) Failure to
24 comply with this section renders the agreement unenforceable.
25 **SECTION 8. ENFORCEMENT.** (a) The attorney general may
26 bring an action to enforce this act. (b) A person aggrieved by a
27 violation of this act may bring a civil action for: (I) Declaratory or
28 injunctive relief; (II) Actual damages; and (III) Reasonable
29 attorney fees and court costs. **SECTION 9. SEVERABILITY.** If
30 any provision of this act or its application to any person or
31 circumstance is held invalid, such invalidity does not affect other
32 provisions of the act that can be given effect without the invalid
33 provision or application. **SECTION 10. EFFECTIVE DATE.**

- 1 This act shall take effect after the 90-day period after final
- 2 adjournment of the Seventy-Seventh General Assembly.