

Arkansas

Are mandatory arbitration provisions recognized in your state? If so, are there any limitations to its enforcement?

Yes, Arkansas recognizes mandatory arbitration provisions. As a matter of public policy, Arkansas strongly favors arbitration as a less expensive and more expeditious alternative to litigation and a useful mechanism for relieving congested court dockets.

In 2011, the General Assembly adopted the Revised Uniform Arbitration Act.ⁱ The Code states that “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.”ⁱⁱ A party may move to compel arbitration if there is a valid agreement and the other party refuses.ⁱⁱⁱ

In considering a motion to compel arbitration, the Court determines: (1) Is there a valid arbitration agreement? and (2) Does the dispute fall within the scope of that agreement?

Under Arkansas Law, the essential elements of a contract are (a) competent parties, (b) subject matter, (c) legal consideration, (d) mutual agreement, and (e) mutual obligations. Arbitration agreements may be invalidated by contract defenses, such as fraud, duress, unconscionability, lack of competency, etc.

What is your state’s law, if any, regarding gift cards, subscription services and loyalty programs?

The Arkansas Fair Gift Card Act governs gift card practices and provides consumer protection.^{iv} The Arkansas Fair Gift Card Act applies to gift cards, gift certificates, and prepaid cards.

Under the Act:

- A gift card or gift certificate cannot expire for at least two years from the date the card was purchased or from the last date any additional money was loaded onto the card. If the expiration dates listed on the card is earlier than these dates, the money can be transferred to a replacement card at no cost.
- The expiration date must be clearly disclosed on the card.
- Inactivity and/or reactivation fees can be charged upon the expiration of the two-year time period.
- Fees must be clearly disclosed on the card or its packaging.

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ⁱ See, Ark. Code Ann. 16-108-201, *et seq*

ⁱⁱ See, Ark. Code Ann. 16-108-206

ⁱⁱⁱ See, Ark. Code Ann. § 16-108-207

^{iv} See, Ark. Code Ann. § 4-88-701, *et seq*