

Florida

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

In Florida, mandatory arbitration provisions are recognized. Such provisions, however, are not automatically valid and enforceable.

Although parties may agree to arbitrate statutory claims, even ones involving important social policies, arbitration must provide the prospective litigant with an effective way to vindicate his or her statutory cause of action in the arbitral forum.ⁱ Accordingly, Florida courts, when reviewing motions to compel arbitration, determine: ““(1) whether a valid written agreement to arbitrate exists; (2) whether an arbitrable issue exists; and (3) whether the right to arbitration was waived.””ⁱⁱ

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

Fla. Stat. s. 501.95(1)(a) and (b) defines a “credit memo” and “gift certificate.”ⁱⁱⁱ

Then, subsection (2)(a) provides that: “A gift certificate or credit memo issued in this state may not have an expiration date, expiration period, or any type of post-sale charge or fee imposed on the gift certificate or credit memo, including, but not limited to, services charges, dormancy fees, account maintenance fees, or cash-out fees. However, a gift certificate may have an expiration date of not less than 3 years if it is provided as a charitable contribution, or not less than 1 year if it is provided as a benefit pursuant to an employee-incentive program, and the expiration date is prominently disclosed in writing to the consumer at the time it is provided. In addition, a gift certificate may have an expiration date if it is provided to the recipient, or to a purchaser for transfer to the recipient, as pay of a loyalty or promotional program when the recipient does not pay a separate identifiable charge for the certificate, or if it provided in conjunction with a convention, conference, vacation, or sporting or fine arts event having a limited duration so long as the majority of the value paid by the recipient is attributable to the convention, vacation, or event.”^{iv}

Notably, subsection (2)(b) states that “Paragraph (a) does not apply to a gift certificate or credit memo sold or issued by a financial institution, as defined in s. 655.005, or by a money services business, as defined in s. 560.103, if the gift certificate or credit memo is redeemable by multiple unaffiliated merchants.”^v

And finally, subsection (2)(c) states that “Enforcement of this section shall be as provided in s. 501.142(3), (4), and (5) for violations of this section.”^{vi}

Florida

ⁱ See, Romano ex rel. Romano v. Manor Care, Inc., 861 So. 2d 59 (Fla. 4th DCA 2003)

ⁱⁱ *Id.*, citing Seifert v. U.S. Home Corp., 750 So. 2d 633 (Fla. 1999).

ⁱⁱⁱ Fla. Stat. s. 501.95(1)

^{iv} Fla. Stat. s. 501.95(2)(a)

^v Fla. Stat. s. 501.95(2)(b)

^{vi} Fla. Stat. s. 501.95(2)(c)