

Maryland

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

In Maryland, mandatory arbitration provisions in agreements are not only recognized, but favored.ⁱ There is a strong policy in Maryland favoring arbitration, with our legislature even enacting a law, the Maryland Uniform Arbitration Act (MUAA), to promote a public policy that supports arbitration agreements and enforces them.ⁱⁱ

The MUAA gives Maryland courts the jurisdiction to “enforce arbitration agreements and enter judgements on arbitration awards,” encouraging parties to seek arbitration.ⁱⁱⁱ Under the MUAA, a mandatory arbitration provision in a written agreement is valid, enforceable, and irrevocable.^{iv}

There is a limitation, however, if there are grounds that exist which would render the agreement itself revocable as a contract.^v This means that if there is evidence of fraud, duress, waiver, unconscionability, or any other defenses that prevents the formation of a contract, an arbitration provision can be challenged.^{vi}

Additionally, employment contracts that feature arbitration provisions are exempted from the MUAA unless the agreement expressly states that the MUAA does apply.^{vii} For construction surety bonds, an arbitration provision is required to be included in the bond, and not just incorporated by a reference to agreement that has the arbitration provision.^{viii}

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

Gift Cards:

For gift cards, Maryland has enacted legislation to provide some consumer protection for the purchasers of gift cards to protect against unfair or deceptive practices.^{ix} This law provides that:

- If there is an expiration date or post sale fees associated with the gift card, the information must be clearly visible on the front or back of the card in at least a 10-point typeface.^x
- If there is a post-sale fee, the information needs to include the amount of the fee, circumstances where the fee is imposed, the frequency of the fee, as well as if the fee is triggered by inactivity.^{xi}
- The issuer of the gift card is required to provide a written statement of those disclosures before the gift card is sold or issued if the disclosure is hidden by

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packaging.^{xii}

- If the gift card is sold or issued electronically, the issuer is required to provide the disclosures in a written statement, and if it is sold or offered over the telephone, the information should be verbally given.^{xiii}

Regarding subscription services and loyalty programs, Maryland has not previously tackled either issue in the courts or the legislature.

ⁱ *Doyle v. Fin. Am., LLC*, 173 Md. App. 370, 382, 918 A.2d 1266, 1273 (2007).

ⁱⁱ *Rankin v. Brinton Woods of Frankford, LLC*, 241 Md. App. 604, 619, 211 A.3d 645, 654 (2019); MD. CODE ANN., CTS. & JUD. PROC. §§ 3-201- 3-234 (West 2022).

ⁱⁱⁱ *Fraternal Order of Police, Montgomery Cnty. Lodge 35 v. Montgomery Cnty.*, 216 Md. App. 634, 641, 88 A.3d 887, 892 (2014).

^{iv} CTS. & JUD. PROC. § 3-206 (a).

^v *Id.*

^{vi} See *Doyle*, 173 Md. App. at 382, 918 A.2d at 1273; *Rankin*, 241 Md. App. at 619, 211 A.3d at 654; *Holloman v. Circuit City Stores, Inc.*, 391 Md. 580, 598, 894 A.2d 547, 557 (2006).

^{vii} CTS. & JUD. PROC. § 3-206 (b).

^{viii} *Hartford Acc. & Indem. Co. v. Scarlett Harbor Associates Ltd. P'ship*, 346 Md. 122, 129, 695 A.2d 153, 156 (1997).

^{ix} MD. CODE ANN., COM. LAW § 14-1320 (West 2022).

^x COM. LAW § 14-1320 (b).

^{xi} COM. LAW § 14-1320 (b)(2).

^{xii} COM. LAW § 14-1320 (c).

^{xiii} COM. LAW §§ 14-1320 (d)(1), 14-1320 (d)(2).