

5251

2001-2002 Regular Sessions

IN SENATE

May 8, 2001

Introduced by Sens. LACK, FUSCHILLO -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to ensuring that computer information transaction contracts are interpreted in accordance with state law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature hereby finds and
2 declares that the Uniform Computer Information Transactions Act (UCITA),
3 developed by the National Conference of Commissioners on Uniform State
4 Laws (NCCUSL), is contrary to the interests of this state's consumers.
5 Contrary to well-established law in this state, UCITA deems an array of
6 transactions which involve software to be "licenses," rather than "sales
7 of goods." In so doing, UCITA seeks to diminish significant rights and
8 protections established over many years for the protection of consumers
9 in this state, including rights under the uniform commercial code on
10 which consumers have long relied. The legislature therefore finds that
11 it is in the public's and the state's interest to render voidable as
12 against public policy any contractual provision that would lead to
13 enforcement of UCITA against the residents of this state.

14 § 2. Section 5-1401 of the general obligations law is amended by
15 adding a new subdivision 3 to read as follows:

16 3. Notwithstanding any other provision of law, any contract or
17 contractual provision that would result in the application of the
18 uniform computer information transactions act, as proposed by the
19 national conference of commissioners on uniform state laws, or any simi-
20 lar law, is voidable by any party and unenforceable as contrary to
21 public policy. If declared void and unenforceable, any such contract or
22 such contractual provision shall be interpreted pursuant to the laws of

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1 this state if at least one party to the contract is a resident of this
2 state or has its principal place of business located in this state.

3 § 3. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.