



# Forced Arbitration: Harming South Dakota Consumers, Servicemembers, and Veterans



**Forced arbitration clauses** take away South Dakotans' constitutional right to a day in court when companies break the law. Instead of a judge, a private arbitrator, often chosen and paid by the company, decides cases in a secretive proceeding with no appeal. Forced arbitration clauses often prevent people from joining together in class actions to fight widespread wrongdoing, giving lawbreakers a get-out-of-jail free card, as few people can afford to fight big companies by themselves.

Forced arbitration clauses harm South Dakota consumers of all stripes:

**Servicemembers and veterans:** Banks and lenders use forced arbitration clauses in loans issued to **South Dakota's roughly 7,364 active-duty servicemembers and reservists** and to **South Dakota's veterans**.

Forced arbitration **blocks servicemembers' access to the courts** for violations of the Servicemembers Civil Relief Act and **other misconduct**, including illegal **repossessions of active-duty servicemembers' vehicles**. Wells Fargo also has arbitration clauses in many of the auto loan contracts that included **illegal fees for unneeded auto insurance**, including those of active duty servicemembers.



**Bank account holders:** Wells Fargo opened up to **3.5 million fake accounts** – including **4,803 or more in South Dakota** – without customers' consent. Wells Fargo has tried since 2013 to use forced arbitration to block lawsuits, including **a class action** that would help those 4,803 or more South Dakotans. Wells Fargo has also **repeatedly** tried to use forced arbitration to avoid justice for people in 49 states – **including South Dakota** – who were **charged excess overdraft fees** when their accounts were not overdrawn.



**Consumers with inaccurate credit reports:** **Hundreds of South Dakotans** have filed complaints with the CFPB about problems with credit reporting agencies and errors in credit reports, which can increase the cost of a loan or result in a denial of credit. **South Dakotans falsely matched with a terrorist watch list** will get \$7,337 in relief from a class action against Transunion. But Transunion and other credit bureaus have **tried to use forced arbitration** to block class actions.

**Payday loan borrowers:** South Dakota does not permit payday loans, but online lenders aggressively use forced arbitration clauses, found in [86% of online contracts surveyed](#), to fight lawsuits over illegal loans. Fees associated with payday loans keep consumers in a cycle of debt, while payday lenders have engaged in abusive lending and illegal debt collection practices.

**Families subject to illegal and abusive debt collection practices:** Debt collectors are #1 among [South Dakotans' and servicemembers' complaints](#) to the CFPB, and [South Dakotans filed 230 complaints against debt collectors](#) with the FTC in 2017. Out-of-state debt buyers often use illegal harassment and violate state law by adding illegal fees, but use forced arbitration clauses to block people from court to challenge those practices. Debt buyers also frequently [sue the wrong person or seek the wrong amount](#) but prevent people from suing back.



**College students:** Predatory for-profit colleges like Corinthian Colleges for years have [used forced arbitration clauses](#) to block class actions over their fraudulent conduct. [South Dakota students average \\$31,653](#) in public and private student loan debt and may be impacted by abuses by Navient (formerly Sallie Mae), the largest servicer of private student loans. Navient, which [uses forced arbitration](#), allegedly [failed to allocate payments properly and deceived borrowers](#) about how to release co-signers. South Dakotans may also fall prey

to rampant abuses by sketchy [student loan debt relief companies](#), which also use forced arbitration clauses to take away students' day in court.

**Prepaid card users:** Nearly [a quarter of South Dakotans are unbanked or underbanked](#), and many rural and low-income [South Dakotans rely on prepaid cards](#) to manage their money. RushCard holders, [including 359 South Dakotans, and servicemembers serving overseas](#), were among those harmed when cards were frozen and people could not access their money for weeks. A class action will give class members [up to \\$500 for losses and fees they suffered](#). The case could have been blocked by a forced arbitration clause, found in [92% of prepaid card contracts](#).

**Forced arbitration harms South Dakotans. Congress must restore South Dakotans' day in court when big banks and bad actors violate the law.**