

Senate Bill 485

Sponsored by COMMITTEE ON COMMERCE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that certain provisions in standard form contracts are revocable by consumer.

A BILL FOR AN ACT

1
2 Relating to standard form contracts.

3 Whereas standard form contracts, in whatever form recorded, do not necessarily express the
4 voluntary and informed assent of both parties; and

5 Whereas a party drafting a standard form contract will often foresee legal disputes with the
6 other party signing the contract, while the other party signing the contract will seldom foresee a
7 legal dispute or prudently evaluate the loss of procedural rights affecting the dispute's resolution;
8 and

9 Whereas unless restrained by law, a party drafting a standard form contract can exploit the
10 other party by including provisions limiting the other party's procedural rights that are necessary
11 or useful to the enforcement of substantive rights otherwise purportedly conferred by the contract;
12 now, therefore,

13 **Be It Enacted by the People of the State of Oregon:**

14 **SECTION 1. (1) For the purposes of this section:**

15 (a) **"Consumer" means a person who is purchasing goods or services, borrowing money,**
16 **renting or leasing real property or entering into an employment contract with an employer.**

17 (b) **"Standard form contract" means a contract prepared by a party and routinely used**
18 **by the party in transactions with consumers in the course of business.**

19 (2) **A consumer may revoke any provision in a standard form contract that requires the**
20 **consumer to:**

21 (a) **Assert a claim against the party who prepared the standard form contract in a forum**
22 **that is less convenient, more costly or more dilatory than a judicial forum established in this**
23 **state for the resolution of the dispute;**

24 (b) **Assume a risk of liability for the legal fees of the party who prepared the contract,**
25 **unless those fees are authorized by statute, reasonable in amount and incurred to enforce a**
26 **promise to pay money;**

27 (c) **Forgo access to evidence otherwise obtainable under the rules of procedure of a con-**
28 **venient judicial forum available to hear and decide a dispute between the parties;**

29 (d) **Present evidence to a third party who may reasonably be expected to regard the party**
30 **who prepared the contract as more likely to be a future employer of the third party than the**
31 **consumer;**

32 (e) **Forgo recourse to appeal from a decision that is not based on substantial evidence;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (f) Commence a proceeding sooner than would be required by the otherwise applicable
2 statute of limitations;

3 (g) Decline to participate in a class action;

4 (h) Forgo an award of attorney fees, civil penalties or punitive damages, or of multiple
5 damages otherwise available under the law; or

6 (i) Forgo any other procedural right that is necessary or useful to a consumer in the
7 enforcement of the consumer's substantive rights against the party who prepared the con-
8 tract.

9 (3) Revocation of a provision under this section must be made in writing and communi-
10 cated by the revoking party within a reasonable time after a dispute arises. A party seeking
11 to enforce a revoked provision is liable for reasonable attorney fees incurred by a consumer
12 in any litigation that results from the attempted enforcement of the revoked provision.

13 (4) This section does not apply to:

14 (a) A contract for the sale or lease of property or for the delivery of services having a
15 value in excess of \$200,000, or for a loan in excess of \$200,000;

16 (b) A contract of employment providing for compensation in excess of \$100,000 a year;

17 (c) A contract to maintain a local business franchise having gross receipts in excess of
18 \$1 million a year; or

19 (d) A commercial letter of credit.

20 (5) This section does not prevent parties from making a binding agreement to arbitrate
21 a dispute arising under a standard form contract as long as the arbitration provision does
22 not limit the ability of a consumer to revoke a provision of the contract in the manner pro-
23 vided by this section.

24 **SECTION 2.** Section 1 of this 2007 Act applies only to contracts entered into on or after
25 the effective date of this 2007 Act.
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