

SENATE AMENDMENTS TO SENATE BILL 306

By COMMITTEE ON JUDICIARY

April 24

1 In line 2 of the printed bill, after "20.080" insert "and 20.082".

2 In line 9, delete "10" and insert "20".

3 In line 11, delete "10" and insert "20".

4 In line 14, delete "10" and insert "20".

5 After line 18, insert:

6 "(3) A written demand for the payment of damages under this section must include the following
7 information, if the information is in the plaintiff's possession or reasonably available to the plaintiff
8 at the time the demand is made:

9 "(a) In an action for an injury or wrong to a person, a copy of medical records and bills for
10 medical treatment adequate to reasonably inform the person receiving the written demand of the
11 nature and scope of the injury claimed; and

12 "(b) In an action for damage to property, documentation of the repair of the property, a written
13 estimate for the repair of the property or a written estimate of the difference in the value of the
14 property before the damage and the value of the property after the damage.

15 "(4) If after making a demand under this section, and before commencing an action, a plaintiff
16 acquires any additional information described in subsection (3) of this section that was not provided
17 to the defendant with the demand, the plaintiff must provide that information to the defendant as
18 soon as possible after the information becomes available to the plaintiff.

19 "(5) A plaintiff may not recover attorney fees under this section if the plaintiff does not comply
20 with the requirements of subsections (3) and (4) of this section."

21 In line 19, delete "(3)" and insert "(6)".

22 Delete lines 20 and 21 and insert:

23 "**SECTION 2.** (1) **Except as provided in subsection (2) of this section, the amendments to**
24 **ORS 20.080 by section 1 of this 2009 Act apply to all causes of action, whether arising before,**
25 **on or after the effective date of this 2009 Act.**

26 "**(2) The amendments to ORS 20.080 by section 1 of this 2009 Act do not apply to an action**
27 **that was filed before the effective date of this 2009 Act.**

28 "**SECTION 3.** ORS 20.082 is amended to read:

29 "20.082. (1) As used in this section, 'contract' includes:

30 "(a) Express contracts;

31 "(b) Implied contracts; and

32 "(c) Instruments or documents evidencing a debt.

33 "(2) Except as provided in this section, a court shall allow reasonable attorney fees to the pre-
34 vailing party on any claim based on contract if:

35 "(a) The amount of the principal together with interest due on the contract at the time the claim

1 is filed is [~~\$5,500~~] **\$10,000** or less; and

2 “(b) The contract does not contain a clause that authorizes or requires the award of attorney
3 fees.

4 “(3) Attorney fees may not be awarded to a plaintiff under the provisions of this section unless
5 written demand for payment of the claim was made on the defendant not less than [10] **20** days be-
6 fore the commencement of the action or the filing of a formal complaint under ORS 46.465, or not
7 more than [10] **20** days after the transfer of the action under ORS 46.461. The failure of a plaintiff
8 to give notice under the provisions of this subsection does not affect the ability of a defendant to
9 claim attorney fees under the provisions of this section.

10 “(4) Attorney fees may not be awarded to a plaintiff under the provisions of this section if the
11 court finds that the defendant tendered to the plaintiff, prior to the commencement of the action or
12 the filing of a formal complaint under ORS 46.465, or not more than [10] **20** days after the transfer
13 of the action under ORS 46.461, an amount not less than the amount awarded to the plaintiff.

14 “(5) The provisions of this section do not apply to:

15 “(a) Contracts for insurance;

16 “(b) Contracts for which another statute authorizes or requires an award of attorney fees;

17 “(c) Any action for damages for breach of an express or implied warranty in a sale of consumer
18 goods or services that is subject to ORS 20.098; or

19 “(d) Any action against the maker of a dishonored check that is subject to ORS 30.701.

20 “**SECTION 4. (1) Except as provided in subsection (2) of this section, the amendments to**
21 **ORS 20.082 by section 3 of this 2009 Act apply to all contracts, whether entered into before,**
22 **on or after the effective date of this 2009 Act.**

23 “**(2) The amendments to ORS 20.082 by section 3 of this 2009 Act do not apply to any**
24 **action on a contract filed before the effective date of this 2009 Act.”.**