

Enrolled
Senate Bill 745

Sponsored by Senator BONAMICI (at the request of Justin and Michael Baxter)

CHAPTER

AN ACT

Relating to attorney fees; creating new provisions; amending ORS 20.083 and 20.096; and declaring an emergency.

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

SECTION 1. ORS 20.083 is amended to read:

20.083. A prevailing party in a civil action relating to an express or implied contract is entitled to an award of attorney fees that is authorized by the terms of the contract or by statute, even though the party prevails by reason of a claim or defense asserting that the contract is in whole or part void [or], **a claim or defense asserting that the contract is unenforceable or a claim or defense asserting that the prevailing party was not a party to the contract.**

SECTION 2. ORS 20.096 is amended to read:

20.096. (1) In any action or suit in which a claim is made based on a contract[, *where such contract*] **that** specifically provides that attorney fees and costs incurred to enforce the provisions of the contract shall be awarded to one of the parties, the party that prevails on the claim[, *whether that party is the party specified in the contract or not,*] shall be entitled to reasonable attorney fees in addition to costs and disbursements, **without regard to whether the prevailing party is the party specified in the contract and without regard to whether the prevailing party is a party to the contract.**

(2) Attorney fees provided for in a contract described in subsection (1) of this section shall not be subject to waiver by the parties to any such contract that is entered into after September 9, 1971. Any provision in such a contract that provides for a waiver of attorney fees is void.

(3) As used in this section and ORS 20.097, "contract" includes any instrument or document evidencing a debt.

SECTION 3. (1) The amendments to ORS 20.083 and 20.096 by sections 1 and 2 of this 2009 Act apply to all contracts, whether entered into before, on or after the effective date of this 2009 Act.

(2) The amendments to ORS 20.083 and 20.096 by sections 1 and 2 of this 2009 Act do not apply to an action on a contract in which a judgment was entered before the effective date of this 2009 Act.

SECTION 4. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate April 29, 2009

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Secretary of Senate

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President of Senate

Passed by House May 28, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State