

No. 1993-29

AN ACT

HB 110

Requiring certain contracts to be written in plain language; and providing remedies and penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Plain Language Consumer Contract Act.

Section 2. Legislative findings and intent.

(a) **Legislative findings.**—The General Assembly finds that many consumer contracts are written, arranged and designed in a way that makes them hard for consumers to understand. Competition would be aided if these contracts were easier to understand.

(b) **Legislative intent.**—By passing this act, the General Assembly wants to promote the writing of consumer contracts in plain language. This act will protect consumers from making contracts that they do not understand. It will help consumers to know better their rights and duties under those contracts.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Consumer.” Any individual who borrows, buys, leases or obtains credit, money, services or property under a consumer contract.

“Consumer contract” or “contract.” A written agreement between a consumer and a party acting in the usual course of business, made primarily for personal, family or household purposes in which a consumer does any of the following:

(1) Borrows money.

(2) Buys, leases or rents personal property, real property or services for cash or on credit.

(3) Obtains credit.

Section 4. Application of act and interpretation.

(a) **General rule.**—This act applies to all contracts that are made, solicited or intended to be performed in this Commonwealth after the effective date of this act.

(b) **Exclusions.**—This act does not apply to the following:

(1) Real estate conveyance documents and contracts, deeds and mortgages, real estate certificates of title and title insurance contracts.

(2) Consumer contracts involving amounts of more than \$50,000.

(3) Marital agreements.

(4) Contracts to buy securities.

(5) Documents used by financial institutions, which financial institutions are subject to examination or other supervision by Federal or State regulatory authorities, or documents used by affiliates, subsidiaries or service corporations of such financial institutions.

(6) Contracts for insurance or insurance policies.

(7) Contracts subject to examination or other supervision by the Pennsylvania Public Utility Commission or by the Federal Energy Regulatory Commission.

(8) Commercial leases.

(c) Interpretation.—This act shall be liberally interpreted to protect consumers.

Section 5. Test of readability.

(a) General rule.—All consumer contracts executed after the effective date of this act shall be written, organized and designed so that they are easy to read and understand.

(b) Language guidelines.—In determining whether a contract meets the requirements of subsection (a), a court shall consider the following language guidelines:

(1) The contract should use short words, sentences and paragraphs.

(2) The contract should use active verbs.

(3) The contract should not use technical legal terms, other than commonly understood legal terms, such as “mortgage,” “warranty” and “security interest.”

(4) The contract should not use Latin and foreign words or any other word whenever its use requires reliance upon an obsolete meaning.

(5) If the contract defines words, the words should be defined by using commonly understood meanings.

(6) When the contract refers to the parties to the contract, the reference should use personal pronouns, the actual or shortened names of the parties, the terms “seller” and “buyer” or the terms “lender” and “borrower.”

(7) The contract should not use sentences that contain more than one condition.

(8) The contract should not use cross references, except cross references that briefly and clearly describe the substances of the item to which reference is made.

(9) The contract should not use sentences with double negatives or exceptions to exceptions.

(c) Visual guidelines.—In determining whether a contract meets the requirements of subsection (a), a court shall consider the following guidelines:

(1) The contract should have type size, line length, column width, margins and spacing between lines and paragraphs that make the contract easy to read.

- (2) The contract should caption sections in boldface type.
- (3) The contract should use ink that contrasts sharply with the paper.
- (d) Consumer restrictions.—
 - (1) A contract shall have a statement that contains the following:
 - (i) A general description of the property that may be taken or affected by reason of a security interest or contract if the consumer does not meet the terms of the contract. The statement is not required to list all possible exemptions. As it may apply, the following statement may be used: "If you do not meet your contract obligations, you may lose your house, the property that you bought with this loan, other household goods and furniture, your motor vehicle or money in your account with us."
 - (ii) Contract waivers of a consumer's rights in residential leases.
 - (2) If the disclosures required by the Truth in Lending Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.) are made on the contract, then the statement of consumer restrictions shall appear immediately following these disclosures.

Section 6. Language required by other law.

The use of language required, recommended or approved by a Federal or State statute, rule, regulation, commentary or official interpretation thereunder, including, but not limited to, the Truth in Lending Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.), or the use of model forms required, authorized, approved or recommended by Federal or State authorities shall not violate this act.

Section 7. Damages, enforcement, assurance of voluntary compliance and civil penalties.

(a) Damages and other remedies.—Any creditor, lessor or seller who does not comply with the test of readability set forth in section 5 is liable to that consumer for all of the following items:

- (1) Compensation in an amount equal to the value of any actual loss caused by the violation of this act.
- (2) Statutory damages of \$100. If the total amount of the contract is less than \$100, these damages are limited to the total amount of the contract.
- (3) Court costs.
- (4) Reasonable attorney fees.
- (5) Any equitable and other relief ordered by the court.

(b) Enforcement.—A violation of this act is deemed to be a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Section 8. Limitations on liability.

(a) Limitations generally.—There shall be no liability under section 7 if any of the following occurs:

- (1) All parties have finished what was required under the contract.
- (2) The consumer wrote the contract or the part of it that violates this

act.

(3) The creditor, seller or lessor made a good faith and reasonable effort to comply with this act.

(b) Time limit for starting a lawsuit.—A lawsuit under this act must be started within four years from the date on which the contract was last signed.

(c) Contract validity.—A violation of this act will not void a contract or otherwise affect its validity.

(d) Class action prohibited.—Only an individual action may be brought under this act and no class action shall be permitted under this act.

Section 9. Preapproval.

Contracts, documents or leases covered by the provisions of this act may be submitted to the Attorney General for preapproval.

Section 10. Waiver of rights invalid.

A consumer cannot waive the rights given by this act. Any waiver is void, not just voidable.

Section 11. Other rights and remedies preserved.

The rights and remedies under this act are in addition to any other legal rights, remedies, claims and defenses.

Section 12. Severability.

The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 13. Effective date.

This act shall take effect in one year.

APPROVED—The 23rd day of June, A.D. 1993.

MARK S. SINGEL
ACTING GOVERNOR