

[CHAPTER 487A]
LANGUAGE OF CONSUMER TRANSACTIONS

Section

- 487A-1 Plain language in consumer transactions
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consumer protection to enforce chapter
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Law Journals and Reviews

Timesharing in the 1990s. I HBJ No. 13, at pg. 89.

" **§487A-1 Plain language in consumer transactions.** (a) Every written agreement entered into on or after July 1, 1981:

- (1) To which a consumer is a party, which involves less than \$25,000, and which is the subject of a transaction for personal, family, or household purpose; or
- (2) Which is a lease of space to be occupied for residential purposes for a term not exceeding five years;

shall be written in a clear and coherent manner using words with common and everyday meanings, and appropriately divided and captioned by its various sections.

(b) Any creditor, seller, or lessor who fails to comply with this chapter shall be liable in an amount equal to any actual damages sustained by a suing party or a class in a class action, plus a penalty of \$50. The total class action penalty against any creditor, seller, or lessor shall not exceed \$10,000 in any class action or series of class actions arising out of the use by a creditor, seller, or lessor of an agreement which fails to comply with this chapter. No right of recovery shall exist for any class by way of a class action, pursuant to this section, on any written agreement executed prior to July 1, 1986.

(c) No action under this chapter may be brought after both parties to the agreement have fully performed their obligations under such agreement, nor shall any creditor, seller, or lessor who attempts in good faith to comply with this chapter be liable for such penalties.

- (d) The provisions of this chapter shall not apply:
- (1) To wills or trusts other than land trusts created under the Land Trust Act, chapter 558;
 - (2) To any document, which is not itself a written agreement subject to this chapter, by virtue of the document being referred to or incorporated within a written agreement which is subject to this chapter, provided that the document has an independent purpose of its own;
 - (3) To a legal description of real property; or
 - (4) To words or phrases or form of agreement required, authorized, or approved by state or federal law, rule, regulation, governmental agency, or instrumentality.

(e) A written agreement involves less than \$25,000 if it provides for:

- (1) The sale of property in which the full sales price including any debt assumed is less than \$25,000;
- (2) Services and the total payments are less than \$25,000 over the term of the agreement, or if no term is specified, within one year from the date of the agreement;
- (3) A loan or advance of credit which is of a principal amount less than \$25,000;
- (4) A lease for which the total rent to be paid during the term of the lease, not including any option or extension periods, is less than \$25,000. In computing the total rent to be paid, the highest amount of fixed rent shall be assumed to apply during any period in the term for which the rent is not fixed; or
- (5) Any two or more of the above transactions and the total amount of the price, payments, principal, and rent provided for in the agreement is less than \$25,000. [L 1980, c 36, pt of §1; am L 1982, c 187, §1]

Revision Note

In subsection (e) (2), "or" substituted for "of".

Law Journals and Reviews

Report of the Committee for Plain Language Conveyancing. 16 HBJ 91.

" **[\$487A-2] Effect of noncompliance.** Failure to comply with any requirement imposed by this chapter shall not render any agreement void or voidable nor shall it constitute a defense to any action to enforce such agreement or any action for breach of such agreement. [L 1980, c 36, pt of §1]

" **[\$487A-3] Attorney general or director of [the office of] consumer protection to enforce chapter.** The attorney general or the director of the office of consumer protection may bring an action in the name of the State against any person to restrain and prevent any violation of this chapter. [L 1980, c 36, pt of §1]

" **[\$487A-4] Exempt transactions.** This chapter shall not apply to any contract of insurance issued in this State. [L 1981, c 89, §3]