

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1550

By: Henry

AS INTRODUCED

An Act relating to contracts; creating the Oklahoma Fair Bargain Act; providing short title; defining terms; declaring certain clauses void; providing exceptions; construing act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 791 of Title 15, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Fair Bargain Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 792 of Title 15, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Disabling impairment of procedural rights clause" means a provision modifying or limiting procedural rights necessary or useful to a consumer of goods or services, borrower, tenant or employee in the enforcement of substantive rights against a party who prepared, caused to be prepared or used a standard form contract or lease, including, but not limited to, a clause requiring the consumer, borrower, tenant or employee to:

- a. assert any claim against the party who prepared, caused to be prepared or used the form in a forum that is less convenient, more costly or more dilatory than

- a judicial forum established in this state for the resolution of the dispute,
- b. assume a risk of liability for the legal fees of a seller, lender, lessor or employer unless those fees are authorized by statute, reasonable in amount and incurred to secure enforcement of a promise to pay money or enforce a security interest,
 - c. forego access to the discovery of evidence as provided in the rules of procedure of a convenient judicial forum available to hear and decide a dispute between the parties,
 - d. present evidence to a purported neutral who may reasonably be expected to regard the party who prepared, caused to be prepared or used the contract as more likely to be a future employer of the neutral,
 - e. forego recourse to appeal from a decision not based on substantial evidence or disregarding his or her legal rights,
 - f. decline to participate in a class action, or
 - g. forego an award of attorney fees, civil penalties or any damages otherwise available in a judicial proceeding;

2. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

3. "Standard form contract or lease" means one prepared, caused to be prepared or used in a record by a party for whom its use is routine in business transactions with consumers, borrowers, tenants or employees.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 793 of Title 15, unless there is created a duplication in numbering, reads as follows:

A disabling impairment of procedural rights clause in a standard form contract or lease is unenforceable and is voidable by the consumer, borrower, tenant or employee. Upon request, a court with personal and subject matter jurisdiction shall declare void a disabling impairment of procedural rights clause in a standard form contract or lease and shall enjoin any proceeding in any forum brought to enforce that provision.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 794 of Title 15, unless there is created a duplication in numbering, reads as follows:

This act shall not apply to any contract:

1. For the sale or lease of property or for the delivery of services having a value in excess of Two Hundred Thousand Dollars (\$200,000.00), or for a loan in excess of Two Hundred Thousand Dollars (\$200,000.00);
2. For employment providing for compensation in excess of One Hundred Thousand Dollars (\$100,000.00) a year; or
3. That is a commercial letter of credit.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 795 of Title 15, unless there is created a duplication in numbering, reads as follows:

Nothing in this act shall preclude parties from agreeing to the arbitration of an existing or future dispute provided that the arbitration agreement does not impose on any consumer, borrower, tenant or employee any procedural disabilities including, but not limited to, the provisions in paragraph 1 of Section 2 of this act.

SECTION 6. This act shall become effective November 1, 2002.

48-2-2874 TEK 6/12/2015 11:04:28 AM