

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 487A-1, Hawaii Revised Statutes, is amended to read as follows:

"**[[§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 [for the] 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 [fifty dollars.] \$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) This chapter shall not prohibit the use of words or phrases or form of agreement required by state or federal law, rule or regulation.]

(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."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 9, 1982.)