

9991

I N A S S E M B L Y

May 2, 2016

Introduced by M. of A. SIMOTAS -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to the provisions of consumer and employment contracts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general obligations law is amended by adding a new
2 section 5-303 to read as follows:
3 S 5-303. CONSUMER AND EMPLOYMENT CONTRACTS. 1. FINDINGS. OBSCURE AND
4 OVERLY COMPLEX LANGUAGE IN CONSUMER AND EMPLOYMENT CONTRACTS INTERFERES
5 WITH EMPLOYEES' AND CONSUMERS' ABILITY TO PROVIDE MEANINGFUL ASSENT TO
6 THEIR CONSUMER AND EMPLOYMENT CONTRACTS. TO ENSURE THAT PRIVATE PARTIES
7 COMPREHEND THE MATERIAL TERMS OF THE CONSUMER AND EMPLOYMENT CONTRACTS
8 INTO WHICH THEY ENTER, THIS SECTION REQUIRES THAT MERCHANTS AND EMPLOY-
9 ERS IN DESIGNATED FORMS OF CONTRACTS ADEQUATELY DISCLOSE TERMS AND
10 CONDITIONS.
11 2. NON-CONFORMING COVERAGE. THIS SECTION SHALL APPLY TO THE CONTRACTS
12 DESIGNATED IN SUBDIVISION ONE OF THIS SECTION THAT MEET ANY OF THE
13 FOLLOWING CRITERIA:
14 (A) AN EMPLOYMENT OR CONSUMER CONTRACT NOT WRITTEN IN PLAIN LANGUAGE,
15 PURSUANT TO SECTION 5-702 OF THIS ARTICLE, THAT A REASONABLE CONSUMER OR
16 EMPLOYEE WOULD UNDERSTAND; OR
17 (B) IF A CONSUMER CONTRACT, ALL OF THE MATERIAL TERMS ARE NOT FOUND IN
18 A SINGLE DOCUMENT.
19 3. COVERED CONTRACTS. THE PROVISIONS OF THIS SECTION SHALL APPLY TO
20 THE FOLLOWING TYPES OF CONTRACTS:
21 (A) CONSUMER CONTRACTS; AND
22 (B) EMPLOYMENT CONTRACTS.
23 4. RIGHTS WHEN A COVERED CONTRACT IS NON-CONFORMING. A CONSUMER OR
24 EMPLOYEE MAY SEEK A COURT ORDER REFORMING ANY CONTRACT COVERED BY THIS
25 SECTION. SUCH REFORMED AGREEMENT SHALL REFLECT THE UNDERSTANDING OF THE
26 PARTIES, AND THE COURT MAY EXCLUDE TERMS NOT WRITTEN IN PLAIN ENGLISH OR
27 FOUND IN A SEPARATE DOCUMENT.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 5. PRE-EXISTING RULES. THE PROVISIONS OF THIS SECTION SHALL BE APPLIED
2 IN CONJUNCTION WITH PRE-EXISTING RULES REGARDING CONTRACT FORMATION,
3 INCLUDING RULES REGARDING REASONABLE NOTICE, AND THE CONDUCT A CONSUMER
4 OR EMPLOYEE MUST MANIFEST IN ORDER TO ASSENT TO AN AGREEMENT.
5 S 2. This act shall take effect on the one hundred eightieth day after
6 it shall have become a law.