

SENATE BILL NO. 66
INTRODUCED BY HALLIGAN

IN THE SENATE

January 7, 1985	Introduced and referred to Committee on Business and Industry.
January 12, 1985	On motion, taken from Committee on Business and Industry and rereferred to Committee on Judiciary. Motion adopted.
January 26, 1985	Committee recommend bill do pass as amended. Report adopted.
January 28, 1985	Bill printed and placed on members' desks.
January 29, 1985	Second reading, do pass.
January 30, 1985	Considered correctly engrossed.
January 31, 1985	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Business and Labor.
March 18, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 20, 1985	Second reading, concurred in.

March 22, 1985 Third reading, concurred in.
Returned to Senate with amendments.

IN THE SENATE

March 22, 1985 Received from House.

March 27, 1985 Second reading, amendments not concurred in.

March 28, 1985 On motion, Conference Committee requested and appointed.

April 15, 1985 Conference Committee reported.

April 16, 1985 Second reading, Conference Committee report adopted.
Conference Committee report adopted by House.

April 17, 1985 Third reading, Conference Committee report adopted.
Ayes, 49; Noes, 0.
Sent to enrolling.
Reported correctly enrolled.

1 SENATE BILL NO. 66
2 INTRODUCED BY HALLIGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONSUMER
5 CONTRACTS TO BE WRITTEN IN PLAIN LANGUAGE; PROVIDING FOR
6 COVERAGE, EXEMPTIONS, AND REMEDIES; AND PROVIDING AN
7 APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Short title. [This act] may be cited as the
11 "Plain Language in Contracts Act".

12 Section 2. Definitions. As used in [this act], unless
13 the context requires otherwise, the following definitions
14 apply:

15 (1) "Agreement" means any writing that is
16 substantially prepared in advance of a consumer transaction
17 and which a seller, lessor, or lender furnishes to a
18 consumer for the consumer to sign in connection with that
19 transaction.

20 (2) "Consumer" means an individual who borrows money
21 or leases or obtains property or services under a written
22 agreement.

23 (3) "Consumer contract" means an agreement for the
24 sale, lease, or loan of money, property, or services
25 primarily for personal, family, or household purposes. For

1 purposes of [this act], consumer contract includes an
2 advance for the purpose of facilitating payment of a premium
3 or a loan against the cash surrender value of a life
4 insurance policy.

5 (4) "Seller, lessor, or lender" means a person who
6 regularly sells, lets, or lends in connection with consumer
7 contracts.

8 Section 3. Requirements for contracts. (1) A consumer
9 contract must be written in plain language.

10 (2) A consumer contract is written in plain language
11 if it substantially complies with all of the following
12 tests:

13 (a) It uses short sentences and paragraphs.

14 (b) It uses everyday words.

15 (c) It uses personal pronouns or the actual or
16 shortened names of the parties to the contract, or both,
17 when referring to those parties.

18 (d) It uses simple, active verb forms.

19 (e) It uses type of readable size.

20 (f) It uses ink that contrasts with the paper.

21 (g) It heads sections and other subdivisions with
22 captions in boldface type or that otherwise stand out
23 significantly from the text.

24 (h) It uses layout and spacing that separate the
25 paragraphs and sections of the contract from each other and



-2- INTRODUCED BILL
SB66

1 from the borders of the paper.

2 (i) It is written and organized in a clear and
3 coherent manner.

4 Section 4. Scope. (1) Except as provided in subsection
5 (2), [section 3] applies to any agreement signed in
6 connection with a consumer contract entered into in this
7 state between a consumer who is a resident of this state at
8 the time of the transaction and a seller, lessor, or lender.

9 (2) [Section 3] does not apply to:

10 (a) consumer contracts in which the value of the
11 money, property, or services bought, leased, or borrowed
12 exceeds \$50,000 at the time of the contract;

13 (b) consumer contracts in which securities or
14 commodities accounts are bought, leased, or borrowed;

15 (c) consumer transactions subject to the provisions of
16 33-15-321 through 33-15-329; or

17 (d) a seller, lessor, or lender, if it is a government
18 agency or instrumentality.

19 (3) The use of specific language expressly required or
20 authorized by a court decision, state or federal statute or
21 administrative rule, or governmental agency is not a
22 violation of [this act]; nor is a legal description of real
23 property a violation of [this act].

24 Section 5. Consumer's remedy. (1) Except as otherwise
25 provided in [section 6], if an agreement does not comply

1 with the requirements of [section 3], the seller, lessor, or
2 lender is liable to a consumer who signed the agreement in
3 an amount equal to:

4 (a) \$50 plus any actual damages; and

5 (b) costs of the action, together with reasonable
6 attorney fees as determined by the court.

7 (2) A consumer may bring an action under this section
8 in any court of competent jurisdiction.

9 Section 6. Limitations on remedies. (1) A consumer may
10 not bring an action under [section 5] after the date on
11 which his obligations in connection with the agreement are
12 scheduled to be finally performed.

13 (2) No seller, lessor, or lender is liable under
14 [section 5] if a good faith attempt is made to comply with
15 requirements of [section 3].

16 (3) Noncompliance with the requirements of [section 3]
17 does not make a consumer transaction void or voidable if it
18 is otherwise legal, nor may a consumer raise noncompliance
19 as a defense to an obligation to perform in connection with
20 the transaction.

21 (4) In a class action brought under [section 5], the
22 seller, lessor, or lender is liable under [section 5] for
23 not more than \$10,000 plus actual damages.

24 (5) In any individual transaction, if there is more
25 than one consumer who is party to a single-consumer

1 contract, only one award of statutory damages may be made
2 for that transaction.

3 (6) No consumer may bring an action under [this act]
4 on a contract if the consumer was represented at the signing
5 of the contract by an attorney.

6 Section 7. Remedies cumulative -- waiver void. (1)
7 Nothing in [this act] precludes a consumer from making any
8 claim or raising any defense that would have been available
9 to the consumer if [this act] were not in effect.

10 (2) A consumer may not waive the rights provided by
11 [this act], and any such waiver is void.

12 Section 8. Applicability. This act applies to consumer
13 contracts entered into after January 1, 1986.

-End-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

SENATE BILL NO. 66
INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONSUMER CONTRACTS TO BE WRITTEN IN PLAIN LANGUAGE; PROVIDING FOR COVERAGE, EXEMPTIONS, AND REMEDIES; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Plain Language in Contracts Act".

Section 2. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Agreement" means any writing that is substantially prepared in advance of a consumer transaction and which a seller, lessor, or lender furnishes to a consumer for the consumer to sign in connection with that transaction.

(2) "Consumer" means an individual who borrows money or leases or obtains property or services under a written agreement.

(3) "Consumer contract" means an agreement for the sale, lease, or loan of money, property, or services primarily for personal, family, or household purposes. For

purposes--of--~~{this--act}~~--consumer--contract--includes--an advance-for-the-purpose-of-facilitating-payment-of-a-premium or-a-loan--against--the--cash--surrender--value--of--a--life insurance-policy.

(4) "Seller, lessor, or lender" means a person who regularly sells, lets, or lends in connection with consumer contracts.

Section 3. Requirements for contracts. (1) A consumer contract must be written in plain language.

(2) A consumer contract is written in plain language if: ~~it--substantially--complies--with--all--of--the--following tests:~~

- ~~{a)--it--uses--short--sentences--and--paragraphs;~~
- ~~{b)--it--uses--everyday--words;~~
- ~~{c)--it--uses--personal--pronouns--or--the--actual---or shortened--names--of--the--parties--to--the--contract,--or--both, when-referring--to--those--parties;~~
- ~~{d)--it--uses--simple,--active--verb--forms;~~

(A) IT IS WRITTEN IN A CLEAR AND COHERENT MANNER USING WORDS WITH COMMON AND EVERYDAY MEANINGS;

(B) IT IS APPROPRIATELY DIVIDED AND CAPTIONED BY ITS VARIOUS SECTIONS;

- ~~{e)}(C) It IT uses type of readable size;~~
- ~~{f)}(D) It IT uses ink that contrasts with the paper.~~
- ~~{g)--it--heads--sections--and--other--subdivisions--with~~



1 captions--in--boldface--type--or--that--otherwise--stand-out
2 significantly-from-the-text:

3 {h}--it--uses--layout--and--spacing--that--separate--the
4 paragraphs--and--sections--of--the--contract--from--each--other--and
5 from--the--borders--of--the--paper:

6 {i}--it--is--written--and--organized--in--a--clear--and
7 coherent-manner:

8 Section 4. Scope. (1) Except as provided in subsection
9 (2), [section 3] applies to any agreement signed in
10 connection with a consumer contract entered into in this
11 state between a consumer who is a resident of this state at
12 the time of the transaction and a seller, lessor, or lender.

13 (2) [Section 3] does not apply to:

14 (a) consumer contracts in which the value of the
15 money, property, or services bought, leased, or borrowed
16 exceeds \$50,000 at the time of the contract;

17 (b) consumer contracts in which securities or
18 commodities accounts are bought, leased, or borrowed;

19 (c) consumer transactions subject to the provisions of
20 33-15-321 through 33-15-329; or

21 (d) a seller, lessor, or lender, if it is a government
22 agency or instrumentality;

23 (E) THE PROVISION OF PUBLIC UTILITY SERVICE UNDER
24 TARIFFS APPROVED BY THE PUBLIC SERVICE COMMISSION; OR

25 (F) A TRANSFER OF REAL ESTATE.

1 (3) The use of specific language expressly required or
2 authorized by a court decision, state or federal statute or
3 administrative rule, or governmental agency is not a
4 violation of [this act]; nor is a legal description of real
5 property a violation of [this act].

6 Section 5. Consumer's remedy. (1) Except as otherwise
7 provided in [section 6], if an agreement does not comply
8 with the requirements of [section 3], the seller, lessor, or
9 lender is liable to a consumer who signed the agreement in
10 an amount equal to:

11 (a) \$50 plus any actual damages; and

12 (b) costs of the action,--together--with--reasonable
13 attorney-fees-as-determined-by-the-court.

14 (2) A consumer may bring an action under this section
15 in any court of competent jurisdiction.

16 Section 6. Limitations on remedies. (1) A consumer may
17 not bring an action under [section 5] after the date on
18 which his obligations in connection with the agreement are
19 scheduled to be finally performed.

20 (2) No seller, lessor, or lender is liable under
21 [section 5] if a good faith attempt is made to comply with
22 requirements of [section 3].

23 (3) Noncompliance with the requirements of [section 3]
24 does not make a consumer transaction void or voidable if it
25 is otherwise legal, nor may a consumer raise noncompliance

1 as a defense to an obligation to perform in connection with
2 the transaction.

3 (4) In a class action brought under [section 5], the
4 seller, lessor, or lender is liable under [section 5] for
5 not more than \$10,000 plus actual damages.

6 (5) In any individual transaction, if there is more
7 than one consumer who is party to a single-consumer
8 contract, only one award of statutory damages may be made
9 for that transaction.

10 (6) No consumer may bring an action under [this act]
11 on a contract if the consumer was represented at the signing
12 of the contract by an attorney.

13 (7) PUNITIVE DAMAGES MAY NOT BE ASSESSED IN AN ACTION
14 BROUGHT UNDER [THIS ACT].

15 Section 7. Remedies cumulative -- waiver void. (1)
16 Nothing in [this act] precludes a consumer from making any
17 claim or raising any defense that would have been available
18 to the consumer if [this act] were not in effect.

19 (2) A consumer may not waive the rights provided by
20 [this act], and any such waiver is void.

21 Section 8. Applicability. This act applies to consumer
22 contracts entered into after ~~January 17, 1986~~ JULY 1, 1987.

-End-

1 SENATE BILL NO. 66

2 INTRODUCED BY HALLIGAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONSUMER
5 CONTRACTS TO BE WRITTEN IN PLAIN LANGUAGE; PROVIDING FOR
6 COVERAGE, EXEMPTIONS, AND REMEDIES; AND PROVIDING AN
7 APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10 Section 1. Short title. [This act] may be cited as the
11 "Plain Language in Contracts Act".12 Section 2. Definitions. As used in [this act], unless
13 the context requires otherwise, the following definitions
14 apply:15 (1) "Agreement" means any writing that is
16 substantially prepared in advance of a consumer transaction
17 and which a seller, lessor, or lender furnishes to a
18 consumer for the consumer to sign in connection with that
19 transaction.20 (2) "Consumer" means an individual who borrows money
21 or leases or obtains property or services under a written
22 agreement.23 (3) "Consumer contract" means an agreement for the
24 sale, lease, or loan of money, property, or services
25 primarily for personal, family, or household purposes. For

1 purposes--of--{this--act}--consumer--contract--includes--an
2 advance-for-the-purpose-of-facilitating-payment-of-a-premium
3 or-a-loan-against-the-cash-surrender-value-of-a-life
4 insurance-policy-

5 (4) "Seller, lessor, or lender" means a person who
6 regularly sells, lets, or lends in connection with consumer
7 contracts.8 Section 3. Requirements for contracts. (1) A consumer
9 contract must be written in plain language.10 (2) A consumer contract is written in plain language
11 if: ~~it--substantially--complies--with--all--of--the--following~~
12 tests:13 ~~{a}--it--uses--short--sentences--and--paragraphs-~~14 ~~{b}--it--uses--everyday--words-~~15 ~~{c}--it--uses--personal--pronouns--or--the--actual---or~~
16 ~~shortened--names--of--the--parties--to--the--contract,--or--both,~~
17 ~~when-referring--to--those--parties-~~18 ~~{d}--it--uses--simple,--active--verb--forms-~~19 (A) IT IS WRITTEN IN A CLEAR AND COHERENT MANNER USING
20 WORDS WITH COMMON AND EVERYDAY MEANINGS;21 (B) IT IS APPROPRIATELY DIVIDED AND CAPTIONED BY ITS
22 VARIOUS SECTIONS;23 ~~{e}(C) It IT uses type of readable size;~~24 ~~{f}(D) It IT uses ink that contrasts with the paper.~~25 ~~{g}--it--heads--sections--and--other--subdivisions--with~~

1 captions--in--boldface--type--or--that--otherwise--stand-out
2 significantly--from--the--text.

3 (h)--it--uses--layout--and--spacing--that--separate--the
4 paragraphs--and--sections--of--the--contract--from--each--other--and
5 from--the--borders--of--the--paper.

6 (i)--it--is--written--and--organized--in--a--clear--and
7 coherent--manner.

8 Section 4. Scope. (1) Except as provided in subsection
9 (2), [section 3] applies to any agreement signed in
10 connection with a consumer contract entered into in this
11 state between a consumer who is a resident of this state at
12 the time of the transaction and a seller, lessor, or lender.

13 (2) [Section 3] does not apply to:

14 (a) consumer contracts in which the value of the
15 money, property, or services bought, leased, or borrowed
16 exceeds \$50,000 at the time of the contract;

17 (b) consumer contracts in which securities or
18 commodities accounts are bought, leased, or borrowed;

19 (c) consumer transactions subject to the provisions of
20 33-15-321 through 33-15-329; or

21 (d) a seller, lessor, or lender, if it is a government
22 agency or instrumentality;

23 (E) THE PROVISION OF PUBLIC UTILITY SERVICE UNDER
24 TARIFFS APPROVED BY THE PUBLIC SERVICE COMMISSION; OR

25 (F) A TRANSFER OF REAL ESTATE.

1 (3) The use of specific language expressly required or
2 authorized by a court decision, state or federal statute or
3 administrative rule, or governmental agency is not a
4 violation of [this act]; nor is a legal description of real
5 property a violation of [this act].

6 Section 5. Consumer's remedy. (1) Except as otherwise
7 provided in [section 6], if an agreement does not comply
8 with the requirements of [section 3], the seller, lessor, or
9 lender is liable to a consumer who signed the agreement in
10 an amount equal to:

11 (a) \$50 plus any actual damages; and

12 (b) costs of the action--together--with--reasonable
13 attorney--fees--as--determined--by--the--court.

14 (2) A consumer may bring an action under this section
15 in any court of competent jurisdiction.

16 Section 6. Limitations on remedies. (1) A consumer may
17 not bring an action under [section 5] after the date on
18 which his obligations in connection with the agreement are
19 scheduled to be finally performed.

20 (2) No seller, lessor, or lender is liable under
21 [section 5] if a good faith attempt is made to comply with
22 requirements of [section 3].

23 (3) Noncompliance with the requirements of [section 3]
24 does not make a consumer transaction void or voidable if it
25 is otherwise legal, nor may a consumer raise noncompliance

1 as a defense to an obligation to perform in connection with
2 the transaction.

3 (4) In a class action brought under [section 5], the
4 seller, lessor, or lender is liable under [section 5] for
5 not more than \$10,000 plus actual damages.

6 (5) In any individual transaction, if there is more
7 than one consumer who is party to a single-consumer
8 contract, only one award of statutory damages may be made
9 for that transaction.

10 (6) No consumer may bring an action under [this act]
11 on a contract if the consumer was represented at the signing
12 of the contract by an attorney.

13 (7) PUNITIVE DAMAGES MAY NOT BE ASSESSED IN AN ACTION
14 BROUGHT UNDER [THIS ACT].

15 Section 7. Remedies cumulative -- waiver void. (1)
16 Nothing in [this act] precludes a consumer from making any
17 claim or raising any defense that would have been available
18 to the consumer if [this act] were not in effect.

19 (2) A consumer may not waive the rights provided by
20 [this act], and any such waiver is void.

21 Section 8. Applicability. This act applies to consumer
22 contracts entered into after ~~January 1, 1986~~ JULY 1, 1987.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 18

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration SENATE Bill No. 66

third reading copy (blue color)

REQUIRING PLAIN LANGUAGE IN CONSUMER CONTRACTS

Respectfully report as follows: That SENATE Bill No. 66

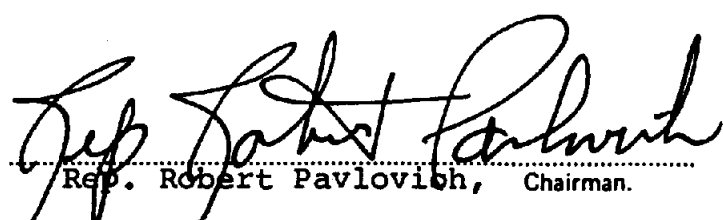
BE AMENDED AS FOLLOWS:

1. Page 3, line 22
Following: "i"
Insert: "or"
2. Page 3, line 24
Following: "COMMISSION"
Strike: the remainder of line 24 and line 25 through "ESTATE"

JK

SL
3/18

~~EXCESS~~
BE CONCURRED IN AS AMENDED


Rep. Robert Pavlovich, Chairman.

SENATE BILL NO. 66
INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONSUMER CONTRACTS TO BE WRITTEN IN PLAIN LANGUAGE; PROVIDING FOR COVERAGE, EXEMPTIONS, AND REMEDIES; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Plain Language in Contracts Act".

Section 2. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Agreement" means any writing that is substantially prepared in advance of a consumer transaction and which a seller, lessor, or lender furnishes to a consumer for the consumer to sign in connection with that transaction.

(2) "Consumer" means an individual who borrows money or leases or obtains property or services under a written agreement.

(3) "Consumer contract" means an agreement for the sale, lease, or loan of money, property, or services primarily for personal, family, or household purposes. For

~~purposes of [this act], consumer contract includes an advance for the purpose of facilitating payment of a premium or a loan against the cash surrender value of a life insurance policy.~~

(4) "Seller, lessor, or lender" means a person who regularly sells, lets, or lends in connection with consumer contracts.

Section 3. Requirements for contracts. (1) A consumer contract must be written in plain language.

(2) A consumer contract is written in plain language if: ~~it substantially complies with all of the following tests:~~

~~(a) it uses short sentences and paragraphs;~~

~~(b) it uses everyday words;~~

~~(c) it uses personal pronouns or the actual or shortened names of the parties to the contract, or both, when referring to those parties;~~

~~(d) it uses simple, active verb forms;~~

(A) IT IS WRITTEN IN A CLEAR AND COHERENT MANNER USING WORDS WITH COMMON AND EVERYDAY MEANINGS;

(B) IT IS APPROPRIATELY DIVIDED AND CAPTIONED BY ITS VARIOUS SECTIONS;

~~(e)(C) It IT uses type of readable size;~~

~~(f)(D) It IT uses ink that contrasts with the paper.~~

~~(g) it heads sections and other subdivisions with~~



1 captions--in--boldface--type--or--that--otherwise--stand-out
2 significantly--from--the--text.

3 {h}--It--uses--layout--and--spacing--that--separate--the
4 paragraphs--and--sections--of--the--contract--from--each--other--and
5 from--the--borders--of--the--paper.

6 {i}--It--is--written--and--organized--in--a--clear--and
7 coherent--manner.

8 Section 4. Scope. (1) Except as provided in subsection
9 (2), [section 3] applies to any agreement signed in
10 connection with a consumer contract entered into in this
11 state between a consumer who is a resident of this state at
12 the time of the transaction and a seller, lessor, or lender.

13 (2) [Section 3] does not apply to:

14 (a) consumer contracts in which the value of the
15 money, property, or services bought, leased, or borrowed
16 exceeds \$50,000 at the time of the contract;

17 (b) consumer contracts in which securities or
18 commodities accounts are bought, leased, or borrowed;

19 (c) consumer transactions subject to the provisions of
20 33-15-321 through 33-15-329; or

21 (d) a seller, lessor, or lender, if it is a government
22 agency or instrumentality; OR

23 (E) THE PROVISION OF PUBLIC UTILITY SERVICE UNDER
24 TARIFFS APPROVED BY THE PUBLIC SERVICE COMMISSION; OR

25 {F}--A--TRANSFER--OF--REAL--ESTATE.

1 (3) The use of specific language expressly required or
2 authorized by a court decision, state or federal statute or
3 administrative rule, or governmental agency is not a
4 violation of [this act]; nor is a legal description of real
5 property a violation of [this act].

6 Section 5. Consumer's remedy. (1) Except as otherwise
7 provided in [section 6], if an agreement does not comply
8 with the requirements of [section 3], the seller, lessor, or
9 lender is liable to a consumer who signed the agreement in
10 an amount equal to:

11 (a) \$50 plus any actual damages; and

12 (b) costs of the action;--together--with--reasonable
13 attorney--fees--as--determined--by--the--court.

14 (2) A consumer may bring an action under this section
15 in any court of competent jurisdiction.

16 Section 6. Limitations on remedies. (1) A consumer may
17 not bring an action under [section 5] after the date on
18 which his obligations in connection with the agreement are
19 scheduled to be finally performed.

20 (2) No seller, lessor, or lender is liable under
21 [section 5] if a good faith attempt is made to comply with
22 requirements of [section 3].

23 (3) Noncompliance with the requirements of [section 3]
24 does not make a consumer transaction void or voidable if it
25 is otherwise legal, nor may a consumer raise noncompliance

1 as a defense to an obligation to perform in connection with
2 the transaction.

3 (4) In a class action brought under [section 5], the
4 seller, lessor, or lender is liable under [section 5] for
5 not more than \$10,000 plus actual damages.

6 (5) In any individual transaction, if there is more
7 than one consumer who is party to a single-consumer
8 contract, only one award of statutory damages may be made
9 for that transaction.

10 (6) No consumer may bring an action under [this act]
11 on a contract if the consumer was represented at the signing
12 of the contract by an attorney.

13 (7) PUNITIVE DAMAGES MAY NOT BE ASSESSED IN AN ACTION
14 BROUGHT UNDER [THIS ACT].

15 Section 7. Remedies cumulative -- waiver void. (1)
16 Nothing in [this act] precludes a consumer from making any
17 claim or raising any defense that would have been available
18 to the consumer if [this act] were not in effect.

19 (2) A consumer may not waive the rights provided by
20 [this act], and any such waiver is void.

21 Section 8. Applicability. This act applies to consumer
22 contracts entered into after ~~January 1, 1986~~ JULY 1, 1987.

-End-

SENATE BILL NO. 66
INTRODUCED BY HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CONSUMER CONTRACTS TO BE WRITTEN IN PLAIN LANGUAGE; PROVIDING FOR COVERAGE, EXEMPTIONS, AND REMEDIES; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [This act] may be cited as the "Plain Language in Contracts Act".

Section 2. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Agreement" means any writing that is substantially prepared in advance of a consumer transaction and which a seller, lessor, or lender furnishes to a consumer for the consumer to sign in connection with that transaction.

(2) "Consumer" means an individual who borrows money or leases or obtains property or services under a written agreement.

(3) "Consumer contract" means an agreement for the sale, lease, or loan of money, property, or services primarily for personal, family, or household purposes. For

purposes--of--{this--act};--consumer--contract--includes--an advance-for-the-purpose-of-facilitating-payment-of-a-premium or-a-loan--against--the--cash--surrender--value--of--a--life insurance-policy;

(4) "Seller, lessor, or lender" means a person who regularly sells, lets, or lends in connection with consumer contracts.

Section 3. Requirements for contracts. (1) A consumer contract must be written in plain language.

(2) A consumer contract is written in plain language if: it--substantially--complies--with--all--of--the--following tests:

- (a)--it--uses--short--sentences--and--paragraphs;
- (b)--it--uses--everyday--words;
- (c)--it--uses--personal--pronouns--or--the--actual--or shortened--names--of--the--parties--to--the--contract,--or--both, when-referring-to-those-parties;
- (d)--it--uses--simple,--active--verb--forms;

(A) IT IS WRITTEN IN A CLEAR AND COHERENT MANNER USING WORDS WITH COMMON AND EVERYDAY MEANINGS;

(B) IT IS APPROPRIATELY DIVIDED AND CAPTIONED BY ITS VARIOUS SECTIONS;

- (c)(C) it IT uses type of readable size;
- (f)(D) it IT uses ink that contrasts with the paper.
- (g)--it--heads--sections--and--other--subdivisions--with



1 captions--in--boldface--type--or--that--otherwise--stand-out
2 significantly-from-the-text;

3 {h}--It-uses--layout--and--spacing--that--separate--the
4 paragraphs--and-sections-of-the-contract-from-each-other-and
5 from-the-borders-of-the-paper;

6 {i}--It--is--written--and--organized--in--a--clear--and
7 coherent-manner;

8 Section 4. Scope. (1) Except as provided in subsection
9 (2), [section 3] applies to any agreement signed in
10 connection with a consumer contract entered into in this
11 state between a consumer who is a resident of this state at
12 the time of the transaction and a seller, lessor, or lender.

13 (2) [Section 3] does not apply to:

14 (a) consumer contracts in which the value of the
15 money, property, or services bought, leased, or borrowed
16 exceeds \$50,000 at the time of the contract;

17 (b) consumer contracts in which securities or
18 commodities accounts are bought, leased, or borrowed;

19 (c) consumer transactions subject to the provisions of
20 33-15-321 through 33-15-329; or

21 (d) a seller, lessor, or lender, if it is a government
22 agency or instrumentality; OR

23 (E) THE PROVISION OF PUBLIC UTILITY SERVICE UNDER
24 TARIFFS APPROVED BY THE PUBLIC SERVICE COMMISSION; OR

25 {P}--A-TRANSFER-OF-REAL-ESTATE

1 (F) A TRANSFER OF REAL ESTATE.

2 (3) The use of specific language expressly required or
3 authorized by a court decision, state or federal statute or
4 administrative rule, or governmental agency is not a
5 violation of [this act]; nor is a legal description of real
6 property a violation of [this act].

7 Section 5. Consumer's remedy. (1) Except as otherwise
8 provided in [section 6], if an agreement does not comply
9 with the requirements of [section 3], the seller, lessor, or
10 lender is liable to a consumer who signed the agreement in
11 an amount equal to:

12 (a) \$50 plus any actual damages; and

13 (b) costs of the action; together--with--reasonable
14 attorney-fees-as-determined-by-the-court.

15 (2) A consumer may bring an action under this section
16 in any court of competent jurisdiction.

17 Section 6. Limitations on remedies. (1) A consumer may
18 not bring an action under [section 5] after the date on
19 which his obligations in connection with the agreement are
20 scheduled to be finally performed.

21 (2) No seller, lessor, or lender is liable under
22 [section 5] if a good faith attempt is made to comply with
23 requirements of [section 3].

24 (3) Noncompliance with the requirements of [section 3]
25 does not make a consumer transaction void or voidable if it

1 is otherwise legal, nor may a consumer raise noncompliance
2 as a defense to an obligation to perform in connection with
3 the transaction.

4 (4) In a class action brought under [section 5], the
5 seller, lessor, or lender is liable under [section 5] for
6 not more than \$10,000 plus actual damages.

7 (5) In any individual transaction, if there is more
8 than one consumer who is party to a single-consumer
9 contract, only one award of statutory damages may be made
10 for that transaction.

11 (6) No consumer may bring an action under [this act]
12 on a contract if the consumer was represented at the signing
13 of the contract by an attorney.

14 (7) PUNITIVE DAMAGES MAY NOT BE ASSESSED IN AN ACTION
15 BROUGHT UNDER [THIS ACT].

16 Section 7. Remedies cumulative -- waiver void. (1)
17 Nothing in [this act] precludes a consumer from making any
18 claim or raising any defense that would have been available
19 to the consumer if [this act] were not in effect.

20 (2) A consumer may not waive the rights provided by
21 [this act], and any such waiver is void.

22 Section 8. Applicability. This act applies to consumer
23 contracts entered into after ~~January 17, 1986~~ JULY 1, 1987.

-End-