

BILL ANALYSIS

Senate Research Center
79R5424 MFC-F

S.B. 675
By: West, Royce
Jurisprudence
4/14/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, when a person signs a consumer contract they may also unknowingly be waiving their right to a jury trial.

As proposed, S.B. 675 requires a provision in a consumer contract that purports to waive a right to a jury trial to meet certain requirements to be enforceable. The requirements include: the provision's application to both parties to the contract; the provision not being unconscionable; and the contract's inclusion of a statement clearly stating that by signing the contract the person is waiving his or her right to a jury trial.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 30, Civil Practice and Remedies Code, by adding Section 30.006, as follows:

Sec. 30.006. WAIVER OF RIGHT TO DEMAND JURY TRIAL. (a) Provides that a provision waiving the right to demand a jury trial in a written agreement evidencing or relating to a consumer transaction in which an individual consumer acquires or seeks to acquire goods or services primarily for personal, household, or family use is not enforceable unless the waiver meets certain criteria.

(b) Provides that a party who asserts that an individual consumer has waived the right to demand a jury trial in a written agreement relating to a consumer transaction has the burden of proof to show that the waiver is enforceable under Subsection (a).

(c) Requires the court, on motion of a party in a proceeding relating to a consumer transaction, to conduct a hearing to determine the enforceability of a waiver provision under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.