

LEGAL AND BINDING CONTRACTS

Contracts are agreements between persons or other legal entities in which one party agrees to perform a service or provide a good in exchange for the payment of money or other goods or services.

An agreement to do something is not necessarily binding. It is a binding contract if you agree to make an exchange of valuable items, including goods, services, or money. It is even more binding if one party performs their obligation under the agreement in expectation that the other party will also perform their obligations.

An agreement to do something or pay something can become binding upon you if the other party acts to his or her detriment upon your promise or agreement to perform, even though they pay or give nothing in exchange.

Certain types of contracts are required by law to be in writing in order to be enforceable. Although verbal (oral) contracts may be harder to enforce because of a disagreement of what was promised or agreed to, many verbal contracts are enforceable, especially in situations where one party has performed their obligations.

Contrary to what many people believe, there is no automatic right to cancel a valid contract, even if done within 3 days. Only certain types of contracts come with a "3-day right of rescission", such as health club contracts or some sales of goods or services made at your home. In order to cancel such a contract, you must give written notice of cancellation to the seller within 3 business days of your signing the contract. A lawyer will be able to tell you if a particular contract comes with such a right to cancel.

Often the word "consideration" is found in agreements. Consideration is the legal word used to denote a valuable good, service, or payment. There must be a giving of "consideration," or a promise to give consideration in order for there to be a contract.

Written contracts are almost always preferable to verbal contracts because a written document eliminates disputes about the terms and conditions of the contract or agreement. However, even written contracts can be not specific enough, might not contain language necessary to make them enforceable, or can be subject to more than one interpretation.

Contracts and agreements often have significant financial effects to the persons signing them. Contracts often contain language such as "liquidated damages," "special damages," "consequential damages," "court costs," "default," all of which are legal terms which have meanings which are not generally known to non-lawyers.

The breaking or "breach" of a contract or agreement by a signer can result in the breaching party being sued by the other party to compel the breaching party to abide by the contract or to pay money instead of performing the obligations of the contract. If a party wants a judge to enforce a contract, the party is required by law to file the lawsuit within usually five years of the date the contract was made. However, the deadline for filing suit may be as little as one year after the agreement was made. If you do not sue within the deadline, you will not be permitted to sue later.

Some contracts state that any dispute related to the contract will be decided by "arbitration", instead of in a court of law. These "arbitration clauses" are usually valid and binding, and mean that if you have a dispute regarding the contract it will be decided by an "arbitrator" rather than by a judge or jury. An "arbitrator" is usually a businessperson who is trained in determining the outcome of contractual disputes. An arbitrator receives a monetary fee from the complaining party prior to hearing the case, and then is also paid for his or her time as the case progresses. These fees may be more expensive than what it would cost to bring the same case to a court of law, and may even be more than the amount of money in dispute. You should not sign a contract with an "arbitration clause" unless you are willing to give up your right to have any dispute related to the contract decided by a judge or jury, and are willing and able to pay the arbitrator's fees.

If the suing party proves their case in a court of law or before an arbitrator, a judge may order that the winning party is entitled to recover money or other goods from the loser. The winner can then use various methods to get the loser to pay.

Because of the complexity of contract law, and the consequences of entering into contracts, the Supreme Court restricts the drafting of contracts by non-lawyers. Most printed contracts are drafted by lawyers and are designed to protect the parties for whom the lawyers work.

Each year, Florida residents lose thousands of dollars because they do not understand contracts when they sign them. In many of these cases, the advice of a lawyer would have prevented the loss of money. Only a qualified lawyer can advise you on whether an agreement is binding upon you. Before you sign any agreement requiring the giving or payment of valuable consideration, it is best to have a qualified lawyer review the agreement, explain your obligations under it, and the consequence of a breach of the contract should you be unable to perform your obligations.

If you believe you need legal advice, call your attorney. If you do not have an attorney, call TheFlorida Bar Lawyer Referral Service at 1-800-342-8011, or the local lawyer referral service or legal aid office listed in the yellow pages of your telephone book.