

Assembly Bill No. 3254

CHAPTER 161

An act to amend Section 1632 of the Civil Code, relating to contracts.

[Approved by Governor September 25, 2020. Filed with
Secretary of State September 25, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3254, Limón. Contracts: translations.

Existing law requires a person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into specified agreements to deliver, as specified, to the other party to the contract or agreement and before the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, that includes a translation of every term and condition in that contract or agreement. Existing law exempts from those provisions, a person engaged in a trade or business who negotiates primarily in a language other than English if the party with whom the person is negotiating obligates the party, as specified, by contract or lease, and the party negotiates the terms of the contract, lease, or other obligation through the party's own interpreter.

This bill would also require delivery of a translation to any other person who will be signing the contract or agreement. The bill would also make conforming and correctional changes with regard to the definition of "the party's own interpreter" in reference to the exemptions described above.

The people of the State of California do enact as follows:

SECTION 1. Section 1632 of the Civil Code is amended to read:

1632. (a) The Legislature hereby finds and declares all of the following:

(1) This section was enacted in 1976 to increase consumer information and protections for the state's sizeable and growing Spanish-speaking population.

(2) Since 1976, the state's population has become increasingly diverse and the number of Californians who speak languages other than English as their primary language at home has increased dramatically.

(3) According to data from the American Community Survey, which has replaced the decennial census for detailed socioeconomic information about United States residents, approximately 15.2 million Californians speak a language other than English at home, based on data from combined years 2009 through 2011. This compares to approximately 19.6 million people who speak only English at home. Among the Californians who speak a

language other than English at home, approximately 8.4 million speak English very well, and another 3 million speak English well. The remaining 3.8 million Californians surveyed do not speak English well or do not speak English at all. Among this group, the five languages other than English that are most widely spoken at home are Spanish, Chinese, Tagalog, Vietnamese, and Korean. These five languages are spoken at home by approximately 3.5 million of the 3.8 million Californians with limited or no English proficiency, who speak a language other than English at home.

(b) Any person engaged in a trade or business who negotiates primarily in Spanish, Chinese, Tagalog, Vietnamese, or Korean, orally or in writing, in the course of entering into any of the following, shall deliver to the other party to the contract or agreement, and any other person who will be signing the contract or agreement, and before the execution thereof, a translation of the contract or agreement in the language in which the contract or agreement was negotiated, that includes a translation of every term and condition in that contract or agreement:

(1) A contract or agreement subject to the provisions of Title 2 (commencing with Section 1801) of, and Chapter 2b (commencing with Section 2981) and Chapter 2d (commencing with Section 2985.7) of Title 14 of, Part 4 of Division 3.

(2) A loan or extension of credit secured other than by real property, or unsecured, for use primarily for personal, family, or household purposes.

(3) A lease, sublease, rental contract or agreement, or other term of tenancy contract or agreement, for a period of longer than one month, covering a dwelling, an apartment, or mobilehome, or other dwelling unit normally occupied as a residence.

(4) Notwithstanding paragraph (2), a loan or extension of credit for use primarily for personal, family, or household purposes in which the loan or extension of credit is subject to the provisions of Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000), or Division 9 (commencing with Section 22000) of the Financial Code.

(5) Notwithstanding paragraph (2), a reverse mortgage as described in Chapter 8 (commencing with Section 1923) of Title 4 of Part 4 of Division 3.

(6) A contract or agreement, containing a statement of fees or charges, entered into for the purpose of obtaining legal services, when the person who is engaged in business is currently licensed to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(7) A foreclosure consulting contract subject to Article 1.5 (commencing with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3.

(c) Notwithstanding subdivision (b), for a loan subject to this part and to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, the delivery of a translation of the statement to the borrower required by Section 10240 of the Business and Professions Code in any of the languages specified in subdivision (b)

in which the contract or agreement was negotiated, is in compliance with subdivision (b).

(d) At the time and place where a lease, sublease, or rental contract or agreement described in subdivision (b) is executed, notice in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be provided to the lessee or tenant.

(e) Provision by a supervised financial organization of a translation of the disclosures required by Regulation M or Regulation Z, and, if applicable, Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated, prior to the execution of the contract or agreement, shall also be deemed in compliance with the requirements of subdivision (b) with regard to the original contract or agreement.

(1) “Regulation M” and “Regulation Z” mean any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System and any interpretation or approval issued by an official or employee duly authorized by the board to issue interpretations or approvals dealing with, respectively, consumer leasing or consumer lending, pursuant to the Federal Truth in Lending Act, as amended (15 U.S.C. Sec. 1601 et seq.).

(2) As used in this section, “supervised financial organization” means a bank, savings association as defined in Section 5102 of the Financial Code, credit union, or holding company, affiliate, or subsidiary thereof, or any person subject to Article 7 (commencing with Section 10240) of Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, or Division 7 (commencing with Section 18000) or Division 9 (commencing with Section 22000) of the Financial Code.

(f) At the time and place where a contract or agreement described in paragraph (1) or (2) of subdivision (b) is executed, a notice in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be conspicuously displayed to the effect that the person described in subdivision (b) is required to provide a contract or agreement in the language in which the contract or agreement was negotiated, or a translation of the disclosures required by law in the language in which the contract or agreement was negotiated, as the case may be. If a person described in subdivision (b) does business at more than one location or branch, the requirements of this section shall apply only with respect to the location or branch at which the language in which the contract or agreement was negotiated is used.

(g) The term “contract” or “agreement,” as used in this section, means the document creating the rights and obligations of the parties and includes any subsequent document making substantial changes in the rights and obligations of the parties. The term “contract” or “agreement” does not include any subsequent documents authorized or contemplated by the original document such as periodic statements, sales slips or invoices representing purchases made pursuant to a credit card agreement, a retail installment contract or account or other revolving sales or loan account, memoranda of

purchases in an add-on sale, or refinancing of a purchase as provided by, or pursuant to, the original document.

The term “contract” or “agreement” does not include a home improvement contract as defined in Sections 7151.2 and 7159 of the Business and Professions Code, nor does it include plans, specifications, description of work to be done and materials to be used, or collateral security taken or to be taken for the retail buyer’s obligation contained in a contract for the installation of goods by a contractor licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, if the home improvement contract or installation contract is otherwise a part of a contract described in subdivision (b).

Matters ordinarily incorporated by reference in contracts or agreements as described in paragraph (3) of subdivision (b), including, but not limited to, rules and regulations governing a tenancy and inventories of furnishings to be provided by the person described in subdivision (b), are not included in the term “contract” or “agreement.”

(h) (1) This section does not apply to any person engaged in a trade or business who negotiates primarily in a language other than English, as described by subdivision (b), if the party with whom that person is negotiating is a buyer of goods or services, or receives a loan or extension of credit, or enters an agreement obligating that party as a tenant, lessee, or sublessee, or similarly obligates the party by contract or lease, and the party negotiates the terms of the contract, lease, or other obligation through the party’s own interpreter.

(2) As used in this subdivision, “the party’s own interpreter” means a person who is not a minor and who is able to speak fluently and read with full understanding both the English language and any of the languages specified in subdivision (b) in which the contract, lease, or other obligation was negotiated, and who is not employed by, or whose service is not made available through, the person engaged in the trade or business.

(i) Notwithstanding subdivision (b), a translation may retain the following elements of the executed English-language contract or agreement without translation: names and titles of individuals and other persons, addresses, brand names, trade names, trademarks, registered service marks, full or abbreviated designations of the make and model of goods or services, alphanumeric codes, numerals, dollar amounts expressed in numerals, dates, and individual words or expressions having no generally accepted non-English translation. It is permissible, but not required, that this translation be signed.

(j) The terms of the contract or agreement that is executed in the English language shall determine the rights and obligations of the parties. However, the translation of the contract or the disclosures required by subdivision (e) in any of the languages specified in subdivision (b) in which the contract or agreement was negotiated shall be admissible in evidence only to show that no contract was entered into because of a substantial difference in the material terms and conditions of the contract and the translation.

(k) Upon a failure to comply with the provisions of this section, the person aggrieved may rescind the contract or agreement in the manner provided by this chapter. If the contract for a consumer credit sale or consumer lease that has been sold and assigned to a financial institution is rescinded pursuant to this subdivision, the consumer shall make restitution to and have restitution made by the person with whom the consumer made the contract and shall give notice of rescission to the assignee. Notwithstanding that the contract was assigned without recourse, the assignment shall be deemed rescinded, and the assignor shall promptly repurchase the contract from the assignee.