

# Useful Numbers in Colorado

## **Better Business Bureaus**

BBB of the Pike's Peak Region, Inc.  
P.O. Box 7970  
Colorado Springs, CO 80933-7970  
Phone: 719-636-1155  
FAX: 719-636-5078

Rocky Mountain BBB, Inc.  
1780 South Bellaire, Ste. 700  
Denver, CO 80222  
Phone: 303-758-2100  
FAX: 303-758-8321

BBB of the Mountain States, Inc.  
1730 South College Ave., Ste. 303  
Fort Collins, CO 80525-1073  
Phone: 303-484-1348  
FAX: 303-221-1239

BBB of Southern Colorado, Inc.  
119 West 6th St., Ste. 203  
Pueblo, CO 81003-3119  
Phone: 719-542-6464

## **Consumer Protection**

Consumer Protection Unit  
Office of Attorney General  
1525 Sherman St., 5th Fl.  
Denver, CO 80203-1760  
Phone: 303-866-5189

## ***County Offices***

Archuleta, LaPlata and San Juan Counties  
District Attorney's Office  
P.O. Drawer 3455  
Durango, CO 81302  
Phone: 970-247-8850  
FAX: 970-259-0200

Boulder County District Attorney's Office  
P.O. Box 471  
Boulder, CO 80306  
Phone: 303-441-3700

## **Banking**

State Bank Commissioner  
Division of Banking  
1560 Broadway St., Ste. 1175  
Denver, CO 80202  
Phone: 303-894-7575

## **Utilities**

Public Utilities Commission  
1580 Logan St.  
Logan Tower-Office Level 2  
Denver, CO 80203  
Phone: 303-894-2000  
TDD: 303-894-2512

## **Military Commissary and Exchange**

Fitzsimons Army Medical Center  
Attn: HSHG-PNF-S  
Aurora, CO 80045-5000

Army Community Service  
Attn: AFZE-PA-AC  
Fort Carson, CO 80913-5019

21 MSSQ/MSF  
Peterson, CO 80914-1573

## **Law Schools**

University of Colorado School of Law  
Legal Aid & Defender Clinic  
Kittredge Dr., Campus Box 401  
Boulder, CO 80309-0401  
Phone: 303-492-8126  
FAX: 303-492-1757

University of Denver College of Law  
7039 East 18th Ave.  
Denver, CO 80220  
Phone: 303-871-6140  
FAX: 303-871-6378

FAX: 303-441-4703

Denver District Attorney  
Economic Crimes Division  
303 West Colfax Ave., Ste. 1300  
Denver, CO 80204  
Phone: 303-640-5956 (administration)  
303-640-3557 (complaints)  
FAX: 303-640-2592

Economic Crime Division  
El Paso/Teller Counties  
District Attorney's Office  
105 East Vermijo, Ste. 205  
Colorado Springs, CO 80903-2083  
Phone: 719-520-6002  
FAX: 719-520-6006

Weld County District Attorney's Office  
P.O. Box 1167  
Greeley, CO 80632  
Phone: 970-356-4010  
FAX: 970-352-8023

**Home Repair**

Denver Building Inspection Service  
(720) 865-2770

**Aging**

Aging and Adult Service  
1515 Arapahoe St.  
Tower 2, Ste. 775  
Denver, CO 80202  
Phone: 303-620-4147

## **PRESENTATION: HOMEOWNERS WARRANTY RIGHTS**

Warranty: A warranty is a legal document which promises that good purchased will work properly or that an item is of good quality. It is a guarantee.

The current law regarding homeowners warranty rights in Colorado is the Construction Defect Action Reform Act (CDARA).

This law does not generally apply to written warranties (contracts) agreed upon between home-sellers/builders and homebuyers. If there is a written warranty, homebuyers must usually comply with the terms of the agreement. For example, submitting your disputes to arbitration or mediation instead of the court system.

### **Steps You Can Take When There is No Written Warranty:**

As a homebuyer with a warranty dispute, you will usually have to enter a settlement process before you are allowed to file suit. Below are the steps you generally follow:

#### **Step 1. Making the Claim**

As a homebuyer you must provide home-sellers/builders with written notice of a claim 75 days before filing an action. The notice must include: 1) the nature of the defect, 2) the description of the type and location of the defective construction, and 3) any damages caused by the defect.

A claim for a construction defect must be filed within two years from the time the defect is discovered, but in no case later than six years after substantial completion of the construction.

#### **Step 2. Inspection**

Once the home-seller/builder has received notice, the buyer must provide them with reasonable access to the property for inspection. The home-seller/builder has only 30 days from the date of receipt of the notice to inspect the property, therefore, coordinating reasonable access could be difficult for both sellers and buyers.

Once the home-seller/builder inspects the property, they have 30 days to either make an offer of money or offer to repair the defect. If the seller/builder makes an offer to repair, he must include: 1) a report of the area(s) inspected, 2) findings from that inspection, 3) the work necessary to remedy defect(s) and/or damage to the property caused by the defect, and a time frame for completion of the work.

#### **Step 3. Accept or Reject**

The homebuyer has 15 days after receipt of any offer to accept or reject it. If the homebuyer accepts an offer to repair, the repair must occur within the time frame provided by the home-seller/builder. If not, the buyer can file suit without further notice.

If the buyer accepts an offer of money, the home-seller/builder must pay in accordance with the terms of the written offer. If not, the buyer can file suit without further notice.

If the buyer rejects the home-seller's/builder's offer, the buyer can then file suit. Also, a homebuyer's failure to accept an offer is considered a rejection and the buyer can then file suit.

#### Step 4. Compensation

If the buyer rejects the home-seller's/builder's offer and files suit, the law limits the amount of damages a home-seller/builder must pay.

If a homebuyer has personal or property damages resulting from a defect in construction, the buyer is only able to recover damages up to \$250,000 from the seller/builder.

If the home-seller/builder acted in bad faith, the homebuyer may be able to recover damages in excess of \$250,000.

#### **CONCLUSION**

Hopefully, as homebuyers you will not have to face any construction defects in your homes. However, if you unfortunately have to, you will need to 1) provide notice to the seller/builder, 2) give him a chance to inspect the property and make an offer, and 3) if you are unsatisfied with the offer or the re-work is not completed in the time given, file suit. In most cases, your damages will be limited to \$250,000. The law affects actions filed by homebuyers on or after April 25, 2003.

Knowing your warranty rights will help you understand what you are entitled to as a homebuyer. To find out more about the CDARA Act or your warranty rights, you are encouraged to visit the following website:

- [http://www.hbacolorado.com/gov\\_affairs/pdfs/HB116.pdf](http://www.hbacolorado.com/gov_affairs/pdfs/HB116.pdf)

Or call:

- (303)866-5000



## Home Maintenance & Repair Contracts

- What are they?
- Picking a contractor
- The contract itself
- Other tips
- Resources and where to go for help

## What are contracts for maintenance and repair?

### 1. Additions

- Building a deck
- Building onto your home

### 2. Improvements

- Replacing windows
- Getting insulation put in
- Furnish basement

### 3. Repairs

- Plumber, etc.
- Roofing
- Heating/Cooling Systems

### 4. Maintenance

- Landscaping
- Appliance Repair

# What to Look for in a Contractor<sup>1</sup>

## 1. Where to find?

- Free booklets by the door at the grocery store
- Basic yellowpages

## 2. Make sure contractor is:

- Licensed<sup>2</sup>
  - i. A license ensures that the contractor is qualified to do the work and that the state government can track them<sup>3</sup>
  - ii. No state license required in Colorado for general construction<sup>4</sup>
  - iii. State license is required for electricians and plumbers
- Bonded
  - i. A bond is an insurance policy that contractor pays for.
  - ii. Guarantees contractor will do the work properly
  - iii. Failure to do the work should result in a payment from the bonding company
- Insured

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<sup>1</sup> All of this information can also be found Home Repair at about.com. Particular sites include articles on “Finding a Contractor” and “Before You Sign,” at

[http://homerepair.about.com/cs/contractor1/a/find\\_contractor.htm](http://homerepair.about.com/cs/contractor1/a/find_contractor.htm) and [http://homerepair.about.com/cs/contractor1/a/before\\_contract.htm](http://homerepair.about.com/cs/contractor1/a/before_contract.htm).

<sup>2</sup> See “Licensing, Bonding, and Insuring,” at [http://homerepair.about.com/cs/contractor1/a/licns\\_bond\\_insr.htm](http://homerepair.about.com/cs/contractor1/a/licns_bond_insr.htm). Also look at <http://contractors-license.org/> and click on Colorado.

<sup>3</sup> Look up to see whether a contractor is licensed at [http://www.dora.state.co.us/pls/real/ARMS\\_Search.Disclaimer\\_Page](http://www.dora.state.co.us/pls/real/ARMS_Search.Disclaimer_Page) or call (303) 894-2300, X100.

<sup>4</sup> <http://contractors-license.org/>



- i. Depending on kind of work, check to see if they cover injuries to their employees, or else you could end up paying for it

## Choosing a Contractor

1. Get an estimate
  - When you tell the contractor what work you want done, the contractor will tell you *what he or she thinks* it would cost to do the work
2. Ask if the estimate is *free* or if there's a fee
3. To get a good estimate:
  - i. Give lots of details on the work you want done
  - ii. Example: "The old roofing is to be removed and hauled away, the sheathing is to be repaired or replaced with..., new 15 lb. felt underlayment and new green three-tab shingles are to be installed."
4. Get at least 3 different estimates before deciding
  - Ask for references
    - i. Previous projects where you can contact the person
  - Ask if they will use subcontractors
    - i. Ask if you are responsible if the contractor doesn't pay the subcontractors
5. Get a maximum price from the contractor too

## Things to Watch Out For<sup>5</sup>

1. Solicits door-to-door
2. Just happens to have materials left over from a previous job
3. Asks you to get the required building permits
4. Ask you to pay entire job up front
5. Pressures you to accept immediately
6. Offers exceptionally long guarantees
7. Only accepts cash

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<sup>5</sup> Federal Trade Commission, "Home Sweet Home Improvement," at [http://www.pueblo.gsa.gov/cic\\_text/housing/home-sw/home-impv.htm](http://www.pueblo.gsa.gov/cic_text/housing/home-sw/home-impv.htm).

## Negotiating the Contract<sup>6</sup>

You've picked the contractor, now you want to write up the contract:

### 1. Scope of Work and Specifications

- Know the details of what you want done – What, Who, Where, When, and Cost
  - Examples:
    - “Contractor agrees to clean up after project is completed on this date”
    - “You’ll cut the tree down this many feet, clean up, and haul away by this specified time”
- List of all material required down to the color, model, size, even brand name
- Payment schedule
  - Example: Partial payment up front and rest at the end
- When issues or problems come up – how will that be handled
  - Examples:

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<sup>6</sup> All materials on this page gathered from “Before You Sign,” at [http://homerepair.about.com/cs/contractor1/a/before\\_contract.htm](http://homerepair.about.com/cs/contractor1/a/before_contract.htm). See also Colorado Bar Association guide at <http://www.cobar.org/group/printchapter.cfm?category=736&entityID=dpwfp>.

- They have to use different brand of materials
  - More work than original estimate said
- What the contractor won't do
  - Completion dates

## 2. Keep Detailed Records

- Copies of the contract
- Keep a record of all conversations – what was decided or talked about on what date
- Option: Take photos as job progresses

## 3. Example of a home repair contract: Also a handout

- <http://homerepair.about.com/gi/dynamic/offsite.htm?zi=1/XJ&sdn=homerepair&zu=http%3A%2F%2Fwww.abag.ca.gov%2Fbayarea%2Feqmaps%2Ffixit%2Fmanual%2FPT20-App-G.PDF>.

## What to Do When Things Go Wrong

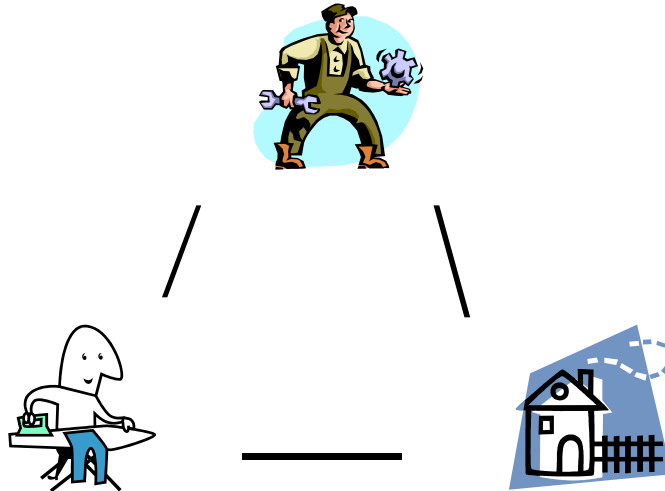
Most state and other organizations require a complaint in writing. Call to get the forms:

1. Complain to Denver/Boulder Better Business Bureau
  - 303.758.2100
  
2. State and local consumer protection offices
  - Colorado Consumer Line: 1.800.222.4444
  
3. State or local Builders Association
  - Electrical Board & Plumbing Board: (303) 894-2300
    - <http://www.dora.state.co.us/electrical/complaint.htm>.
  
4. Legal Remedies
  - Colorado Small Claims Court
    - Statute of limitations is **3 years**
    - Forms and Instructions:  
<http://www.courts.state.co.us/chs/court/forms/smallclaims/smallclaims.html>.
  
5. Handout Attached

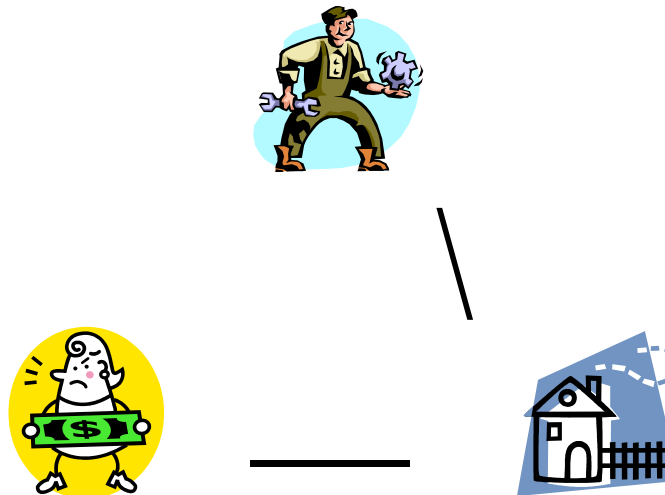


# WHAT IS A MECHANICS' OR CONSTRUCTION LIEN? By Devi Yorty

Ideally, when you hire a contractor to do work on your house, like a plumber or carpenter, he works and you pay. The value added to your home is your's to keep.



However, if you do not pay your plumber or carpenter, you get an improved home and he gets nothing.



This really isn't fair. So the State of Colorado has established Mechanics' and Construction Liens. Until you pay your plumber or carpenter, he has a lien on your home. In other words, he owns that part of your home that he has added until you pay him.



# **HOW DOES A MECHANICS OR CONSTRUCTION LIEN WORK?**

**1.** YOU OR SOMEBODY WITH YOUR PERMISSION HIRE A CONTRACTOR TO WORK ON YOUR HOME, HE WORKS, AND YOU DO NOT PAY HIM. In Colorado, a contractor cannot file a lien unless you agree, orally or in writing, for the work to be done. Also remember that anybody your contractor hires can file a lien!

**2.** THE CONTRACTOR FILES A LIEN STATEMENT WITH THE COUNTY CLERK. The statement includes your name, the contractor's name, a description of your home, and the amount of money that you have not paid.

**3.** THERE IS A HEARING IN EITHER COUNTY COURT OR IN FRONT OF A MAGISTRATE. You have a chance to defend yourself. You can claim, among other things, either that you did not agree to have work done, that you paid the contractor, and/or that work was never done. It is no excuse that the work completed was not to your liking.

**4.** THE COURT CAN ORDER YOUR HOME SOLD TO PAY OFF THE LIEN. This is not always the case but, it can happen.

# WHO CAN CLAIM A MECHANICS' OR CONSTRUCTION LIEN?

Technically, any person supplying labor, laborers, or material to be used in the construction, alteration, improvement, addition to, or repair of a home or building can file a mechanics' lien if not paid for their work. This includes (but is not limited to):

- carpenters, plumbers, air conditioner and heating repairmen, and electricians
- architects, engineers, and draftsmen
- those who supply lumber, pipes, wires, or other materials needed for the repairs or construction

Subcontractors are those men and women hired by the people you hired to complete the construction or repairs. In other words, if you hire a plumber to fix your sink and he hires somebody to help him, either one or both can file a mechanics' lien if they are not paid.

# **HOW CAN YOU PROTECT YOURSELF?**

**1. PAY YOUR CONTRACTORS AND KEEP RECORDS OF PAYMENTS.** It is also a good idea to keep track of what work has been done.

**2. MAKE A RECEIPT.** It is easiest to pay by check but, if you want to pay in cash, make your own receipt. Include the amount of money you pay, when you pay it, and the contractor's signature – so that he cannot deny payment. You may want to use a receipt like the one included with this handout.

**3. CONTRACT IN WRITING.** It is a good idea to make a written contract. Include what work is going to be done, who is going to do it, when it is going to be done, and how much you are going to pay for the work. Have everybody who your contractor hires also sign the contract.

**4. PUT ALL CONTRACTS IN WRITING AND FILE THEM WITH THE COUNTY CLERK.** You can file a contract with the county clerk before work begins. If you do so, a contractor cannot claim a lien for more than the contract price.

## OTHER IMPORTANT FACTS

- 1.** In most circumstances, a contractor cannot place a lien on your home for work done for previous owners. Be careful, there are exceptions!
- 2.** You can contract out of mechanics liens in the first place. For example, when negotiating for plumbing, you can insert a clause into the contract that the plumber cannot file a lien. Be careful, you must get every single worker who works on your home to also sign the agreement!
- 3.** Mechanics' and Construction liens attach only to the property improved. Contractors cannot attach a mechanics' lien to other real estate, your car, or personal items.
- 4.** If a contractor, for technical reasons, cannot attach a mechanics' or construction lien to your property, he can still sue you for money. You are not off the hook.
- 5.** The law of mechanics' and construction liens is located at Colorado Revised Statutes sections 38-22-101 through 38-22-133. These statutes are available at your local law library or online at <http://198.187.128.12/colorado/lpext.dll?f=templates&fn=f-s-main.htm&2.0>. In the left-hand menu, choose Title 38 (Real Estate) and then select section 22 (General Mechanics Lien).

# RECEIPT

**Date of Payment:**

**Amount of Payment:**

**Description (What work is payment for?):**

**Final Payment: Y / N**

**I, \_\_\_\_\_ certify that I was paid the  
above amount on \_\_\_\_\_.**

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**Signature of Party Receiving Payment**



# Understanding Credit

By Laura Martinez



## How much does it cost me to use credit?

If you purchased a big screen TV for \$2,500 on a credit card at 15% interest and you paid the minimum each month (\$50) each month how long would it take you to pay it off?

Approximately 7 years! You would be paying 4,000 back on the original purchase plus 1,500 on finance charges.

You actually paid \$5,500.00 for your 7 year old TV!!!

## My credit report and score

When you apply for credit-whether it's a car loan, home loan, or a credit card, lenders look at your credit score to understand your risk level. Other factors considered include the amount of debt you can reasonably handle given your income, your employment history, and your credit history.

If the score is too low, then the lender may feel that the risk is too high, and either not extend the credit, or extend the credit at terms that are bad for the borrower.

It is important to understand what affects your credit score so that you can take actions that will improve it! The better your score is, the better the loans you are offered; this means real savings to you and your family!

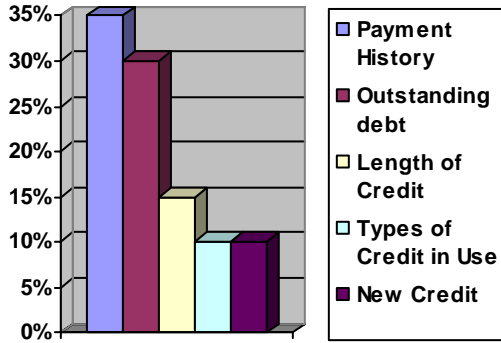
## What is in my credit report

- **Personal Information:** Information such as your address and social security information. These factors do not influence your credit score.
- **Credit Accounts:** Your report lists each account you have opened. It includes the type of account (bankcard, auto loan, mortgage), the date you opened the account, your credit limit or loan amount, the account balance, and your payment history.
- **Inquiries:** Contains a list of everyone who accessed your credit report within the last two years.
- **Public Record and Collection Items:** Includes bankruptcies, foreclosures, suits, wage attachments, liens and judgments.

## What affects my credit score

Your credit score is a number used that evaluates the information in the report to determine how high risk a borrower you are.

The chart shows what affects your score:



(1) **Payment History:** Do you pay on time? Are you only paying the minimum payment each month? It is very important to pay on time.

(2) **Outstanding Debt:** How much do you currently owe? It is important to keep your debt to less than 50% of an available credit line.

(3) **Length of Credit:** How long have you maintained your credit? It is important to keep a card open that you have credit history with.

(4) **Types of Credit in Use:** Is your credit in use from a credit card, or mortgage.?

(5) **New Credit:** Have you submitted applications for new credit? It is important to only apply for new credit when it's needed as this negatively affects your credit. If making a purchase you can still shop around for the best rate.

☞ As your score improves so do the terms of your loans.

For example, on a \$150,000 30-year, fixed-rate mortgage:

Your Credit Score	Your Interest Rate	Your Monthly Payment
720-850	5.67%	\$868
700-719	5.80%	\$880
675-699	6.33%	\$932
620-674	7.48%	\$1,047
560-619	8.53%	\$1,157



500-559	9.29%	\$1,238
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<sup>7</sup> <http://www.myfico.com/?fire=2>

### How can I get my credit report and score

Contact all 3 credit reporting agencies:

Equifax:: (800) 685-1111 [www.equifax.com](http://www.equifax.com)

Experian: (888) 397-3742 [www.experian.com](http://www.experian.com)

TransUnion: (800)888-4213 [www.transunion.com](http://www.transunion.com)

You should review all 3 credit reports for errors at least once a year. If you find an error, notify the agency; they must investigate and respond to you within 30 days.

The Fair Credit Reporting Act entitles each consumer to one free disclosure every 12 months.

- ❖ If you live in the western or Midwest states the law already applies to you.
- ❖ If you live in the southern states you are entitled to one free disclosure every 12 months as of June 1, 2005.
- ❖ If you live in the Eastern states & all other U.S. territories you are entitled to one free disclosure every 12 months as of September 1, 2005.

### What else do I need to know about credit

If you default on a loan the bank may be able to take your property! For example:

- When placing a loan you may sign a "security agreement." This security agreement gives the bank a "Security Interest" in the "Collateral" or "Security Property" (the car). The security agreement gives the bank the right to go against the collateral (car) if you default. The bank can repossess the collateral and can resell it to get payment on the loan. If the sale of the collateral is insufficient to repay the loan, the bank still has the right to sue you on the promissory note for any deficiency.<sup>8</sup>

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<sup>7</sup> <http://www.myfico.com/?fire=2>

<sup>8</sup> <http://www.fullertonlaw.com/chapt13.htm>

# Pay Day Loans: Costing Your Future



By Laura Martinez

You see the ads on TV everyday, “Need Money Today, Get Money Today, No Credit Check Needed,” the truth is these loans come at a very high price.

[What is a payday loan?](#)

They go by a variety of names (tax advance loans, payday loans, cash advance loans, check advance loans, post-dated check loans or deferred deposit check loans). Regardless of the name, they are all loans for small amounts (typically under \$500), short-terms (typically two weeks) with high interest rates.

To get a loan the borrower must be employed and have a bank account; the lenders run no credit checks. Fees for borrowing typically range from \$15 to \$20 per \$100 borrowed for two weeks (this is over 400% APR on a two-week loan). If the borrower cannot pay back the loan at the end of two weeks, then the lender typically “rolls” (extends) the loan by charging the loan fees again for the next two-week period.

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED	TOTAL OF PAYMENTS
The cost of your credit at a yearly rate	The dollar amount the credit will cost you	The amount of credit provided to you or on your behalf	The amount you will have paid after you have made all payments as scheduled
A %	\$ B	\$ C	\$ D

Because many people get payday loans because finances are so tight they can't make it to their next paycheck, their chances of being able to pay off the loan with the next paycheck are poor—many end up renewing the loan, adding more fees, and stepping into a cycle of debt.

Let's say you write a personal check for \$115 to borrow \$100 for up to 14 days. The check casher or payday lender agrees to hold the check until your next payday.

At that time, depending on the particular plan, the lender deposits the check, you redeem the check by paying the \$115 in cash, or you roll-over the check by paying a fee to extend the loan for another two weeks. In this example, the cost of the initial loan is a \$15 finance charge and 391 percent APR. If you roll-over the loan three times, the finance charge would climb to \$45 to borrow \$100.

[So what do I do when I'm short on cash?](#)

**Loan from family member:**

- ✓ There may be no finance charges and you can customize a repayment plan such as \$25.00 from each check for the next month.
- ✓ It is smart to put the agreement in writing so that they have an additional assurance you'll repay them.

**Pay the late fee on a bill:**

- ✓ The late fee on your bills are almost always less than a payday loan fee.
- ✓ If you are having problems paying a bill regularly call the lender (ex. bank that the loan is with) and tell them your problem. They may be able to help. It saves the bank a lot to work out the situation with you then to try to collect it.

**Seek a small bank loan:**

- ✓ Many credit unions do make such small loans quickly—for example, to cover unexpected auto repairs or to help you consolidate bills. Such small

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<sup>9</sup> <http://www.alliemae.org/truthinlending.html>

loans are for a longer period and allow you to pay them back in installments.

- ✓ You won't know if such a loan is available to you until you ask.

**Start a savings account before you start having financial problems:**

- ✓ Instead of borrowing money for unexpected expenses (a car brake down, new heater etc.) you will be able to take the money out of your savings account.
- ✓ Even taking \$20 dollars out of each paycheck can add up quickly. Saving 20 dollars each check when being paid weekly adds up to \$480 saved at 6 months!

**Make a Budget**

- ✓ **Make a realistic budget, and figure your monthly and daily expenditures. Avoid unnecessary purchases - even small daily items, they add up.**

**Get overdraft protection:**

- ✓ Find out if you have, or can get, overdraft protection on your checking account. If you are regularly using most or all of the funds in your account and if you make a mistake in your checking (or savings) account ledger or records, overdraft protection can help protect you from further credit problems.
- ✓ Find out the terms of you're specific overdraft protection.

**As a last remedy, put the cash advance on your credit card:**

- ✓ Although credit card APR's for cash advances are also very high, they are still much lower than even the lowest payday loan APR.
- ✓ This should only be used after exhausting all other options.



## Online Contracting

It's important to know what contracts you are "signing" when you click "OK". Quickly looking at the terms of service can help a great deal in deciding whether to click "OK".

An Example:

Do you visit these places on the web?  
eBay, ESPN, amazon.com, Expedia.com

You agree to Terms of Use or Terms of Service every time you visit or use these sites and most sites on the web.

Most of the time you can find these at the bottom of web pages or in software installation manuals.

[Services & Tools](#)

Google Web APIs, Buttons...

[Webmaster Info](#)

Guidelines, Ranking questions...

[Gabs](#)

Google Labs, Experiments...

[Submitting your Site](#)

How Google adds URLs...

[Company](#)

[Partner](#)

Partnerships, Zeitgeist...

[More Google](#)

[Contact Us](#)

FAQs, Feedback, Newsletter...

[Google](#)

Perks, Culture...

[The Google Store](#)

Pens, Shirts, Lava lamps...

[Site Info](#)

Contact, Addresses, Investor Relations...

[Logos and Photos](#)

Logos, Googlers at work and play...

## Common Online Contracts

Even though most contracts are long, there is a key element in every contract: What's in it for them?

If they don't want money *now* they may want:

money *later* for a membership

information about you which they can *sell*

you to click on their site so they can *sell* advertising

Once you know what is in it for them, you know more about what you're getting into. And that is the most important part of the contract.

### Example: Spyware

Spyware is software which collects information about you and your computer and then sells that information to others.

GAIN Networks says they are "Keeping Software Free" but what does their contract say?

GAIN Publishing ("GP") and the GAIN Network provide personal computer users with a winning proposition: the ability to obtain popular software applications free-of-charge or at a reduced cost ("GAIN Supported Software") in exchange for users' agreement to accept advertising and other promotional messages delivered by the GAIN Network to users' personal computers.

.....**But it's not just advertising.....**

Here's what we do know...

While we don't know the identity of Subscribers, the GAIN AdServer and GP collect the following kinds of anonymous information:

- Some of the Web pages viewed
- The amount of time spent at some Web sites
- Some click history, including responses to some online ads
- Standard web log information and system settings (except that IP addresses are not stored)
- What software is on the personal computer (but no information from those programs)
- First name, country, city, and five digit ZIP code/postal code
- Non-personally identifiable information on Web pages and forms
- Software usage characteristics and preferences

source: [http://www.gainpublishing.com/global/help/app\\_privacy/app\\_ps\\_v60.html](http://www.gainpublishing.com/global/help/app_privacy/app_ps_v60.html)

Ask yourself: is this the kind of information I want lots of people to know in exchange for getting to use this program?

It's all in the Details

Details are important, but figure out what you are interested in and go looking for those things.

Example: eBay

1. What is in it for eBay? A part the sales price from each seller.

that you have the authority to bind the entity to this Agreement.

2. **Fees and Services.**

Joining and bidding on items at eBay is free. We do charge fees for listing items for sale through our Site and when you list an item you have an opportunity to review and accept the fees that you will be charged. Our [Fees and Credits Policy](#) is available and is incorporated into this Agreement by reference. We may change our Fees and Credits Policy and the fees for

2. Does eBay back the sales? No. the sales are between the buyer and seller only.

3. **eBay is a Venue.**

**3.1 eBay is not an Auctioneer.** Although we are commonly referred to as an online auction web site, it is important to realize that we are not a traditional "auctioneer." Instead, the Site acts as a venue to allow anyone to offer, sell, and buy just about anything, at anytime, from anywhere, in a variety of pricing formats, including a fixed price format and an auction-style format commonly referred to as "online auctions" or "auctions." We are not involved in the actual transaction between buyers and sellers. As a result, we have no control over the quality, safety or legality of the items advertised, the truth or accuracy of the listings, the ability of sellers to sell items or the ability of buyers to pay for items. We cannot ensure that a buyer or seller will actually complete a transaction. Consequently, we do not transfer legal ownership of items from the seller to the buyer, and nothing in this agreement shall modify the governing provisions of Ca. Com. Code § 2401(2) and Uniform Com. Code § 2-401 (2), under which legal ownership of an item is transferred upon physical delivery of the item to the buyer by the seller.

source: <http://pages.ebay.com/help/policies/user-agreement.html>



## Conclusion:

The internet has many places where you must agree to terms and has many different kinds of contracts. Reading these contracts can be done easily by (1) looking for what is in it for them and (2) clarifying any important details in your transaction.



Sarah

Sarah

Sarah



# Arbitration

Presented by Nicole Kelley and the University of Colorado School of Law

## What is arbitration?

Arbitration is an alternative method of resolving disputes. Arbitration is similar to the court system. Disputing parties tell their side of the story to a third party called an “arbitrator.” After hearing from all the parties, the arbitrator decides the matter.<sup>10</sup> That decision may be either binding or non-binding, depending on the parties’ agreement or the arbitration program.

- If arbitration is binding, it means that the arbitrator’s decision is final and you waive your right to go before a judge or jury.
- If arbitration is non-binding, then if you are unhappy with the arbitrator’s decision, you can still go to court for trial of your case or ask a court to review the arbitration decision *de novo* (“de novo” means that the court will not give any deference to the arbitrator’s decision).
- **How do you know if arbitration is binding or non-binding?**
  - If you have agreed to arbitration in a contract, you need to read the agreement to determine if the arbitration is binding or non-binding.
  - Court-ordered arbitration is generally non-binding, but you would need to check the applicable law.

## What are some differences between arbitration and litigation?

- There is no judge or jury in arbitration – the decision maker (called the “arbitrator”) is an independent third party.
- Arbitration is usually less formal than court proceedings.
- Parties generally must agree to arbitration (either pre or post-dispute), unless it is court-ordered or required by other law.
  - Court-ordered arbitration means that before a court will allow parties to try their case before a judge or jury, the parties are ordered to try to resolve their dispute in arbitration. This type of arbitration is generally not binding.

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<sup>10</sup> [http://www.arb-forum.com/resources/pdf/101403\\_.pdf](http://www.arb-forum.com/resources/pdf/101403_.pdf)

- Arbitration is a private proceeding whereas court proceedings are generally open to the public.
- Review of an arbitration decision is very limited. That means that even if you think that the arbitrator's decision was incorrect, the reviewing court will be very deferential to the arbitrator's decision.

### **Where might you find an arbitration agreement?**

In a wide range of consumer transactions, including:

- Purchasing a car
- Credit card agreements
- Employment handbooks
- Home loans
- Agreements with your bank
- Repair contracts
- Purchasing appliances, etc.

### **What might a contractual arbitration clause look like?**

- An arbitration agreement might look similar to the following:

#### **Notice of Arbitration Agreement**

In the event of any dispute which arises under this Agreement, such dispute shall be settled by arbitration in accordance with the rules of the American Arbitration Association. This decision shall be final and binding upon the parties. Under this agreement, you give up your right to go to court to assert or defend your rights under this contract (except for matters that may be taken to small claims court<sup>11</sup>). You are entitled to a fair hearing, but the arbitration rules are more limited than rules applicable in court. The arbitrator's decision is as enforceable as any court order and is subject to only very limited review by a court. The hearing shall be conducted in Boulder, Colorado, unless both parties consent to a different location.

### **What are the potential advantages of arbitration?**

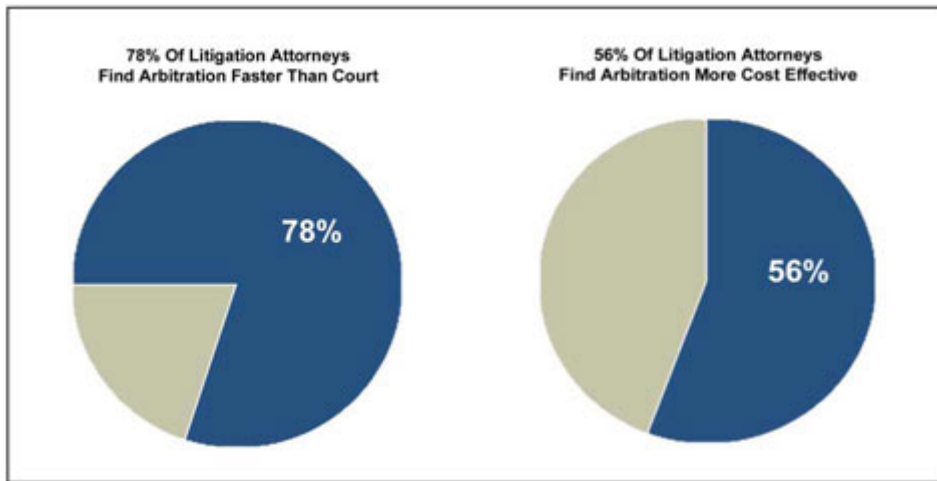
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<sup>11</sup> In Colorado, small claims court hears disputes that involve less than 7,500. For more information on small claims courts, see:

<http://www.ago.state.co.us/consprot/smclaim.htm>



- Two of the main advantages of arbitration are that it may be cheaper and faster than litigation. Although this is not always the case, studies suggest that it is usually true.



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### **Other potential advantages of arbitration:**

- Parties can choose an arbitrator with expertise in the subject matter of the dispute.
- Privacy of the proceedings.
- Procedural informality (usually less formal than court).

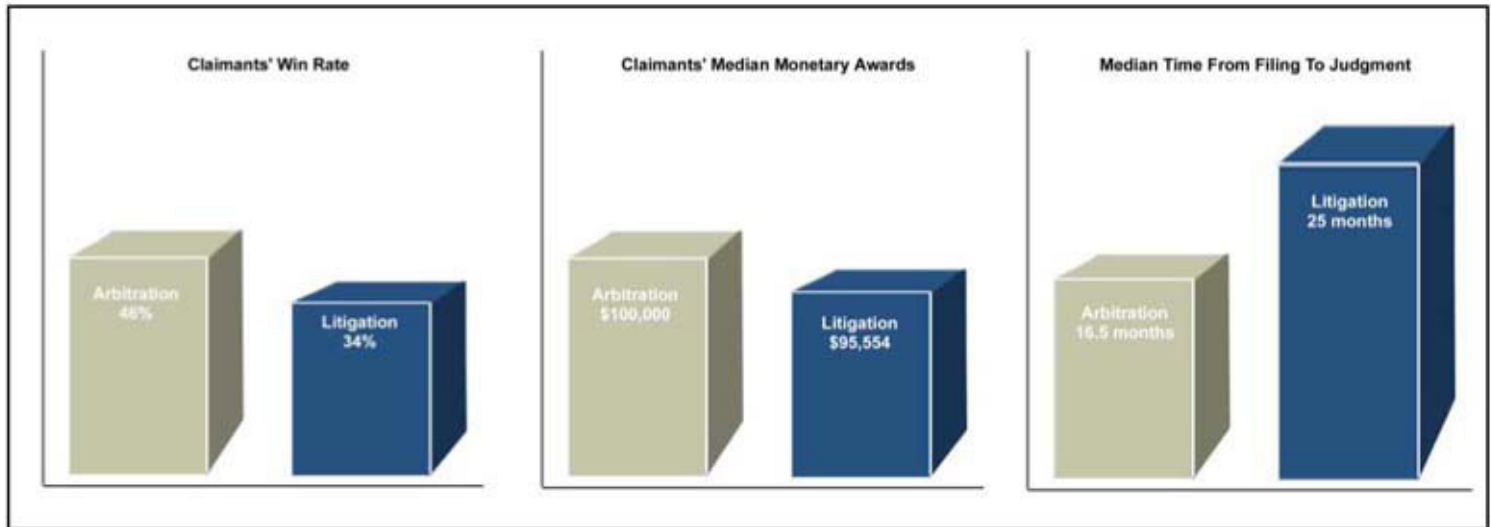
### **Potential disadvantages of arbitration:**

- High Cost – You should be aware that even though arbitration is generally cheaper, arbitration has the potential of costing more than litigation.
- Possible bias towards the company – Some have voiced concerns that arbitrators may be biased in favor of companies that frequently choose the arbitrators.
- A recent study comparing employment discrimination suits found that a claimant's win rate and monetary award are, on average, slightly

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<sup>12</sup> [http://www.arb-forum.com/resources/articles/emprcl\\_study\\_04/copy.asp](http://www.arb-forum.com/resources/articles/emprcl_study_04/copy.asp), citing American Bar Association - August 2003

higher in arbitration. This could be an advantage or a disadvantage, depending on whether you are the claimant or the defendant



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### Other Possible disadvantages of arbitration include:

- No public record
- Limited review by a court
- Class actions may be banned by the arbitration agreement
- Consumers are often unaware they have agreed to arbitration

### QUICK TIPS

1. Read all agreements and contracts so that you are aware of any arbitration agreements.
2. If a dispute arises, it may be wise to first try to resolve your dispute directly with the company.

<sup>13</sup> [http://www.arb-forum.com/resources/articles/emprcl\\_study\\_04/copy.asp](http://www.arb-forum.com/resources/articles/emprcl_study_04/copy.asp), Citing American Bar Association Litigation Section Conflict Management Vol. 6, Issue 3 – Winter, 2003

3. Keep receipts, contracts, copies of correspondence, warranties, and proof of payment as evidence, in case a dispute arises later.<sup>14</sup>

## REFERENCES

### For More Information About Arbitration:

- American Arbitration Association: <http://www.adr.org/index2.1.jsp>
- National Arbitration Forum: <http://www.arb-forum.com/focus/consumers/>

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<sup>14</sup> [http://www.arb-forum.com/resources/pdf/101403\\_.pdf](http://www.arb-forum.com/resources/pdf/101403_.pdf)