

§1-107. Waiver; agreement to forego rights; settlement of claims

1. Except as otherwise provided in this Act, a consumer may not waive or agree to forego rights or benefits under this Act. Any such waiver or agreement is unenforceable; and no creditor may take any such waiver or agreement to forego rights or benefits under this Act.

[PL 1973, c. 762, §1 (NEW).]

2. A claim by a consumer against a creditor for an excess charge, other violation of this Act, or civil penalty, or a claim against a consumer for default or breach of a duty imposed by this Act, if disputed in good faith, may be settled by agreement.

[PL 1973, c. 762, §1 (NEW).]

3. A claim, whether or not disputed, against a consumer may be settled for less value than the amount claimed.

[PL 1973, c. 762, §1 (NEW).]

4. A settlement in which the consumer waives or agrees to forego rights or benefits under this Act is invalid if the court, as a matter of law, finds the settlement to have been unconscionable at the time it was made. The competence of the consumer, any deception or coercion practiced upon him, the nature and extent of the legal advice received by him and the value of the consideration are relevant to the issue of unconscionability. Any claim of unconscionability must be raised in a judicial action within the earlier of:

A. Six years after the date of settlement; or [PL 1987, c. 129, §1 (NEW).]

B. The limitation period applicable to the original claim which was the subject of the settlement.

[PL 1987, c. 129, §1 (NEW).]

[PL 1987, c. 129, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 762, §1 (NEW). PL 1987, c. 129, §1 (AMD).

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