

(B) IN A MASS-MARKET TRANSACTION, DOES NOT ALTER THE APPLICABILITY UNDER THIS TITLE OF THE DOCTRINE OF UNCONSCIONABILITY OR FUNDAMENTAL PUBLIC POLICY OR THE OBLIGATION OF GOOD FAITH.

(3) IN A MASS-MARKET TRANSACTION, ANY TERM UNDER THIS SECTION WHICH CHANGES THE EXTENT TO WHICH THIS TITLE GOVERNS THE TRANSACTION MUST BE CONSPICUOUS.

(4) A COPY OF A COMPUTER PROGRAM CONTAINED IN AND SOLD OR LEASED AS PART OF GOODS AND WHICH IS EXCLUDED FROM THIS TITLE BY § 21-103(B)(1) OF THIS SUBTITLE CANNOT PROVIDE THE BASIS FOR AN AGREEMENT UNDER THIS SECTION THAT THIS TITLE GOVERNS THE TRANSACTION.

21-105. RELATION TO FEDERAL LAW; FUNDAMENTAL PUBLIC POLICY; TRANSACTIONS SUBJECT TO OTHER STATE LAW.

(A) (1) A PROVISION OF THIS TITLE WHICH IS PREEMPTED BY FEDERAL LAW IS UNENFORCEABLE TO THE EXTENT OF THE PREEMPTION.

(2) A CONTRACT TERM IS UNENFORCEABLE TO THE EXTENT THAT IT WOULD VARY A STATUTE, RULE, REGULATION, OR PROCEDURE THAT MAY NOT BE VARIED BY AGREEMENT UNDER THE FEDERAL COPYRIGHT LAW, INCLUDING PROVISIONS OF THE FEDERAL COPYRIGHT LAW RELATED TO FAIR USE.

(B) IF A TERM OF A CONTRACT VIOLATES A FUNDAMENTAL PUBLIC POLICY, THE COURT MAY REFUSE TO ENFORCE THE CONTRACT, ENFORCE THE REMAINDER OF THE CONTRACT WITHOUT THE IMPERMISSIBLE TERM, OR LIMIT THE APPLICATION OF THE IMPERMISSIBLE TERM SO AS TO AVOID A RESULT CONTRARY TO PUBLIC POLICY, IN EACH CASE TO THE EXTENT THAT THE INTEREST IN ENFORCEMENT IS CLEARLY OUTWEIGHED BY A PUBLIC POLICY AGAINST ENFORCEMENT OF THE TERM.

(C) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (D) OF THIS SECTION, IF THIS TITLE OR A TERM OF A CONTRACT UNDER THIS TITLE CONFLICTS WITH A CONSUMER PROTECTION STATUTE OR REGULATION, INCLUDING TITLE 13 OF THIS ARTICLE, THE CONSUMER PROTECTION STATUTE OR REGULATION GOVERNS.

(D) IF A LAW OF THIS STATE IN EFFECT ON THE EFFECTIVE DATE OF THIS TITLE APPLIES TO A TRANSACTION GOVERNED BY THIS TITLE, THE FOLLOWING RULES APPLY:

(1) A REQUIREMENT THAT A TERM, WAIVER, NOTICE, OR DISCLAIMER BE IN A WRITING IS SATISFIED BY A RECORD.

(2) A REQUIREMENT THAT A RECORD, WRITING, OR TERM BE SIGNED IS SATISFIED BY AN AUTHENTICATION.

(3) A REQUIREMENT THAT A TERM BE CONSPICUOUS, OR THE LIKE, IS SATISFIED BY A TERM THAT IS CONSPICUOUS UNDER THIS TITLE.