

PART B : CASE LAW, STATUTES AND CONTRACTS

INTRODUCTION

In this Part B of the workbook, more attention will be given to more specific types of materials that are often used in legal study. In this part, the student will be introduced to some form contracts, some statutes, and to case reports. The exercises in this section will be different from those in Part A, in that the student will be required to produce answers, rather than recognize the correct answer, especially in the part about writing a brief of a case. These materials are more technical and are geared especially for those with some legal training.

The aims of this part is to help the student recognize and understand various parts of a legal contract, to be able to recognize and understand the main points of a statute, and to be able to "brief" a case report and present that brief orally.

PASSAGE 7 : READING A LEGAL FORM CONTRACT

Read the following loan note carefully and complete the exercises

1. REVISED CITIBANK CONSUMER LOAN NOTE

Consumer Loan Note

Consumer Loan Note Date _____, 19____

(in this note, the words I, me, mine and my mean each and all of those who signed it. The words you, your and yours mean First National City Bank.)

Terms of Repayment

To repay my loan, I promise to pay you _____ Dollars (\$_____). I'll pay this sum at one of your branches in _____ uninterrupted _____ installments of \$_____ each. Payments will be due _____, starting from the date the loan is made.

Here's the breakdown of my payments:

1. Amount of the Loan \$_____
 2. Property Insurance Premium \$_____
 3. Filing Fee for
Security Interest \$_____
 4. Amount Financed (1 + 2 + 3) \$_____
 5. Finance Charge 8_____
 6. Total of Payments (4 + 5) \$_____
 - Annual Percentage Rate _____%
-

Prepayment of Whole Note

Even though I needn't pay more than the fixed installments, I have the right to prepay the whole outstanding amount of this note at any time. If I do, or if this loan is refinanced-that is, replaced by a new note-you will refund the **unearned finance charge**, figured by the rule of 76-a commonly used formula for figuring rebates on installment loans. However, you can charge a minimum **finance charge** of \$10.

Late Charge

If I fall more than 10 days behind in paying an Installment. I promise to pay a late charge of 5% of the overdue installment, but no more than \$5. However, the sum total of late charges on all installments can't be more than 2% of the total of payments or \$25. whichever is less.

Security

To protect you if I default on this or any other debt to you, I give you what is known as a security interest in my Motor Vehicle and/or _____ (see the Security Agreement I have given you for a full description of this property), Stocks, Bonds, Savings Account (more fully described in the receipt you gave me today) and any account or other securities of mine coming into your possession.

Insurance

I understand I must maintain property insurance on the property covered by the Security Agreement for its full insurable value, but I can buy this insurance through a person of my own choosing.

Default

I'll be in default:

1. If I don't pay an installment on time; or
2. If any other creditor tries by legal process to take any money of mine in your possession.

You can then demand immediate payment of the balance of this note, minus the part of the finance charge which hasn't been earned figured by the rule of 78. You will also have other legal rights, for instance, the right to repossess, sell and apply security to the payments under this note and any other debts I may then owe you.

Irregular Payments

You can accept late payments or partial payments, even though marked "payment in full", without losing any of your rights under this note.

Delay in Enforcement

You can delay enforcing any of your rights under this note without losing them.

Collection Costs

If I'm in default under this note and you demand full payment, I agree to pay you interest on

the unpaid balance at the rate of 1% per month, after an allowance for the unearned finance charge. If you have to sue me, I also agree to pay your attorney's fees equal to 15% of the amount due, and court costs. But if I defend and the court decides I am right, I understand that you will pay my reasonable attorney's fees and the court costs.

Comakers

If I'm signing this note as a comaker, I agree to be equally responsible with the borrower, although you may sue either of us. You don't have to notify me that this note hasn't been paid. You can change the terms of payment and release any security without notifying or releasing me from responsibility on this note.

Copy Received

The borrower acknowledges receipt of a completely filled-in copy of this note.

Signatures

Borrower: _____
Comaker: _____
Comaker: _____
Comaker: _____

Addresses

Hot Line

If something should happen and you can't pay on time, please call us immediately at (212) 559-3061.

Personal Finance Department
First National City Bank

EXERCISE 1: Reading Comprehension

1. Read carefully section 1 of this loan note, entitled "Terms of Repayment," and write the following information into the correct blank.
 - (a) annual percentage rate of 12%
 - (b) finance charge of \$300.00
 - (c) loan amount of **\$5,000.00**
 - (d) property insurance premium of \$200.00
 - (e) a filing fee for security interest of **\$20.00**
 - (f) 24 uninterrupted monthly installments
 - (g) the 10th day of each month
 - (h) monthly installments of \$230.00
 - (i) total repayment of five thousand, five hundred and twenty (**\$5,520.00**)
 - (j) total amount financed of **\$5,220.00**
 - (k) total of payments of **\$5,520.00**

2. According to the terms of the section entitled "Prepayment of the Whole Note," which of the following statements are true?
 - (a) the borrower does not have to pay more than the fixed installment
 - (b) the borrower cannot repay the whole amount at anytime
 - (c) the lender must refund the unearned finance charge if borrower does pay the whole amount at anytime
 - (d) the lender will decide on the formula for figuring the finance charge refund
 - (e) there will always be some finance charge
3. According to the terms of the "Late Charge" section which of the following statements are true?
 - (a) the late charge on one overdue installment is \$25.00
 - (b) a payment is late if it comes more than 10 days after the due date
 - (c) there is a late charge of 5% of the overdue installment
 - (d) the late charge on one overdue installment can never be more than \$5.00
 - (e) the sum total of late charges on all installments may be more than \$25.00
4. Another word for security interest is:
 - (a) money
 - (b) property
 - (c) collateral
 - (d) deposit
5. Which of the following will happen if the borrower defaults?
 - (a) lender can demand immediate payment of the balance
 - (b) lender can keep the total amount of the finance charge
 - (c) lender can repossess and sell the property of lender
 - (d) lender can use the money from the sale of repossessed property to pay other debts owed to him by borrower
6. Who will lose rights under this note by accepting a late or partial payment?
 - (a) borrower
 - (b) lender
 - (c) guarantor
 - (d) nobody
7. If the borrower defaults and lender demands full payment, what rate of interest will borrower pay on the unpaid balance?
 - (a) 15% per year
 - (b) 12% per month
 - (c) 10% per month
 - (d) 1% per month
8. In which of the following cases will the lender's attorneys fees and court costs be paid?
 - (a) if lender sues and wins
 - (b) if borrower does not sue
 - (c) if lender defends and wins
 - (d) if lender loses

9. What is a “comaker”?
- (a) the lender
 - (b) the person equally responsible with lender for the note
 - (c) the borrower
 - (d) the attorney
10. Which of the following statements about comakers are true?
- (a) a comaker can be sued by borrower
 - (b) a comaker is responsible for the whole note
 - (c) a comaker must be notified if note has not been paid
 - (d) a comaker must be notified of changes in terms of repayment

EXERCISE 2 : DISCUSSION TOPICS

- What is the state of consumer protection law in Thailand?
- What are some of the technical vocabulary words used in the note?

PASSAGE 8: HEAL ESTATE SALES CONTRACT

Read the following sales contract and complete the exercises.

REVISED COOPERATIVE APARTMENT SALE CONTRACT

Cooperative Apartment Sale

Consult your lawyer before you sign this contract.

This contract provides for the sale of a cooperative apartment. To accomplish this, the Seller will sell to the Buyer

1. Stock in a corporation which owns the Building in which the Apartment is located;
2. A Lease which will give the Buyer the right to occupy the Apartment, and
3. Some property in the Apartment.

(These are precisely described in the Information Box below)

Buyer and Seller agree to this sale of the Stock, the Lease and the property for the Price shown in the Information Box. Buyer will pay the Down Payment shown there by Buyer's check to Seller when they sign this Contract; and will pay the Final Payment by a bank or certified check to Seller drawn on a local bank when the sale is completed.

Complete Agreement

Buyer or Buyer's lawyer has looked at the Corporation's certificate of incorporation and by-laws, as well as the Lease and Stock certificate, and found them satisfactory. To the extent desired, the Corporation's financial affairs have also been reviewed.

Buyer has seen the Apartment and the other property and knows their condition. Except for normal wear and tear, Seller will turn them over in the same condition.

Both parties agree that this contract sets forth all of their understandings.

Seller's Assurances

Seller assures Buyer that these statements are true:

- The Charges on the Apartment are as shown in the Information Box;
- The Corporation has not written Seller about an increase in carrying charges or any special charge or assessment;
- The Lease is now in effect and it will be in effect when the sale is completed;
- Seller, and only Seller, owns the Stock, the Lease and the other property;
- Seller, and only Seller, has the right to sell the Stock, the Lease and the other property;
- No one other than the Seller will have any interest in the Stock, the Lease or the other property, or any claim against them, when the sale is completed (There may, however, be claims against the building as a whole that don't separately relate to Seller or this Apartment);
- The Stock was properly issued to Seller by the Corporation and was fully paid for;
- Seller will have paid everything Seller owes to the Corporation when the sale is completed;
- Seller will have paid for all work done on the Apartment when the sale is completed;
- When the sale is completed, the Apartment will not be subject to any government violation which Seller would have to correct under the terms of the Lease.

If it should turn out that any of these is incorrect, Buyer can sue Seller even after the sale for any damages Buyer has suffered. A lawsuit may not be started, however, more than a year after the sale is completed.

Continued on the back.

Information For This Contract**Seller's Name**

.....

Address

.....

Co-Seller's Name

.....

Address

.....

Buyer's Name

.....

Address

.....

Co-Buyer's Name

.....

Address

.....

Price

Down Payment Final Payment Total Price

\$ \$ \$

.....

Charges on Apartment

Carrying Charges Seller also pays For
(Maintenance) each month

\$ \$

.....

Completion of Sale

Place Date Time

Building and Apartment

Building's Address Apartment

.....

Name of Building Corporation (the cooperative corporation which owns the Building)

.....

Stock in the Corporation

Number of shares

.....

Lease

The lease between Seller and the Corporation which goes along with the Stock and gives Seller the right to occupy the Apartment.

.....

Other Property

Whatever is built into the Apartment and also these items: refrigerator, range, dishwasher, kitchen cabinets and counters, lighting and plumbing fixtures, air conditioners,

.....

.....

These items won't be included

.....

Broker

Did the Buyer learn of the Apartment through a broker or deal with a broker in connection with this contract? ☐ Yes ☐ No

If yes, the broker's name is

who is the only broker on the sale. The Seller will pay the commission

Signatures (This contract is continued on the back)

Seller	Date	Buyer	Date
.....
Co-Seller	Date	Co-Buyer	Date

APARTMENT **SALE** CONTRACT

[Back of contract]

Required Approval

Even though Seller has agreed to the sale, the Corporation must also give its approval. Buyer will, therefore, contact the Corporation's managing agent immediately to find out what the Corporation needs and will provide it within five (5) days from now. Buyer is willing to be interviewed (with husband or wife if Buyer is married) by the Corporation's representatives. As soon as the Corporation announces its decision, Seller will inform Buyer. **If, for any reason, the Corporation does not approve the sale, this contract will be considered cancelled and Seller will immediately return the down payment.**

Prior Termination of the Lease

If, before the sale is completed, the Corporation terminates the Lease, this contract will be considered canceled and Seller will immediately return the down payment. But the contract will not be canceled if the Lease was terminated because Seller violated it.

Removal of Seller's Property

Seller will, before the parties meet to complete the sale, take all of Seller's property not included in the sale out of the Apartment. Seller will also remove all garbage and debris.

If Seller Can't Deliver

It may turn out that, despite good intentions and through no fault, Seller is unable to honor this contract. (There might, for example, be a fire in the Apartment.) If that happens, Buyer must still buy the Apartment, but the price will be reduced to reflect the loss.

Completion of the Sale

Seller and Buyer will meet to complete the sale at the time and place shown in the Information Box on the front.

If by then the Corporation has not decided whether to approve the sale, the date will be put off one month. If by the end of that month the

Corporation still has not acted, this contract will be considered canceled and Seller will immediately return the down payment.

At the meeting, Seller will give Buyer

- The Stock certificate, signed over by Seller to Buyer, with any necessary government tax **stamps** attached;
- The Lease, assigned to Buyer in the form usually used by the Corporation;
- Written proof that the Corporation has approved the sale;
- If Buyer wants it, a letter from the Corporation's managing agent, stating that all payments due to the Corporation relating to the Apartment have been paid;
- If Buyer wants it, a bill of sale for the personal property included in the sale; and
- The keys to the Apartment door.

At the meeting, Buyer will pay the rest of the purchase price and give the Corporation whatever signed **papers** it usually requires from new tenant-stockholders.

Processing Fee

Seller will pay any fee charged by the Corporation, its managing agent and lawyer for services in connection with the approval or the completion of the sale.

Dividing the Month's Costs

Whatever is payable to the Corporation for the month in which the sale date falls will be divided between Seller and Buyer as of that date. (The

Buyer pays for that day.) They won't divide any special assessment against the Apartment by the Corporation, whoever owns the Lease when the assessment becomes payable will pay it.

If There is A Default

If Buyer violates this contract, all Seller may do is cancel it and keep the down payment.

If Seller violates this contract, Buyer will have whatever rights the law gives; among these is the right to force Seller to sell the Apartment.

No Assignment

Buyer does not have the right to transfer this contract or any of the Buyer's rights under it to anybody else. Any attempt to do this is simply ineffective

No Oral Change

If Buyer or Seller wants to change this contract, or to cancel it completely, it must be done in writing, signed by them both. They can neither change nor cancel the contract orally.

Giving Notices or Information

For a notice or other information to be given effectively under this contract, it must be sent by registered mail, return receipt requested, to the address appearing in the Information Box on the front.

If the Buyer needs a loan to buy the Apartment, use the Supplement to this contract.

[on separate sheet]

Cooperative Apartment Sale**Supplement to Contract**

Date of Contract _____

Seller's Name _____

4. Pay any charge by the Corporation or its lawyer for reviewing that agreement.

Buyer's Name _____

Buyer's Right To Cancel

Buyer will seek a loan to buy the Apartment. If it is refused, Buyer may cancel the sale.

Buyer may cancel this sale and get back the down payment if Buyer has complied with this agreement and

The Loan

●Doesn't get a letter by _____, 198____

Buyer will apply to _____ or another bank, savings and loan association, credit union or insurance company in New York for a loan.

committing the lender to make the loan described, or

● The Corporation does not give whatever approval may be required by its by-laws or by the Lease, or

Minimum amount Maximum Interest
\$ _____ %
Number of years to pay _____

● The Corporation does not enter into whatever agreement may be requested by the lender, or

●The sale does not occur by _____, 198____

The loan will be secured by the Stock and the Lease.

Signature of Seller _____

Duties of Buyer

Signature of Co-Seller _____

Buyer will;

Signature of Buyer _____

1. Furnish the lender whatever information it requires within 5 days from now;

2. Tell the Seller the lender selected (if it's different from the one named above) and when the loan application is completed;

Signature of Co-Buyer _____

3. Furnish the Corporation whatever agreement the lender requests for its own protection from the Corporation;

Date _____

F. & S. Writing Contracts MTB Pamph.-9

[on separate sheet]

APPENDIX I

Cooperative Apartment Sale	Supplement to Contract
	Date of Contract
Seller's Name	If Buyer decides to buy
Buyer's Name	● Seller will turn over whatever insurance payments are received because of the damage or loss (after deducting whatever Seller spent to get the payments)
If, through no fault of Seller, the Apartment is damaged (for example by fire) before the sale is completed or Seller can't deliver the personal property in proper condition, this Supplement will govern (It replaces for that purpose the paragraph of the contract titled "If Seller Can't Deliver")	● If there is insurance, but payment has not been received by the sale, Seller will assign to Buyer the right to receive it (less the same expenses). This does not necessarily mean, however, that the Apartment or its contents are insured.
Seller's Choice Seller must, within 5 days after the damage or loss happens, but before the sale, inform Buyer whether or not Seller will make full repairs and replacements. If Seller decides to make them, the notice must specify a completion date not more than 60 days off and a time and place on that date to meet and complete the sale.	Seller's Failure If Seller decides to repair and replace, but does not do it by the new sale date, Buyer may then either cancel or buy as described in the Buyers Choice section (except the Buyer may select a new time not more than 30 days off). Buyer shall have a week after the new sale date to inform Seller
Buyer's Choice If Seller decides not to repair and replace, Buyer must then, within 5 days after Buyer receives the information, inform Seller of Buyer's choice either to ● cancel the sale (and Seller will return the down payment), or ● buy the Apartment for the price and at the time and place stated in the contract.	Signature of Seller Signature of Co-Seller Signature of Buyer Signature of Co-Buyer Date

EXERCISE 1 : Vocabulary

This sales contract contains many business words. Using a legal dictionary find the meaning of the following words.

1. corporation
.....
2. assurance
.....
3. stock (corporation law)
.....
4. lease
.....
5. certificate of Incorporation
.....
6. by-laws
.....
7. assessment
.....
8. assignment
.....
9. secured
.....
10. loss *

EXERCISE 2 : Reading Comprehension

1. What three things is the Buyer buying from Seller?

- (a)
- (b)
- (c)

2. According to the contract, how can the Final Payment be paid?

- (a) cash
- (b) certified check
- (c) bank check
- (d) stock

3. Which of the following must the lawyer of the Buyer do?

- (a) Check the Corporation's certificate of incorporation
- (b) check the by-laws of the Corporation
- (c) check the financial affairs of Corporation
- (d) look at the Apartment and other property

4. If Seller's assurances are incorrect what may Buyer do?
 - (a) sue Seller for damages within one year of the sale
 - (b) sue Seller for damages at anytime after sale
 - (c) sue Seller before the sale
 - (d) never sue Seller
5. What must Seller do if the lease is terminated before the sale is completed?
 - (a) cancel the contract
 - (b) **return** down payment to seller immediately
 - (c) keep down payment
 - (d) sue the Corporation
6. What must the Buyer do if Seller, through no fault of his, cannot complete the contract?
 - (a) sue Seller
 - (b) sue the Corporation
 - (c) **cancel** the contract
 - (d) buy the Apartment at a reduced price
7. If Buyer and Seller cannot complete the sale one month after their agreed time and place because Corporation has not approved the sale, which of the following will happen?
 - (a) the contract will be considered cancelled
 - (b) Seller will sue Corporation
 - (c) Seller must return down payment immediately
 - (d) Buyer will sue Seller
8. If Buyer violates the Contract what may Seller do?
 - (a) return the down payment immediately?
 - (b) sue the Buyer
 - (c) **cancel** the contract
 - (d) keep the down payment
9. What must Seller remove from the Apartment before **completion** of the sale?
 - (a) all garbage and debris
 - (b) all property inside the Apartment
 - (c) none of the property
 - (d) all property not included in the sales contract
10. Who must pay the rent on the day of completion of sales contract?
 - (a) Buyer
 - (b) Seller
 - (c) Corporation
 - (d) Apartment

11. When is the "Supplement to Contract" to be used?
 - (a) when **Buyer** defaults
 - (b) when Buyer must receive a loan
 - (c) when **Seller** violates the **contract**
 - (d) when **Corporation** violates the contract
12. When will Appendix 1 of the "Supplement to Contract" govern the sale?
 - (a) when Buyer defaults?
 - (b) when Seller cannot deliver the personal property in proper condition
 - (c) when the Apartment is damaged before the sale is completed
 - (d) when Buyer sues Seller
13. Which of the following must Seller do when damage or loss of property happens according to Appendix 1 ?
 - (a) **inform** the Buyer within 5 days whether or not Seller will make full repairs or replacement
 - (b) return Buyer's down payment immediately
 - (c) must make repairs in 90 days
 - (d) sue the Buyer
14. According to Appendix 1 of "Supplement to Contract" which of the following may the Buyer choose if damage or loss happens before sale of contract is completed?
 - (a) sue the Seller
 - (b) **cancel** the sale
 - (c) buy the Apartment, but receive insurance money for the repairs
 - (d) sue the Corporation
15. How many sheets of paper should be used for printing this contract?
 - (a) one
 - (b) two
 - (c) three
 - (d) four

EXERCISE 3 : Discussion Points

- Why is a Corporation involved in the sale as well as the Seller?
- Are there any laws in Thailand regarding the printing of form contracts?

**PASSAGE 9 : READ THE FOLLOWING ADMINISTRATIVE REGULATION CAREFULLY
AND COMPLETE THE FOLLOWING EXERCISES.**

B. Equal Employment Opportunity Commission Regulations

Code of Federal Regulations, Title 29

§ 1604.2 Sex as a bona fide occupational qualification.

(a) The commission believes that the bona fide occupational qualification exception as to sex should be interpreted narrowly. Label-“Men’s jobs” and “Women’s jobs”-tend to deny employment opportunities unnecessarily to one sex or the other.

(1) The Commission will find that the following situations do not warrant the application of the bona fide occupational qualification exception;

(i) The refusal to hire a woman because of her sex based on assumptions of the comparative employment characteristics of women in general. For example, the assumption that the turnover rate among women is higher than among men.

(ii) The refusal to hire an individual based on stereotyped characterizations of the sexes. Such stereotypes include, for example, that men are less capable of assembling intricate equipment; that women are less capable of aggressive salesmanship. The principle of nondiscrimination requires that individuals be considered on the basis of individual capacities and not on the basis of any characteristics generally attributed to the group.

(iii) The refusal to hire an individual because of the preferences of coworkers, the employer, clients or customers except as covered specifically in paragraph (a)(2) of this section,

(2) Where it is necessary for the purpose of authenticity or genuineness, the Commission will consider sex to be a bona fide occupational qualification, e.g., an actor or actress.

(b) Effect of sex-oriented State employment legislation.

(1) Many States have enacted laws or promulgated administrative regulations with respect to the employment of females. Among these laws are those which prohibit or limit the employment of females, e.g., the employment of females in certain occupations, in jobs requiring the lifting or carrying of weights exceeding certain prescribed limits, during certain hours of the night, for more than a specified number of hours per day or per week, and for certain periods of time before and after childbirth. The Commission has found that such laws and regulations do not take into account the capacities, preferences,

and abilities of individual females and, therefore, discriminate on the basis of sex. The Commission has concluded that such laws and regulations conflict with and are superseded by Title VII of the Civil Rights Act of 1964. Accordingly, such laws will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(2) The Commission has concluded that State laws and regulations which discriminate on the basis of sex with regard to the employment of minors are in conflict with and are superseded by Title VII to the extent that such laws are more restrictive for one sex. Accordingly, restrictions on the employment of minors of one sex over and above those imposed on minors of the other sex will not be considered a defense to an otherwise established unlawful employment practice or as a basis for the application of the bona fide occupational qualification exception.

(4) As to other kinds of sex-oriented State employment laws, such as those requiring special rest and meal periods or physical facilities for women, provision of these benefits to one sex only will be a violation of Title VII. An employer will be deemed to have engaged in an unlawful employment practice if:

(i) It refuses to hire or otherwise adversely affects the employment opportunities of female applicants or employees in order to avoid the provision of such benefits; or

(ii) It does not provide the same benefits for male employees. If the employer can prove that business necessity precludes providing these benefits to both men and women, then the State law is in conflict with and superseded by Title VII as to this employer. In this situation, the employer shall not provide such benefits to members of either sex.

(5) Some States require that separate restrooms be provided for employees of each sex. An employer will be deemed to have engaged in an unlawful employment practice if it refuses to hire or otherwise adversely affects the employment opportunities of applicants or employees in order to avoid the provision of such restrooms for persons of that sex.

§ 1604.3 Separate lines of progression and seniority systems.

(a) It is an unlawful employment practice to classify a job as "male" or "female" or to maintain separate lines of progression or separate seniority lists based on sex where this would adversely affect any employee unless sex is a bona fide occupational qualification for that job. Accordingly, employment practices are unlawful which arbitrarily classify jobs so that:

(1) A female is prohibited from applying for a job labeled "male," or for a job in a "male" line of progression; and vice versa.

(2) A male scheduled for layoff is prohibited from displacing a less senior female on a "female" seniority list; and vice versa.

(b) A seniority system or line of progression which distinguishes between "light" and heavy" jobs constitutes an unlawful employment practice if it operates as a disguised form of classification by sex, or creates unreasonable **obstacles** to the advancement by members of either sex into jobs which members of that sex would reasonably be expected to perform.

§ 1604.4 Discrimination against married women.

(a) The Commission has determined that an employer's rule which forbids or restricts the employment of married women and which is not applicable to married men is a discrimination based on sex Prohibited by Title VII of the Civil Rights Act: It does not seem to us relevant that the rule is not directed against all females, but only against married females, for so long as sex is a factor in the application of the rule, such application involves a discrimination based on sex.

§ 1604.5 Job opportunities advertising.

It is a violation of Title VII for a help-wanted advertisement to indicate a preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job involved. The placement of an advertisement in columns classified by publishers on the basis of sex, such as columns headed "Male" or "Female" will be considered an expression of a preference, limitation, specification, ~~or~~ **discrimination** based on sex.

§ 1604.7 Pre-employment inquiries as to sex.

A pre-employment inquiry may ask "Male, Female"; or "Mr. Mrs. Miss," provided that the inquiry is made in good faith for a nondiscriminatory purpose. Any pre-employment inquiry in connection with prospective employment which expresses directlybr indirectly any limitation, specification, or discrimination as to sex shall be unlawful unless based upon a bona fide occupational qualification.

§ 1604.10 Employment policies relating to pregnancy and childbirth.

(a) A written or unwritten employment policy or practice which excludes from employment applicants or employees because of pregnancy, childbirth or related medical conditions is in prima facie violation of Title VII.

§ 1604.11 Sexual harassment.

(a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute

sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

(c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of whether the employer knew or should have known of their occurrence. The commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.

(d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct, unless it can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

(f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.

(g) Mher related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employee's sexual advances or requests for sexual favors, the employer

may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

EXERCISE 1 : Vocabulary

Using a legal dictionary, find the meanings of the following words from the regulation.

1. bona fide
.....
.....
2. promulgate
.....
.....
3. supersede
.....
.....
4. discrimination (general definition)
.....
.....
5. commission
.....
.....
6. prima facie
.....
.....

EXERCISE 2 : Reading Comprehension

When reading a regulation or statute it is often helpful to first skim or glance quickly at the titles of the various sections of the regulation or **statute**. This can be done easily because generally the titles will be printed in a darker type than contents of the section. Looking at just the titles of the various sections of this regulation, answer the following questions.

1. If you were going to place a job advertisement in the newspaper and you wanted to know if you could specify male or female what sections would you need to read?
.....
.....
2. What section would you consult to find out what constitutes sexual harassment?
.....
.....

3. What section gives information about the types of jobs that can be advertised as "Men's jobs" and "Women's jobs"?

4. In what section can you find out what constitutes discrimination against married women?

5. If you are the personnel manager for a company and you are writing the company's new policy relating to pregnancy and childbirth, what section of this law should you consult?

EXERCISE 3: Rule Comprehension

After reading the appropriate section of the regulation, answer the following comprehension questions.

1. A bona fide occupational qualification is

- (a) a refusal to hire a person because of their sex
- (b) sex-oriented employment laws
- (c) a requirement that is deemed by the commission to be necessary for a particular job.
- (d) an employee benefit.

2. An unlawful employment practice according to this regulation is one that (check all that apply)

- (a) an employer uses to benefit the employees
- (b) an employer uses to refuse to hire employees of one sex
- (c) restricts the employment to one sex
- (d) does not provide the same benefits to male and female employees

3. A seniority list is one in which

- (a) the best employee gets promoted first
- (b) the oldest employee gets promoted first
- (c) the male employee gets promoted first
- (d) the female employee gets promoted first

4. Which of the following constitute sexual harassment? (check all that apply)

- (a) making sexual comments to an employee
- (b) touching an employee without his or her consent
- (c) threats of losing the job if the employee does not agree to sexual activity
- (d) threats or remarks designed to make the working area uncomfortable for an employee

5. A narrow interpretation means the commission will

- (a) allow employers to advertise for males or females in all jobs
- (b) allow employers to refuse to hire any person because of their sex

- (c) not allow employers to advertise for male or females unless there is some special reason for the preference
 - (d) not allow employer to advertise for male or females for any reason
6. Section 4 of 1604.2 states that
- (a) special rest and meal periods for women are forbidden
 - (b) special rest and meals periods for women only are forbidden
 - (c) special rest and meal periods for males are forbidden
 - (d) special rest and meal periods for all employees are forbidden

PASSAGE 10 : READ THE FOLLOWING STATE LAW CAREFULLY AND COMPLETE THE FOLLOWING EXERCISES.

D. Workmen's Compensation Law (Idaho)

Idaho Code, Title 72

72-102. Definitions.—Words and terms used in the workmen's compensation law, unless the context otherwise requires, are defined in the subsections which follow.

(14) "Injury" and "accident."

(a) "Injury" means a personal injury caused by an accident arising out of and in the course of any employment covered by the workmen's compensation law.

(b) "Accident" means an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs, and which can be reasonably located as to time when and place where it occurred, causing an injury.

(c) "Injury" and "personal injury" shall be construed to include only an injury caused by an accident, which results in violence to the physical structure of the body. The terms shall in no case be construed to include an occupational disease and only such nonoccupational diseases as result directly from an injury.

(15) "Medical and related benefits" means payments provided for or made for medical, hospital, burial and other services as provided in this law other than income benefits.

(16) "Medical services" means medical, surgical, dental or other attendance or treatment, nurse and hospital service, medicines, apparatus, appliances, prostheses, and related services, facilities and supplies.

(17) "Occupational diseases."

(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment.

(b) "Contracted" and "incurred," when referring to an occupational disease, shall be deemed the equivalent of the term "arising out of and in the course of" employment.

72-208. Injuries not covered—Wilful intention—Intoxication.—(1) No compensation shall be allowed by the employee's wilful intention to injure himself or to injure another.

(2) If an injury is the proximate result of an employee's intoxication, all income benefits shall be reduced by fifty per cent (50%), provided that such reduction shall not apply where the intoxicants causing the employee's intoxication were furnished by the employee or where the employer permits the employee to remain at work with knowledge by the employee or his supervising agent that the employee is intoxicated.

72-209. Exclusiveness of liability of employer.+) [T] he liability of the employer under this law shall be exclusive and in place of all other liability of the employer to the employee, his spouse, dependents, heirs, legal representatives or assigns.

.....

(3) The exemption from liability given an employer by this section shall also extend to the employer's surety and to all officers, agents, servants and employees of the employer or surety, provided that such exemptions from liability shall not apply in any case where the injury or death is proximately caused by the wilful or unprovoked physical aggression of the employer, its officers, agents, servants or employees, the loss of such exemption applying only to the aggressor and shall not be imputable to the employer unless provoked or authorized by the employer, or the employer was a party thereto.

(4) In addition to the income benefits otherwise payable, the employee who is entitled to income benefits shall be paid an additional sum in an amount as may be determined by the commission as by it deemed necessary, as a medical service, when the constant service of an attendant is necessary by reason of total blindness of the employee or the loss of both hands or both feet or the loss of use thereof, or by reason of being paralyzed and unable to walk, or by reason of other disability resulting from the injury or disease actually rendering him so helpless as to require constant attendance. The commission shall have authority to determine the necessity, character and sufficiency of any medical services furnished or to be furnished and shall have authority to order a change of physician, hospital or rehabilitation facility when in its judgment such change is desirable or necessary.

(6) Nothing in this chapter shall be construed to require a workman who in good faith relies on Christian Science treatment by a duly accredited Christian Science practitioner to undergo any medical or surgical treatment, providing that neither he nor his dependents shall be entitled to income benefits of any kind beyond those reasonably expected to have been paid had he undergone medical or surgical treatment, and the employer or insurance carrier may pay for such spiritual treatment.

72-437. Occupational diseases-Right to compensation.-When an employee of an employer suffers an occupational disease and is thereby disabled from performing his work in the last occupation in which he was injuriously exposed to the hazards of such disease, or dies as a result of such disease,

and the disease was due to the nature of an occupation or process in which he was employed within the period previous to his disablement as hereinafter limited, the employee, or, in case of his death, his dependents shall be entitled to compensation.

72-438. Occupational Diseases.-Compensation shall be payable for disability or death of an employee resulting from the following occupational diseases:

(1) Poisoning by lead, mercury, arsenic, zinc, or manganese, their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(2) Carbon monoxide poisoning or chlorine poisoning in any process or occupation involving direct exposure to carbon monoxide or chlorine in buildings, sheds, or inclosed places.

(3) Poisoning by methanol, carbon bisulphide, hydrocarbon distillates (naphthas and others) or halogenated hydrocarbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(4) Poisoning by benzol or by nitro, amido, or amino-derivatives of benrol (dinitro-benrol, anilin and others) or their preparations or compounds in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(5) Glanders in the care or handling of any equine animal or the carcass of any such animal.

(6) Radium poisoning by or disability due to radioactive properties of substances or to Roentgenray (X-ray) in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(7) Poisoning by or ulceration from chromic acid or bichromate of ammonium, potassium, or sodium or their preparations, or phosphorus preparations or compounds, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(8) Ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound product, or residue of any of these substances, in any occupation involving direct contact therewith, handling thereof, or exposure thereto.

(9) Dermatitis venenata, that is, infection or inflammation of the skin, furunculosis excepted, due to oils, cutting compounds, lubricants, liquids, fumes, gases, or vapors in any occupation involving direct contact therewith, handling thereof or exposure thereto.

(10) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, skins, or bodies of animals either alive or dead.

(11) Silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

(12) Cardiovascular or pulmonary or respiratory diseases of a paid fireman, employed by

a municipality, village or fire district as a regular member of a lawfully established fire department, caused by overexertion in times of stress or danger or by proximate exposure or by cumulative exposure over a period of four (4) years or more to heat, smoke, chemical fumes or other toxic gases arising directly out of, and in the course of, his employment. Recognizing that additional toxic or harmful substances or matter are continually being discovered and used or misused, the above enumerated occupational diseases are not intended to be exclusive, but such additional diseases shall not include hazards which are common to the public in general....

72-211. Exclusiveness of employee's remedy.-... [T] he rights and remedies herein granted to an employee on account of an injury or occupational disease for which he is entitled to compensation under' this law shall exclude all other rights and remedies of the employee, his personal representatives, **dependents** or next of kin, at common law or otherwise, on account of such injury or disease.

72-212. Exemptions from coverage.-None of the provisions of this law shall apply to the following employments unless coverage thereof is elected [by the employer in writing.]..

- (1) Household domestic service.
- (2) Casual employment.
- (3) Employment of outworkers.
- (4) Employment of members of an employer's family dwelling in his household.
- (5) Employment which is not carried on by the employer for the sake of pecuniary gain.
- (6) Employment as the owner of a sole proprietorship; employment of a working member of a partnership; employment of an officer of a corporation who at all times during the period involved owns not less than ten per **cent(10%)** of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof.

(8) Agricultural pursuits. Agricultural pursuits, as used herein, shall include the raising, or harvesting of any agricultural or horticultural commodity including the raising, pelting, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife raised in captivity, on **inclosed** lands and public ranges. Agricultural pursuits shall include the loading and transporting, by motor vehicle, of any agricultural or horticultural commodity to any storage, processing, distribution or manufacturing destination and the unloading of the commodity at such destination; provided, that the exemption for the transportation, loading or unloading of agricultural or horticultural commodities shall apply only to individuals, corporations, partnerships or other legal entities who are **tran-**

sporting, loading or unloading only those agricultural or horticultural commodities which the individual, corporation, partnership or other legal entity produced, raised or harvested. The return trip from a manufacturing, processing, storage or distribution destination is exempted if: the return trip to the original point of debarkation is by the fastest and most direct route reasonably possible, the cargo transported on the return trip, if any, is to be used exclusively by the individual, corporation, partnership, or other legal entity which is transporting the cargo, and the cargo transported is to be used only in direct connection with the agricultural pursuit.

(9) Pilots of agricultural spraying or dusting planes. Employment as a pilot of an aircraft, used to apply fertilizers and pesticides to agricultural crops, when actually operating an aircraft, shall be exempt from the provisions of the workmen's compensation law, if: the employer files with, and has written approval by, the industrial commission, prior to employing a pilot for the purpose of engaging in the application of pesticides to agricultural crops by aircraft, proof of coverage of an insurance policy that will provide to the employed pilot of such aircraft while actually operating an aircraft, benefits in an amount of not less than: twenty-five thousand dollars (\$25,000) accidental death and dismemberment, ten thousand dollars (\$10,000) medical expense payments, and five hundred dollars (\$500) per month disability income for a minimum of forty-eight (48) months.

(10) Associate real estate brokers and real estate salesmen. Service performed by an individual for a real estate broker as an associate real estate broker or as a real estate salesman, if all such service performed by such individual for such person is performed for remuneration solely by way of commission.

(11) Volunteer ski patrollers.

(12) Officials of athletic contests involving secondary schools...

72-428. Scheduled income benefits for loss or losses of use of bodily members.-An employee who suffers a permanent disability less than total and permanent shall, in addition to the income benefits payable during the period of recovery, be paid income benefits for such permanent disability in an amount equal to fifty-five percent (55%) of the average weekly state wage stated against the following scheduled permanent impairments respectively:

	Weeks
(1) Amputations of Upper Extremities	
Forequarter amputation	350
Disarticulation at shoulder joint	300

Injury

Amputation of arm above deltoid insertion	300
Amputation of arm between deltoid insertion and elbow joint	285
Disarticulation at elbow joint	285
Amputation of forearm below elbow joint proximal to insertion of biceps tendon	285'
Amputation of forearm below elbow joint distal to insertion of biceps tendon	270
Disarticulation at wrist joint	270
Midcarpal or mid-metacarpal amputation of hand	270
Amputation of all fingers except thumb at metacarpophalangeal joints	160
Amputation of thumb	
At metacarpophalangeal joint or with resection of carpometacarpal bone	110
At interphalangeal joint	80
Amputation of index finger	
At metacarpophalangeal joint or with resection of metacarpal bone	70
At proximal interphalangeal joint	55
At distal interphalangeal joint	30
Amputation of middle finger	
At metacarpophalangeal joint or with resection of metacarpal bone	55
At proximal interphalangeal joint	45
At distal interphalangeal joint	25
Amputation of ring finger	
At metacarpophalangeal joint or with resection of metacarpal bone	25
At proximal interphalangeal joint	20
At distal interphalangeal joint	12
Amputation of little finger	
At metacarpophalangeal joint or with resection of metacarpal bone	15
At proximal interphalangeal joint	10
At distal interphalangeal joint	5
(2) Amputations of Lower Extremities	
Hemipelvectomy	250
Disarticulation at hip joint	200
Amputation above knee joint with short thigh stump (3" or less below tuberosity of ischium)	200
Amputation above knee joint with functional stump	180

Disarticulation at knee joint	180
Gritt-Stokes amputation	180
Amputation below knee joint with short stump (3" or less below intercondylar notch)	180
Amputation below knee joint with functional stump	140
Amputation at ankle (Syme)	140
Partial amputation of foot (Chopart's)	105
Mid-metatarsal amputation	70
Amputation of all toes	
At metatarsophalangeal joints	42
Amputation of great toe	
With resection of metatarsal bone	42
At metatarsophalangeal joint	25
At interphalangeal joint	25
Amputation of lesser toe (2nd–5th)	
With resection of metatarsal bone	7
At metatarsophalangeal joint	4
At proximal interphalangeal joint	3
At distal interphalangeal joint	1
(3) Loss of Vision and Hearing	
Total loss of vision of one eye	150
Loss of one eye by enucleation	175
Total loss of binaural hearing	175

72-432. Medical services, appliances and supplies—Reports.—(1) The employer shall provide for an injured employee such reasonable medical, surgical or other attendance or treatment, nurse and hospital service, medicines, crutches and apparatus, as may be required by the employee's physician or needed immediately after an injury or disability from an occupational disease, and for a reasonable time thereafter. If the employer fails to provide the same, the injured employee may do so at the expense of the employer.

(2) The employer shall also furnish necessary replacements or repairs of appliances and prostheses, unless the need therefor is due to lack of proper care by the employee. If the appliance or prosthesis is (damaged or destroyed in an industrial (accident, the employer, for whom the employee was

working at the time of accident, will be liable for replacement or repair, but not for any subsequent replacement or repair not directly resulting from the accident.

EXERCISE 1 : Vocabulary

Using a legal dictionary, find the meanings of the following words from the law.

1. workmen's compensation
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.....
2. liability
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3. exemption
.....
.....
4. exclusive
.....
.....
5. assigns
.....
.....
6. pecuniary
.....
.....

EXERCISE 2 : Reading Comprehension

Again, as in the previous administrative regulation, it will be helpful for the student to skim or glance quickly at the titles of each section. This will give the student some idea of the contents of the law without having to read every section. This is a particularly helpful exercise when the law is as long as this worker's compensation act. Looking at **just the** titles of the various sections, those printed in darker print, answer the following questions.

1. What section explains "occupational diseases?"
.....
2. What sections tell which types of workers are exempted from coverage under this law?
.....

3. If your client has lost eyesight in one eye from an accident at work, what section can you use to figure out the amount of compensation due the worker?
.....
4. In what section is the term "injury" defined?
.....
5. If a client whose husband had been injured at his workplace, asked you whether or not she could sue the employer on some other grounds, which section would you consult?
.....

EXERCISE 3 : Legal Comprehension

After reading the appropriate section of the law, answer the following comprehension questions.

1. Which of the following types of workers are not covered by this act, unless the employer elects to provide coverage in writing. (Check all that apply)
 - a. policemen
 - b. household workers and maids
 - c. a volunteer at an exhibition
 - d. a sole owner of a business
 - e. a worker picking vegetables
 - f. a secretary in an office
 - g. a real estate seller
 - h. a referee in a high school football game
2. Which of the following could be considered an "occupational disease" according to this law? (Check all that apply)
 - a. cancer caused by exposure to toxic chemicals at a factory
 - b. lung diseases suffered by rice mill workers
 - c. a burn incurred at a factory
 - d. loss of one finger in a factory machine
 - e. poisoning caused by exposure to lead in a battery factory
3. If a worker is injured at the job while intoxicated what effect will there be on compensation?
 - a. the worker will receive full compensation
 - b. the worker will not receive any compensation
 - c. the worker will receive only 50% of the compensation due
 - d. the worker will receive only 20% of the compensation due
4. If an employer fails to provide a medical service to an injured employee in the workplace, what may the employee do? (See 72-432)
 - a. the employee must file a lawsuit against the employer
 - b. the employee must file a report against the employer
 - c. the employee cannot do anything
 - d. the employee may receive treatment at a doctor outside the workplace, and employer must pay for it.

5. What per cent of a worker's weekly wage **will** be paid for a permanent disability that is less than total **dis-**
ability?
- a. 50%
 - b. 55%
 - c. 60%
 - d. 65%