

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Finance.

HB26-1223 be amended as follows:

- 1 Amend reengrossed bill, page 15, strike lines 11 through 13 and substitute
2 "SOFTWARE IS EITHER GOVERNED BY A NEGOTIABLE LICENSE AGREEMENT
3 OR DEVELOPED FOR USE BY A PARTICULAR USER.
4 (a) FOR PURPOSES OF THIS ARTICLE 26, "NEGOTIATED LICENSE
5 AGREEMENT" MEANS A WRITTEN AGREEMENT OR CONTRACT THAT IS
6 INDIVIDUALLY BARGAINED BETWEEN THE LICENSOR AND LICENSEE AND
7 THAT IS SIGNED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH
8 THE LICENSOR AND LICENSEE PRIOR TO OR CONTEMPORANEOUS WITH THE
9 LICENSEE'S ACCESS TO OR USE OF THE SOFTWARE.
10 (b) FOR PURPOSES OF THIS ARTICLE 26, "INDIVIDUALLY BARGAINED
11 BETWEEN THE LICENSOR AND LICENSEE" SPECIFICALLY EXCLUDES A
12 STANDARD, FORM, OR BOILERPLATE AGREEMENT THAT IS OFFERED BY THE
13 LICENSOR ON A NONNEGOTIABLE OR SUBSTANTIALLY NONNEGOTIABLE
14 BASIS TO MULTIPLE LICENSEES, REGARDLESS OF WHETHER THE
15 AGREEMENT BEARS A HANDWRITTEN OR ELECTRONIC SIGNATURE, OR THE
16 AGREEMENT IS PRINTED ON, WITHIN, OR AFFIXED TO THE SOFTWARE
17 PACKAGING; EMBEDDED WITHIN THE COMPUTER SOFTWARE ITSELF; OR
18 PRESENTED AS PART OF THE TERMS AND CONDITIONS OF ANY WEBSITE OR
19 APPLICATION THROUGH WHICH THE SOFTWARE IS ACQUIRED, ACCESSED, OR
20 USED.
21 (c) FOR PURPOSES OF THIS ARTICLE 26, "SIGNED IN WRITING BY
22 AUTHORIZED REPRESENTATIVES OF BOTH THE LICENSOR AND LICENSEE"
23 SPECIFICALLY EXCLUDES AN ACCEPTANCE BY THE LICENSEE ON A
24 CLICK-THROUGH, BROWSE-WRAP, SHRINK-WRAP, EMBEDDED SIGNATURE,
25 IMPLIED, ACCOUNT CREATION, OR ANY OTHER AUTOMATED BASIS; EXCEPT
26 THAT "SIGNED IN WRITING BY AUTHORIZED REPRESENTATIVES OF BOTH
27 THE LICENSOR AND LICENSEE" MAY INCLUDE A SIGNATURE PERFORMED
28 THROUGH AN ELECTRONIC SIGNATURE METHOD AUTHORIZED PURSUANT
29 TO SECTION 39-21-120 AND DEPARTMENT RULES AND SPECIFICALLY
30 INCLUDES ELECTRONIC SIGNATURE METHODS SUCH AS DOCUSIGN OR A
31 SIMILAR AUTHENTICATED ELECTRONIC SIGNATURE."

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