



North Carolina Law Life

The Importance of Getting it in Writing

By: Donna Ray Berkelhammer. Monday, March 19th, 2012

While oral or **verbal contracts** are often enforceable, they are not recommended.

It is virtually impossible to prove the terms of a verbal contract, which invites trouble when things go sour with vendors, employees, contractors or business partners. Written contracts help clarify what the terms of the agreement are, make sure both sides are in agreement, and give legal protection in case one party doesn't live up to its obligations. Contracts relating to real property, commercial loan agreements, contracts for the sale of goods more than \$500 are specific transactions that must be in writing in North Carolina to be enforceable.

A binding written contract can be formed by exchange of **emails**, even where the parties don't both print and physically sign a document.

Contracts do not need to contain much "magic language" to be **valid**, but they do need to name the parties, be signed by both parties, and the price needs to be stated or determinable. If certain terms are missing, often the **Uniform Commercial Code** can fill the gaps, such as delivery or shipping terms, risk of loss, warranty. In addition, both sides need to give "consideration," which is the exchange of something of value. Usually one party promises to provide a good or service, and the other side promises to pay for it. Sometimes one party offers not to do something (called forbearance), and the other party promises to pay, such as where one party agrees to settle a claim.

Contracts, however, are one of the most important devices to help a business minimize its risks. The indemnity, limitation of liability and warranty provisions address what happens when things go wrong, and who will pay for them. Take a look at what my colleague, **Tom Bowden**, thinks about **do-it-yourself** contracts.

Tags: **contract**, **North Carolina**, **oral contract**, **Uniform Commercial Code**, **Verbal contract**

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