

this act to apply to. So I think the thing to do...this is kind of a...this process is just not in the best interests of legislating. I mean if we have a problem, then we ought to take a look at it but this...it...you have to...it is not to amend this particular provision. That's not the way to do it. It would have to be done in another way.

PRESIDENT: Thank you. Senator Chambers, please.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, it's such a pleasure to debate a bill with Senator Ashford because he is so sincere and so earnest in his presentation, and in some cases "Ernestlike" but in this instance he is not. Here's what I would say about what he just mentioned in his comments. We are not enacting legislation to follow what is in existence now if what is in existence now is questionable. If there are legitimate oral agreements out there, when this bill passes, put those terms in writing, but what often happens when you have these types of arrangements where one which is powerful is in a position to overreach the other, that powerful one doesn't want anything in writing. Senator Ashford mentioned you can establish by prima facie case the existence of an oral agreement. The powerful overreacher can alter the terms as he or she pleases as each new eventuality arises. If it's in writing, then the weaker of the two is in a position to say this is what I agreed to and this is what I want to hold this individual to. When you allow the existence of oral agreements you have, in effect, no agreement at any given point in time other than what the more powerful of the two parties wants to say the agreement is. So if we require these arrangements to be in writing, both parties know what they are signing their name to. In the event of a dispute, that document is offered as evidence of the agreement. Even then the court will allow the weaker party to establish by evidence, if he or she can, that there was such overreaching that you have what is called an adhesion contract and it will be rescinded by the court. It will be erased because the parties did not negotiate from a position of equal strength, so that is the kind of thing we're talking about now and there can be no legitimate reason not to require that these agreements be in writing. If the one who is the powerful party is not trying to overreach, why not put the agreement in writing? They probably would establish a standard type of agreement anyway. If they're in the practice of overreaching through oral agreements, then they would have to be careful of how they write that because if it's what is called a