

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023

A Bill

HOUSE BILL 1581

4
5 By: Representative Warren
6 By: Senator Hickey

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING UNENFORCEABLE
10 PROVISIONS IN CERTAIN CONSTRUCTION CONTRACTS; AND FOR
11 OTHER PURPOSES.

Subtitle

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14 TO AMEND THE LAW CONCERNING UNENFORCEABLE
15 PROVISIONS IN CERTAIN CONSTRUCTION
16 CONTRACTS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code § 4-56-104, concerning construction contracts
23 that contain a hold harmless clause, is amended to add additional subsections
24 to read as follows:

25 (f) A licensed engineer or registered architect is required in a
26 construction contract or construction agreement to perform services to ensure
27 the services are performed:

28 (1) At a level of professional skill and care ordinarily
29 provided by a competent engineer or architect who is practicing in this
30 state, under the same or similar circumstances, and with the same
31 professional license at the time services are performed; and

32 (2) Only as expeditiously as is prudent considering the ordinary
33 professional skill and care of a competent engineer or architect.

34 (g)(1) If a provision in a construction contract or construction
35 agreement establishes a different standard of care other than the standard
36 described under subsection (f) of this section, then the provision is void



1 and unenforceable.

2 (2) If a construction contract contains a provision that is void
3 and unenforceable under subdivision (g)(1) of this section, the standard of
4 care that shall apply is as described under subsection (f) of this section.

5 (h)(1) It is against public policy for a party to a construction
6 agreement or construction contract to enter into a construction agreement or
7 construction contract in which a party is required to name the other party as
8 an additional insured on the party's professional liability policy or
9 workers' compensation policy.

10 (2) Any provision in a construction agreement or construction
11 contract that requires a party to the contract to name the other party to the
12 contract as an additional insured on the party's professional liability
13 policy or workers' compensation policy is void and unenforceable.

14 (i) Subsections (f)-(h) of this section are applicable to a
15 construction contract or construction agreement entered into on and after
16 September 1, 2023.

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