

INTERIM STUDY PROPOSAL 2023-032

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1581

By: Representative Warren
By: Senator Hickey

Filed with: House Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING UNENFORCEABLE
PROVISIONS IN CERTAIN CONSTRUCTION
CONTRACTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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

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

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

1 (g)(1) If a provision in a construction contract or construction
2 agreement establishes a different standard of care other than the standard
3 described under subsection (f) of this section, then the provision is void
4 and unenforceable.

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

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

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

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

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22 Referred requested by the Arkansas House of Representatives

23 Prepared by: ANS/SJA
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