

1 State of Arkansas
2 91st General Assembly
3 Second Extraordinary Session, 2018
4

As Engrossed: S3/13/18
A Bill

Call Item 4
SENATE BILL 5

5 By: Senator J. Hutchinson
6 By: Representative Ballinger
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE WAIVER OF A PERSON'S OR
10 ENTITY'S RIGHT TO A JURY TRIAL THAT IS CONDITIONED ON
11 A CONTRACTUAL AGREEMENT OF THE PARTIES; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

16 CONCERNING THE WAIVER OF A PERSON'S OR
17 ENTITY'S RIGHT TO A JURY TRIAL THAT IS
18 CONDITIONED ON A CONTRACTUAL AGREEMENT OF
19 THE PARTIES; AND TO DECLARE AN EMERGENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 *SECTION 1. As authorized by Article 2, § 7, of the Arkansas*
25 *Constitution, Arkansas Code Title 16, Chapter 30, is amended to add an*
26 *additional section to read as follows:*

27 16-30-104. Contractual waiver of jury trial.

28 A written provision in a contract to borrow money or to lend money in
29 which the parties agree to waive their respective rights to a trial by jury
30 under Arkansas Constitution, Article 2, § 7, is valid and enforceable except
31 upon those grounds that exist at law or in equity for the revocation of any
32 contract
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34 SECTION 2. DO NOT CODIFY. Retroactivity.

35 (a) This act applies retroactively to a contract to waive a jury trial
36 entered into before the effective date of this act.



1 (b) This act applies retroactively to all judicial proceedings in
2 which a contract to waive a jury trial is at issue if the judicial proceeding
3 is still pending on the effective date of the act.

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5 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
6 General Assembly of the State of Arkansas that decisions of the Arkansas
7 Supreme Court regarding contractual jury waiver provisions leave parties in
8 doubt about the applicability of their contracts; that this uncertainty must
9 be resolved immediately; and that this uncertainty may only be resolved
10 through the immediate effectiveness of this act. Therefore, an emergency is
11 declared to exist, and this act being immediately necessary for the
12 preservation of the public peace, health, and safety shall become effective
13 on:

14 (1) The date of its approval by the Governor;

15 (2) If the bill is neither approved nor vetoed by the Governor,
16 the expiration of the period of time during which the Governor may veto the
17 bill; or

18 (3) If the bill is vetoed by the Governor and the veto is
19 overridden, the date the last house overrides the veto.

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21 */s/J. Hutchinson*
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