

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 INTERIM STUDY PROPOSAL 2009-106

2 State of Arkansas *As Engrossed: H3/13/09 H3/18/09*

3 87th General Assembly

A Bill

4 Regular Session, 2009

HOUSE BILL 1885

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6 By: Representative Hyde

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8 Filed with: House Interim Committee on Judiciary
9 pursuant to A.C.A. §10-3-217.

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For An Act To Be Entitled

12 AN ACT TO ENCOURAGE FAIR DEALING IN CONTRACTS BY
13 REQUIRING HOLD HARMLESS LANGUAGE IN A CONTRACT TO
14 BE CLEAR AND CONSPICUOUS; AND FOR OTHER PURPOSES.

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Subtitle

17 TO ENCOURAGE FAIR DEALING IN CONTRACTS
18 BY REQUIRING HOLD HARMLESS LANGUAGE IN A
19 CONTRACT TO BE CLEAR AND CONSPICUOUS.

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

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24 SECTION 1. Arkansas Code Title 4, Chapter 56, Subchapter 1 is amended
25 to add an additional section to read as follows:

26 4-56-105. Hold harmless clause language – Clear and conspicuous.

27 (a) As used in this section

28 (1) "Clear" means language used in an ordinary way to convey
29 information so that a reasonable person understands its meaning.

30 (2) "Conspicuous" means attracting attention to language in a
31 contract so that a reasonable person will be alerted to its inclusion in the
32 contract, including, without limitation, the use of:

33 (A) Bold print;

34 (B) Capitalization;

35 (C) Contrasting color;

36 (D) Larger type;



1 (E) Underlining; or

2 (F) Unusual font.

3 (b)(1) Language in a contract to indemnify or hold harmless a party to
4 the contract from that party's liability in the performance of the contract
5 shall be clear and conspicuous to be enforceable against another party to the
6 contract.

7 (2) The failure to use clear and conspicuous language for an
8 indemnification or hold harmless clause in a contract does not affect the
9 enforceability of another provision in the contract."

10 (c) This section does not require the state, a state agency, or an
11 institution of higher education to enter into a contract that waives or that
12 may be interpreted to waive the sovereign immunity of the state or that is
13 contrary to Arkansas Constitution, Article 12, § 12.

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15 /s/ Hyde

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