

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

# A Bill

HOUSE BILL 1581

5  
6 By: Representative Warren  
7 By: Senator Hickey

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

## For An Act To Be Entitled

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

## Subtitle

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

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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 § 4-56-104, concerning construction contracts  
25 that contain a hold harmless clause, is amended to add additional subsections  
26 to read as follows:

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

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

34 (2) Only as expeditiously as is prudent considering the ordinary  
35 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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