

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 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007

# A Bill

HOUSE BILL 1209

4  
5 By: Representatives Hyde, E. Brown, Burkes, George, Glidewell, King, Pierce, J. Roebuck, Webb  
6 By: Senator Salmon

## For An Act To Be Entitled

10 AN ACT TO PROMOTE INSURANCE COVERAGE; TO PROTECT  
11 BUSINESS FROM INSURANCE POLICY LIMITATIONS; AND  
12 FOR OTHER PURPOSES.

## Subtitle

15 TO PROMOTE INSURANCE COVERAGE AND TO  
16 PROTECT BUSINESS FROM INSURANCE POLICY  
17 LIMITATIONS.

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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 Title 4, Chapter 56, is amended to add an  
23 additional section to read as follows:

24 4-56-104. Hold harmless clause.

25 (a) As used in this section:

26 (1) "Agreement" means the bargain of the parties in fact, as  
27 found in their language or inferred from other circumstances, including  
28 course of performance, course of dealing, or usage of trade as provided in §  
29 4-1-303; and

30 (2) "Contract" means the total legal obligation that results  
31 from the parties' agreement as supplemented by any other applicable laws.

32 (b) Except as provided in subsections (c) and (d) of this section, an  
33 agreement or contract that requires a party to a contract or that party's  
34 surety or insurer to indemnify, insure, defend, or hold harmless another  
35 party against liability for damage arising out of death or bodily injury to a  
36 person or damage to property arising out of the negligence or fault of the



1 indemnitee, its agent, representative, subcontractor, or supplier is  
2 unenforceable as against public policy.

3 (c) A contract or an agreement to exempt, limit, or release one (1) or  
4 more parties to a contract or an agreement from liability for negligence or  
5 fault before the negligence occurs in an amount greater than the amount  
6 represented by the degree or percentage of negligence or fault attributable  
7 to the indemnitor, its agent, representative, subcontractor or supplier is  
8 unenforceable as against public policy.

9 (d) A provision or understanding in an agreement or contract that  
10 attempts to circumvent this section by making the agreement or contract  
11 subject to the laws of another state is unenforceable as against public  
12 policy.

13 (e) An agreement provision or contract provision shall not limit the  
14 duty of care that one (1) party to a contract or agreement has to the other  
15 party to the agreement or contract.

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