

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/13/09

A Bill

HOUSE BILL 1885

5 By: Representative Hyde
6
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For An Act To Be Entitled

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

Subtitle

14 TO ENCOURAGE FAIR DEALING IN CONTRACTS
15 BY REQUIRING HOLD HARMLESS LANGUAGE IN A
16 CONTRACT TO BE CLEAR AND CONSPICUOUS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 4, Chapter 56, Subchapter 1 is amended
22 to add an additional section to read as follows:

23 4-56-105. Hold harmless clause language – Clear and conspicuous.

24 (a) As used in this section

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

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

30 (A) Bold print;

31 (B) Capitalization;

32 (C) Contrasting color;

33 (D) Larger type;

34 (E) Underlining; and

35 (F) Unusual font.

36 (b)(1) Language in a contract to indemnify or hold harmless a party to



1 the contract from that party's liability in the performance of the contract
2 shall be clear and conspicuous to be enforceable against another party to the
3 contract.

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

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

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12 /s/ Hyde
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