

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

SENATE BILL 488

5 By: Senator Rapert  
6

## For An Act To Be Entitled

8 AN ACT TO PROHIBIT ENFORCEMENT OF CERTAIN PROVISIONS  
9 IN CONSTRUCTION AGREEMENTS AND CONSTRUCTION  
10 CONTRACTS; AND FOR OTHER PURPOSES.  
11

## Subtitle

12 TO PROHIBIT ENFORCEMENT OF CERTAIN  
13 PROVISIONS IN CONSTRUCTION AGREEMENTS AND  
14 CONSTRUCTION CONTRACTS.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. The catchline for Arkansas Code § 4-56-104 is amended to  
22 read as follows:

23 4-56-104. ~~Hold harmless clause~~ Unenforceable provisions in  
24 construction agreements and construction contracts ~~unenforceable~~.  
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26 SECTION 2. Arkansas Code § 4-56-104(b), concerning the hold harmless  
27 clause in a construction contract as unenforceable, is amended to read as  
28 follows:

29 (b) A clause or provision in a construction agreement or construction  
30 contract ~~entered into after July 31, 2007,~~ is void and unenforceable as  
31 against public policy to the extent that:

32 (1) a A party to the construction ~~contract or construction~~  
33 agreement or construction contract is required to indemnify, defend, or hold  
34 harmless another party against:

35 ~~(1)(A)~~ (A) Damage from death or bodily injury to a person  
36 arising out of the sole negligence of the indemnitee, its agent,



1 representative, subcontractor, or supplier; or

2 ~~(2)(B)~~ Damage to property arising out of the sole  
3 negligence of the indemnitee, its agent, representative, subcontractor, or  
4 supplier; or

5 (2) The clause or provision makes the construction agreement or  
6 the construction contract or any conflict arising under the construction  
7 agreement or construction contract subject to another state's laws or  
8 requires any litigation, arbitration, or other alternative dispute resolution  
9 proceeding arising under the construction agreement or construction contract  
10 to be conducted in another state.

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12 SECTION 3. The catchline for Arkansas Code § 22-9-214 is amended to  
13 read as follows:

14 22-9-214. ~~Hold harmless clause~~ Unenforceable provisions in public  
15 construction agreements and public construction contracts ~~unenforceable =~~  
16 Definitions.

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18 SECTION 4. Arkansas Code § 22-9-214(b), concerning the  
19 unenforceability of a public construction contract that contains a hold  
20 harmless clause, is amended to read as follows:

21 (b) A clause or provision in a public construction agreement or public  
22 construction contract ~~entered into after July 31, 2007,~~ is void and  
23 unenforceable as against public policy to the extent that:

24 (1) a A party to the public construction ~~contract or public~~  
25 ~~construction~~ agreement or public construction contract is required to  
26 indemnify, defend, or hold harmless another party against:

27 ~~(1)(A)~~ Damage from death or bodily injury to a person  
28 arising out of the sole negligence of the indemnitee, its agent,  
29 representative, subcontractor, or supplier; or

30 ~~(2)(B)~~ Damage to property arising out of the sole  
31 negligence of the indemnitee, its agent, representative, subcontractor, or  
32 supplier; or

33 (2) The clause or provision makes the public construction  
34 agreement or the public construction contract or any conflict arising under  
35 the public construction agreement or public construction contract subject to  
36 another state's laws or requires any litigation, arbitration, or other

1 alternative dispute resolution proceeding arising under the public  
2 construction agreement or public construction contract to be conducted in  
3 another state.

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