

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

As Engrossed: S3/18/15

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 requires any litigation,
6 arbitration, or other alternative dispute resolution proceeding arising under
7 the construction agreement or construction contract to be conducted in
8 another state.

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

12 22-9-214. ~~Hold harmless clause~~ Unenforceable provisions in public
13 construction agreements and public construction contracts ~~unenforceable =~~
14 Definitions.

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

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

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

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

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

31 (2) The clause or provision requires any litigation,
32 arbitration, or other alternative dispute resolution proceeding arising under
33 the public construction agreement or public construction contract to be
34 conducted in another state.

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36 /s/Rapert