1   State of Arkansas   Call Item 4
2   91st General Assembly   A Bill
3   Second Extraordinary Session, 2018   HOUSE BILL 1006
4
5   By: Representative Ballinger
6   By: Senator J. Hutchinson
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8   **For An Act To Be Entitled**
9   AN ACT CONCERNING THE WAIVER OF A PERSON'S OR
10   ENTITY'S RIGHT TO A JURY TRIAL THAT IS CONDITIONED ON
11   A CONTRACTUAL AGREEMENT OF THE PARTIES; TO DECLARE AN
12   EMERGENCY; AND FOR OTHER PURPOSES.
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15   **Subtitle**
16   CONCERNING THE WAIVER OF A PERSON'S OR
17   ENTITY'S RIGHT TO A JURY TRIAL THAT IS
18   CONDITIONED ON A CONTRACTUAL AGREEMENT OF
19   THE PARTIES; AND TO DECLARE AN EMERGENCY.
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22   BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24   SECTION 1. As authorized by Article 2, § 7, of the Arkansas Constitution,
25   Arkansas Code Title 16, Chapter 30, is amended to add an additional section
26   to read as follows:
27   16-30-104. Contractual waiver of jury trial.
28   (a) A written provision in a contract in which the parties agree to
29   waive their respective rights to trial by jury under Arkansas Constitution,
30   Article 2, § 7, is presumptively valid, irrevocable, and enforceable.
31   (b) A party that has signed a contract containing a waiver described
32   in subsection (a) of this section may not avoid enforcement or application of
33   the waiver by asserting that the party did not read, understand, or agree to
34   the waiver.
35   (c) A nonparty to a contract that contains a waiver described in
36   subsection (a) of this section that attempts to enforce the contract or any

1   rights under the contract as a third-party beneficiary or through another

2   legal theory permitting the enforcement of the contract is subject to the

3   waiver in the same manner as the parties to the contract.

4   (d) A waiver described in subsection (a) of this section is valid and

5   enforceable whether the parties entered into the contract before or after a

6   lawsuit concerning the contract was filed.

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8   SECTION 2. DO NOT CODIFY. Retroactivity.

9   (a) This act applies retroactively to a contract to waive a jury trial

10 entered into before the effective date of this act.

11   (b) This act applies retroactively to all judicial proceedings in

12 which a contract to waive a jury trial is at issue if the judicial proceeding

13 is still pending on the effective date of the act.

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15   SECTION 3. EMERGENCY CLAUSE. It is found and determined by the

16 General Assembly of the State of Arkansas that decisions of the Arkansas

17 Supreme Court regarding contractual jury waiver provisions leave parties in

18 doubt about the applicability of their contracts; that this uncertainty must

19 be resolved immediately; and that this uncertainty may only be resolved

20 through the immediate effectiveness of this act. Therefore, an emergency is

21 declared to exist, and this act being immediately necessary for the

22 preservation of the public peace, health, and safety shall become effective

23 on:

24   (1) The date of its approval by the Governor;

25   (2) If the bill is neither approved nor vetoed by the Governor,

26 the expiration of the period of time during which the Governor may veto the

27 bill; or

28   (3) If the bill is vetoed by the Governor and the veto is

29 overridden, the date the last house overrides the veto.

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