

An Act

ENROLLED HOUSE
BILL NO. 1934

By: Martinez of the House

and

Paxton of the Senate

An Act relating to design professional services agreements; defining term; declaring certain provisions void and unenforceable; stating exceptions; stating applicability of act; providing for codification; and providing an effective date.

SUBJECT: Design professional services agreements

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 221A of Title 15, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section, "design professional services agreement" means a contract, subcontract or agreement by any person or legal entity with an individual or legal entity possessing the qualifications to provide licensed architectural, licensed engineering, licensed land surveying services or other individuals or legal entities possessing specialized credentials and qualifications as may be needed to evaluate, plan or design for any construction project for the improvement of real property.

B. Except as provided in subsection C or D of this section, any provision in a design professional services agreement that requires an entity or that entity's insurer to indemnify, insure, defend or hold harmless another entity against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the indemnitee, its agents, representatives, subcontractors, suppliers or an entity for whom an indemnitor is not otherwise legally responsible is void and unenforceable.

C. The provisions of this section do not affect any provision in a design professional services agreement that requires an entity or that entity's insurer to indemnify another entity against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that a lawful indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the indemnitor and an entity for which the indemnitor is legally responsible are adjudicated liable.

D. This section shall not affect any obligation under workers' compensation or coverage or insurance specifically relating to workers' compensation.

E. Any provision, covenant, clause or understanding in a design professional services agreement that conflicts with the provisions and intent of this section or attempts to circumvent this section by making the agreement subject to the laws of another state, or that requires any litigation, arbitration or other dispute resolution proceeding arising from the agreement to be conducted in another state, is void and unenforceable.

SECTION 2. This act shall become effective November 1, 2021.

Passed the House of Representatives the 9th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 15th day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____