

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 324

By: Nichols of the Senate

and

Nance of the House

COMMITTEE SUBSTITUTE

An Act relating to contracts; defining terms; declaring certain provisions void and unenforceable; stating exceptions; stating applicability of act; providing for codification; and providing an effective date.

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 221 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section, "construction agreement" means a contract, subcontract, or agreement for construction, alteration, renovation, repair, or maintenance of any building, building site, structure, highway, street, highway bridge, viaduct, water or sewer system, gas or other distribution system, or other works dealing with construction, or for any moving, demolition, excavation, materials, or labor connected with such construction and "oil or gas drilling or service agreement" means a contract, subcontract, or agreement for drilling or otherwise providing services for equipping, maintaining, reworking, repairing or plugging any well intended to produce oil or gas.

B. Except as provided in subsection C or D of this section, any provision in a construction agreement or an oil or gas drilling or

service agreement that requires an entity or that entity's surety or 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, or suppliers, is void and unenforceable as against public policy.

C. The provisions of this section do not affect any provision in a construction agreement or an oil or gas drilling or service agreement that requires an entity or that entity's surety or insurer to indemnify another entity against liability for damage arising out of death or bodily injury to persons, or damage to property, but such indemnification shall not exceed any amounts that are greater than that represented by the degree or percentage of negligence or fault attributable to the indemnitor, its agents, representatives, subcontractors, or suppliers.

D. This section shall not apply to construction bonds nor to contract clauses which require an entity to purchase a project-specific insurance policy, including owners' and contractors' protective liability insurance, project management protective liability insurance, or builder's risk insurance.

E. Any provision, covenant, clause or understanding in a construction agreement or an oil or gas drilling or service 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, 2006.

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