

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 HOUSE BILL NO. 1296

By: Terrill

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to contracts; amending Section 1,  
9 Chapter 323, O.S.L. 2006 (15 O.S. Supp. 2006, Section  
10 221), which relates to construction agreements;  
11 modifying restrictions on construction agreements;  
12 modifying exceptions; and providing an effective  
13 date.

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

15 SECTION 1. AMENDATORY Section 1, Chapter 323, O.S.L.  
16 2006 (15 O.S. Supp. 2006, Section 221), is amended to read as  
17 follows:

18 Section 221. A. For purposes of this section, "construction  
19 agreement" means a contract, subcontract, or agreement for  
20 construction, alteration, renovation, repair, or maintenance of any  
21 building, building site, structure, highway, street, highway bridge,  
22 viaduct, water or sewer system, or other works dealing with  
23 construction, or for any moving, demolition, excavation, materials,  
24 or labor connected with such construction.

1 B. Except as provided in subsection C or D of this section, any  
2 provision in a construction agreement that requires an entity or  
3 that entity's surety or insurer to indemnify, insure, defend or hold  
4 harmless another entity against liability for damage arising out of  
5 death or bodily injury to persons, or damage to property, which  
6 arises out of the negligence or fault of the indemnitee, its agents,  
7 representatives, subcontractors, or suppliers, is void and  
8 unenforceable as against public policy.

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

17 D. This section shall not apply to construction bonds nor to  
18 contract clauses which require an entity to purchase a project-  
19 specific insurance policy, including owners' and contractors'  
20 protective liability insurance, project management protective  
21 liability insurance, or builder's risk insurance, or which require  
22 the entity to supply an endorsement that makes another party an  
23 additional insured on the first person's liability policy.  
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1 E. Any provision, covenant, clause or understanding in a  
2 construction agreement that conflicts with the provisions and intent  
3 of this section or attempts to circumvent this section by making the  
4 agreement subject to the laws of another state, or that requires any  
5 litigation, arbitration or other dispute resolution proceeding  
6 arising from the agreement to be conducted in another state, is void  
7 and unenforceable.

8 SECTION 2. This act shall become effective November 1, 2007.

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