

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1546

By: **Martinez**

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8 COMMITTEE SUBSTITUTE

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

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

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

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

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

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

21 D. This section shall not affect any obligation under workers'
22 compensation or coverage or insurance specifically relating to
23 workers' compensation.
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1 E. Any provision, covenant, clause or understanding in a design
2 professional services agreement that conflicts with the provisions
3 and intent of this section or attempts to circumvent this section by
4 making the agreement subject to the laws of another state, or that
5 requires any litigation, arbitration or other dispute resolution
6 proceeding arising from the agreement to be conducted in another
7 state, is void and unenforceable.

8 SECTION 2. This act shall become effective November 1, 2020.

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10 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
11 02/20/2020 - DO PASS, As Amended and Coauthored.
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