

SENATE FLOOR VERSION

February 26, 2019

SENATE BILL NO. 353

By: Bice

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.

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, registered engineering, or registered 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.

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

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

19 D. This section shall not affect any obligation under worker's
20 compensation or coverage or insurance specifically relating to
21 workers' compensation.

22 E. Any provision, covenant, clause, or understanding in a
23 design professional services agreement that conflicts with the
24 provisions and intent of this section or attempts to circumvent this

1 section by making the agreement subject to the laws of another
2 state, or that requires any litigation, arbitration, or other
3 dispute resolution proceeding arising from the agreement to be
4 conducted in another state, is void and unenforceable.

5 SECTION 2. This act shall become effective November 1, 2019.

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
7 February 26, 2019 - DO PASS
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