

1 **SENATE FLOOR VERSION**

2 March 30, 2021

3 ENGROSSED HOUSE
4 BILL NO. 1934

By: Martinez of the House

5 and

6 Paxton of the Senate

7
8 An Act relating to design professional services
9 agreements; defining term; declaring certain
10 provisions void and unenforceable; stating
11 exceptions; stating applicability of act; providing
12 for codification; and providing an effective date.

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

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

17 A. For purposes of this section, "design professional services
18 agreement" means a contract, subcontract or agreement by any person
19 or legal entity with an individual or legal entity possessing the
20 qualifications to provide licensed architectural, licensed
21 engineering, licensed land surveying services or other individuals
22 or legal entities possessing specialized credentials and
23 qualifications as may be needed to evaluate, plan or design for any
24 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 which
6 arises out of the negligence or fault of the indemnitee, its agents,
7 representatives, subcontractors, suppliers or an entity for whom an
8 indemnitor is not otherwise legally responsible is void and
9 unenforceable.

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 workers'
20 compensation or coverage or insurance specifically relating to
21 workers' compensation.

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

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

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

6 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
7 March 30, 2021 - DO PASS
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