

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1934

By: Martinez

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5
6 AS INTRODUCED

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

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

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

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

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7 58-1-6547 LRB 12/14/20

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