

CONSTRUCTION CONTRACT AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts a provision relating to construction contracts.

Highlighted Provisions:

This bill:

▶ declares void and against public policy nonreciprocal construction contracts that provide for only one party to waive, relinquish, or limit certain rights.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-8-6, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-8-6** is enacted to read:

13-8-6. Construction contracts with nonreciprocal provisions relating to rights.

(1) As used in this section:

(a) "Construction contract" means a written agreement providing for work in the construction trade for a nonresidential commercial or industrial project.



- 28 (b) "Construction trade" has the same meaning as defined in Section 58-55-102.
- 29 (c) "Contractor":
- 30 (i) means a person who, for compensation other than wages as an employee, undertakes
- 31 any work in a construction trade; and
- 32 (ii) includes:
- 33 (A) a person engaged to perform maintenance who regularly engages in work in a
- 34 construction trade; and
- 35 (B) a construction manager who performs management and advisory services on a
- 36 construction project for a fee.
- 37 (d) "Original contractor" has the same meaning as defined in Section 38-1-2.
- 38 (e) "Owner":
- 39 (i) means a person who holds legal or equitable title or interest in property that is the
- 40 subject of a construction contract; and
- 41 (ii) does not include a construction lender, unless the lender has an ownership interest
- 42 in the property other than solely as a construction lender.
- 43 (f) "Public agency" means a state agency or political subdivision of the state that enters
- 44 into a construction contract for an improvement on public property.
- 45 (g) "Subcontractor" has the same meaning as defined in Section 38-1-2.
- 46 (2) (a) This section applies to a construction contract entered into on or after July 1,
- 47 2010, between:
- 48 (i) an owner or a public agency and an original contractor;
- 49 (ii) an original contractor and a subcontractor; and
- 50 (iii) two or more subcontractors.
- 51 (b) If a construction contract is for a project that is part residential and part
- 52 nonresidential, this section applies to the portion of the construction contract that is
- 53 nonresidential, as determined pro rata based on the percentage of the total square footage of the
- 54 project that is nonresidential.
- 55 (3) A provision in a construction contract to which this section applies is against public
- 56 policy and void if under the provision:
- 57 (a) a party waives, relinquishes, or limits the party's claims, remedies, or method of
- 58 proving damages for breach of contract; and

59 (b) another party to the contract does not in the same manner waive, relinquish, or limit
60 the party's claims, remedies, or method of proving damages for breach of contract.

Legislative Review Note
as of 2-22-10 6:09 AM

Office of Legislative Research and General Counsel

S.B. 224 - Construction Contract Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
