

Senator Scott K. Jenkins proposes to substitute the following bill:

1 AMENDMENTS TO CONSTRUCTION

2 CONTRACTS

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 Sponsor: Scott K. Jenkins

6 This act modifies the Unenforceable Agreements Code. The act prohibits the inclusion of
7 provisions in a construction contract which would waive the right to recover damages for
8 unreasonable delay.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 ENACTS:

11 13-8-6, Utah Code Annotated 1953

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

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

14 13-8-6. Waiver of right to damages for unreasonable delay prohibited.

15 (1) § [Any] IF A SUBSTANTIAL DIFFERENCE IN BARGAINING POWER EXISTS BETWEEN

16a THE PARTIES, ANY § clause in a construction contract, as defined in Section 13-8-5, which purports to
16 waive, release, or extinguish the rights of a contractor, subcontractor, or supplier to damages or
17 an equitable adjustment arising out of an unreasonable delay in performance which is caused by
18 the acts or omissions of the contractee or persons acting for the contractee is against public policy
19 and is void and unenforceable.

20 (2) This section may not be construed to void any provision in a construction contract, as
21 defined in Section 13-8-5, which:

22 (a) requires notice of delays; or

23 (b) provides for arbitration or other procedure for settlement.

24 (3) Nothing in this section may be construed to limit the rights of a contractee to assert the
25 defense of concurrent delay.



