

1 **AMENDMENTS TO CONSTRUCTION**  
2 **CONTRACTS REGARDING UNREASONABLE**  
3 **DELAYS**

4 2002 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Scott K. Jenkins**

7 **This act modifies the Commerce and Trade Code to prohibit the inclusion of a provision in**  
8 **a construction contract which would waive, release, limit, or extinguish the right to recover**  
9 **damages or an equitable adjustment for unreasonable delay by another party to the contract.**

10 **The act applies to construction contracts entered into on or after a future date.**

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

12 ENACTS:

13 **13-8-6**, Utah Code Annotated 1953

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

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

16 **13-8-6. Waiver of right to damages for unreasonable delay prohibited.**

17 (1) § ~~[The Legislature finds that a] A~~ § clause in a construction contract which purports to waive,  
18 release, limit, or extinguish the rights of an owner, contractor, subcontractor, or supplier to  
19 damages or an equitable adjustment arising out of an unreasonable delay in performance caused  
20 by an act or omission of another party to the construction contract, or a person acting for that party,  
21 is against public policy § [-.] AND IS VOID AND UNENFORCEABLE.

22 ~~[(2) A clause described in Subsection (1) is void and unenforceable.~~

23 ~~[(3)] (2) § This section may not be construed to:~~

24 (a) void any provision in a construction contract which requires notification of delay;

25 (b) void any provision in a construction contract which provides for arbitration or other  
26 procedure for dispute resolution; or

27 (c) limit the rights of a party to the construction contract to assert the defense of concurrent



28 delay.

29 § ~~(4)~~ (3) § This section applies only to construction contracts entered into on or after May 6,

29a 2002.

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**Legislative Review Note**  
**as of 1-17-02 9:13 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**