

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

4                                   2003 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Eric K. Hutchings**

7   **This act modifies the Commerce and Trade Code to prohibit the inclusion of a provision**  
8   **in a construction contract which would waive, release, limit, or extinguish the right to**  
9   **recover damages or an equitable adjustment for unreasonable delay by another party to**  
10 **the contract. The act applies to construction contracts entered into on or after July 1,**  
11 **2003.**

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

13 ENACTS:

14           **13-8-6**, Utah Code Annotated 1953

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

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

17           **13-8-6. Waiver of right to damages for unreasonable delay prohibited.**

18           (1) A clause in a construction contract which purports to waive, release, limit, or  
19 extinguish the rights of an owner, contractor, subcontractor, or supplier to damages or an  
20 equitable adjustment arising out of an unreasonable delay in performance caused by an act or  
21 omission of another party to the contract, or a person acting for that party is against public  
22 policy and is void and unenforceable.

23           (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



28 concurrent delay.

29 (3) This section applies only to construction contracts entered into on or after July 1,

30 2003.

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**Legislative Review Note**

**as of 2-7-03 9:36 AM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Bill Number HB0362****Amendments to Construction Contracts Regarding Unreasonable  
Delays***20-Feb-03**11:18 AM*

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**State Impact**

There is no reliable estimate of fiscal impacts to the state, if any. Impacts are dependent on contracts not yet written and individual actions to enforce them.

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**Individual and Business Impact**

For the reasons mentioned above, there is no reliable estimate of fiscal impact to businesses or individuals.

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**Office of the Legislative Fiscal Analyst**