

State of Arkansas  
91st General Assembly  
Second Extraordinary Session, 2018

# A Bill

Call Item 4  
HOUSE BILL 1006

By: Representative Ballinger  
By: Senator J. Hutchinson

## For An Act To Be Entitled

AN ACT CONCERNING THE WAIVER OF A PERSON'S OR  
ENTITY'S RIGHT TO A JURY TRIAL THAT IS CONDITIONED ON  
A CONTRACTUAL AGREEMENT OF THE PARTIES; TO DECLARE AN  
EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

CONCERNING THE WAIVER OF A PERSON'S OR  
ENTITY'S RIGHT TO A JURY TRIAL THAT IS  
CONDITIONED ON A CONTRACTUAL AGREEMENT OF  
THE PARTIES; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. As authorized by Article 2, § 7, of the Arkansas Constitution, Arkansas Code Title 16, Chapter 30, is amended to add an additional section to read as follows:

16-30-104. Contractual waiver of jury trial.

(a) A written provision in a contract in which the parties agree to waive their respective rights to trial by jury under Arkansas Constitution, Article 2, § 7, is presumptively valid, irrevocable, and enforceable.

(b) A party that has signed a contract containing a waiver described in subsection (a) of this section may not avoid enforcement or application of the waiver by asserting that the party did not read, understand, or agree to the waiver.

(c) A nonparty to a contract that contains a waiver described in subsection (a) of this section that attempts to enforce the contract or any



rights under the contract as a third-party beneficiary or through another legal theory permitting the enforcement of the contract is subject to the waiver in the same manner as the parties to the contract.

(d) A waiver described in subsection (a) of this section is valid and enforceable whether the parties entered into the contract before or after a lawsuit concerning the contract was filed.

SECTION 2. DO NOT CODIFY. Retroactivity.

(a) This act applies retroactively to a contract to waive a jury trial entered into before the effective date of this act.

(b) This act applies retroactively to all judicial proceedings in which a contract to waive a jury trial is at issue if the judicial proceeding is still pending on the effective date of the act.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that decisions of the Arkansas Supreme Court regarding contractual jury waiver provisions leave parties in doubt about the applicability of their contracts; that this uncertainty must be resolved immediately; and that this uncertainty may only be resolved through the immediate effectiveness of this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.