

Stricken language would be deleted from and underlined language would be added to present law.

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

As Engrossed: S3/13/18
A Bill

Call Item 4
SENATE BILL 5

By: Senator J. Hutchinson
By: Representative Ballinger

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 written provision in a contract to borrow money or to lend money in
which the parties agree to waive their respective rights to a trial by jury
under Arkansas Constitution, Article 2, § 7, is valid and enforceable except
upon those grounds that exist at law or in equity for the revocation of any
contract*

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.

/s/J. Hutchinson