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SENATE BILL 5333

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State of Washington

67th Legislature

2021 Regular Session

By Senators Holy and Wilson, L.

Read first time 01/22/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

1 AN ACT Relating to void and unenforceable clauses in construction  
2 contracts related to delays caused by the COVID-19 pandemic emergency  
3 proclamations; amending RCW 4.24.360; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 4.24.360 and 1979 ex.s. c 264 s 1 are each amended  
6 to read as follows:

7 (1)(a) Any clause in a construction contract, as defined in RCW  
8 4.24.370, which purports to waive, release, or extinguish the rights  
9 of a contractor, subcontractor, or supplier to damages or an  
10 equitable adjustment arising out of unreasonable delay in performance  
11 which delay is caused by the acts or omissions of the contractee or  
12 persons acting for the contractee is against public policy and is  
13 void and unenforceable.

14 (b) Any clause in a construction contract, as defined in RCW  
15 4.24.370, which purports to waive, release, or extinguish the rights  
16 of a contractor, subcontractor, or supplier to damages or an  
17 equitable adjustment arising out of a delay in performance which  
18 delay is caused by the COVID-19 pandemic emergency proclamations is  
19 against public policy and is void and unenforceable.

20 (2) This section shall not be construed to void any provision in  
21 a construction contract, as defined in RCW 4.24.370, which ~~((1))~~

1 (a) requires notice of delays, (~~(+2)~~) (b) provides for arbitration  
2 or other procedure for settlement, or (~~(+3)~~) (c) provides for  
3 reasonable liquidated damages.

4 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of  
6 the state government and its existing public institutions, and takes  
7 effect immediately.

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