

DRAFT MIKE M JOHNSON LEGISLATION

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

NEW SECTION. Sec. 1. A new section added to chapter 4.24 RCW to read as follows:

- (1) Any clause in a construction contract, as defined in RCW 4.24.370, which purports to waive, release or extinguish the claim rights of a contractor, subcontractor or supplier to damages or an equitable adjustment based on failure to submit claim notice or claim-related documentation in a specified time frame or form is void and unenforceable, except to the extent the party seeking to enforce such clause is able to show material prejudice as a result of non-compliance.
- (2) "Claim" for the purposes of this Section means any demand or assertion by a party to a construction contract seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, or other relief with respect to the terms of the contract. The term "claim" includes other disputes and matters in question between the parties to a construction contract arising out of or relating to the contract. The responsibility to substantiate a claim rests with the claimant.
- (3) Subsection (1) of this Section does not apply to any contractual requirement that a lawsuit, arbitration or other similar alternative dispute resolution procedures be commenced within a reasonable time period, which shall be no fewer than one hundred eighty (180) calendar days following the completion or termination of a contract.