

NO DAMAGE FOR DELAY STATUTES

| STATE | STATUTE |
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| Alaska | <p>“Suspension of work by the engineer or delays in the completion of the work shall not constitute grounds for any claims by the contractor for damages or extra compensation, unless otherwise provided for in the contract” Alaska Dep’t of Transp. & Pub. Fac. Stand. Specifications § 108-1.06(3). This statute only applies to highway construction contracts.</p> |
| Arizona | <p>“A contract for the procurement of construction shall include a provision which provides for negotiations between the state governmental unit and the contractor for the recovery of damages related to expenses incurred by the contractor for a delay for which the state governmental unit is responsible, which is unreasonable under the circumstances and which was not within the contemplation of the parties to the contract. This section shall not be construed to void any provision in the contract which requires notice of delays, provides for arbitration or other procedure for settlement or provides for liquidated damages.” Ariz. Rev. Stat. Ann. § 41-2617. This statute only applies to public contracts.</p> |
| California | <p>“No damage for delay” clauses unenforceable in public works contracts where the delay is “unreasonable under the circumstances involved, and not within the contemplation of the parties.” Cal. Pub. Const. Code § 7102. This statute only applies to public contracts.</p> |
| Colorado | <p>“Any clause in a public works contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages . . . for delays in performing such contract, if such delay is caused in whole, or in part, by acts or omissions within the control of the contracting public entity or persons acting on behalf thereof, is against public policy and is void and unenforceable.” Colo. Rev. Stat. § 24-91-103.5. This statute only applies to public contracts.</p> |
| Kentucky | <p>A contract provision is unenforceable if the provision “purports to waive, release, or extinguish the right of a contractor or subcontractor to recover costs, additional time, or damages, or obtain an equitable adjustment of the contract, for delays in performing the contract that are, in whole or part, within the control of the contracting entity. Unusually bad weather that cannot be reasonably anticipated, fire, or other act of God shall not automatically entitle the contractor to additional compensation under this paragraph. . . . (3) Subsection (2)(c) of this section shall not render null, void, and unenforceable a contract provision that: (a) Permits a contractor or subcontractor to recover that portion of delay costs caused by acts or omissions of the contracting entity; (b) Requires notice of any delay by the party affected by the delay; (c) Provides for reasonable liquidated damages; (d) Provides for arbitration or any other procedure designed to resolve contract disputes; or (e) Specifies which costs are recoverable by a contractor or subcontractor for delay.” Ky. Rev. Stat. Ann. § 371.405.</p> |
| Minnesota | <p>“Any clause in a public works contract that waives, releases, or extinguishes the rights of a contractor to seek recovery for costs or damages, or seek an equitable adjustment, for delays . . . in performing the contract is void and unenforceable if the delay . . . is caused by acts of the contracting public entity.” Minn. Stat. § 15.411. This statute only applies to public contracts.</p> |
| Missouri | <p>“Any clause in a public works contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages . . . for delays in performing such contract, if such delay is caused in whole, or in part, by acts or omissions within the control of the contracting public entity . . . , is against public policy and is void and unenforceable.”</p> |

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| | Mo. Rev. Stat. § 34.058. This statute only applies to public contracts. |
| New Jersey | “A covenant, . . . in . . . a contract . . . to which a public entity is a party, relative to . . . construction, . . . purporting to limit a contractor's remedy for delayed performance caused by the public entity's negligence, bad faith, active interference, or other tortious conduct to an extension of time for performance under the contract, is against public policy and is void and unenforceable.” N.J. Rev. Stat. § 2A:58B-3. This statute only applies to public contracts. |
| North Carolina | “No contractual language forbidding or limiting compensable damages for delays caused solely by the owner or its agent may be enforced in any construction contract let by any board or governing body of the State, or of any institution of State government, or of any county, city, town, or other political subdivision thereof.” N.C. Gen. Stat. § 143-134.3. This statute only applies to public contracts. |
| Ohio | “Any provision of a construction subcontract [or contract] . . . that waives or precludes liability for delay during the course of a construction subcontract [or contract] when the cause of the delay is a proximate result of the owner's or contractor's act or failure to act, or that waives any other remedy for a construction subcontract [or contract] when the cause of the delay is a proximate result of the owner's or contractor's act or failure to act, is void and unenforceable as against public policy.” Ohio Rev. Code Ann. § 4113.62. |
| Oregon | “Any clause in a public improvement contract that purports to waive, release or extinguish the rights of a contractor to damages or an equitable adjustment arising out of unreasonable delay in performing the contract, if the delay is caused by acts or omissions of the contracting agency or persons acting therefor, is against public policy and is void and unenforceable.” Or. Rev. Stat. Ann. § 279C.315. This statute only applies to public contracts. |
| Virginia | “Any provision contained in any public construction contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the public body, its agents or employees and due to causes within their control shall be void and unenforceable as against public policy.” Va. Code Ann. § 2.2-4335. This statute only applies to public contracts. |
| Washington | “Any clause in a construction contract, as defined in RCW 4.24.370, which purports to waive, release, or extinguish the rights of a contractor, subcontractor, or supplier to damages or an equitable adjustment arising out of unreasonable delay in performance which delay is caused by the acts or omissions of the contractee or persons acting for the contractee is against public policy and is void and unenforceable.” Wash. Rev. Code Ann. § 4.24.360. |