

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 871
Committee Substitute Favorable 4/30/19

Short Title: Fair Contracts.

(Public)

Sponsors:

Referred to:

April 22, 2019

A BILL TO BE ENTITLED

AN ACT TO PROTECT THE INTERESTS OF DESIGNERS, PARTICULARLY SMALL AND WMBE ENTITIES, FROM UNFAIR CONTRACTING AND DUTY TO DEFEND REQUIREMENTS THAT VIOLATE THE EXISTING PUBLIC POLICY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 22B-1 reads as rewritten:

"§ 22B-1. **Construction indemnity agreements invalid.**

(a) Any promise or agreement in, or in connection with, a contract or agreement relative to the ~~design, planning,~~ construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating connected therewith, purporting to indemnify or hold harmless the promisee, the promisee's independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury to persons or damage to property proximately caused by or resulting from the negligence, in whole or in part, of the promisee, its independent contractors, agents, employees, or indemnitees, is against public policy and is void and unenforceable. Nothing contained in this section shall prevent or prohibit a contract, promise or agreement whereby a promisor shall indemnify or hold harmless any promisee or the promisee's independent contractors, agents, employees or indemnitees against liability for damages resulting from the sole negligence of the promisor, its agents or employees.

(b) Any promise or agreement in, in connection with, or collateral to a contract or agreement for engineering, architectural, landscape architectural, or surveying services purporting to require that one party to the agreement indemnify, hold harmless, or defend the other party, its independent contractors, agents, employees, or any other person or entity against liability or claims for damages, losses, or expenses, including attorneys' fees, is against public policy and is void and unenforceable, except for a promise or agreement providing only for indemnification for damages or expenses to the extent resulting from the negligence, recklessness, or intentionally wrongful conduct of the promisor, its employees, agents, or other persons utilized by the promisor in the performance of the contract.

(c) This section shall not affect an insurance contract, workers' compensation, or any other agreement issued by an ~~insurer, insurer.~~

(d) Subsection (a) of this section shall not apply to any of the following:

(1) ~~nor shall this section apply to promises~~ Promises or agreements under which a public utility as defined in ~~G.S. 62-3(23)~~ G.S. 62-3(23)a. including a railroad corporation ~~as is~~ an indemnitee.



1 (2) ~~This section shall not apply to contracts~~ Contracts entered into by the
2 Department of Transportation pursuant to G.S. 136-28.1."
3 **SECTION 2.** This act becomes effective October 1, 2019, and applies to contracts
4 entered into, amended, or renewed on or after that date.