

# HOUSE BILL No. 1015

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 26-2-5.

**Synopsis:** Unlawful indemnity agreements. Provides that the law concerning indemnity agreements in construction or design contracts applies to certain design-build contracts. Specifies that a provision in a professional services contract that requires indemnification and defense of a promisee for certain liability is void. Specifies that "sole negligence" for purposes of liability under a construction or design contract does not include: (1) vicarious liability; (2) imputed negligence; or (3) assumption of a nondelegable duty.

**Effective:** July 1, 2019.

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January 3, 2019, read first time and referred to Committee on Judiciary.

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First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

# HOUSE BILL No. 1015



A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

*Be it enacted by the General Assembly of the State of Indiana:*

1           SECTION 1. IC 26-2-5-1 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2019]: Sec. 1. **(a) As used in this section,**  
3 **"construction or design contract" includes a design-build contract**  
4 **under which all of the following for the same project are included:**  
5           **(1) Architectural, engineering, and related design services.**  
6           **(2) Labor, materials, and other construction services.**  
7           **(b)** All provisions, clauses, covenants, or agreements contained in,  
8 collateral to, or affecting any construction or design contract except  
9 those pertaining to highway contracts, which purport to indemnify the  
10 promisee against liability for:  
11           (1) death or bodily injury to persons;  
12           (2) injury to property;  
13           (3) design defects; or  
14           (4) any other loss, damage, or expense arising under either  
15 **subdivision (1), (2), or (3);**  
16 from ~~the~~ sole negligence or willful misconduct of the promisee ~~or the~~  
17 ~~promisee's agents, servants, or independent contractors who are directly~~



1 responsible to the promisee, are against public policy and are void and  
2 unenforceable. **Sole negligence does not include vicarious liability,  
3 imputed negligence, or assumption of a nondelegable duty.**

4 SECTION 2. IC 26-2-5-4 IS ADDED TO THE INDIANA CODE  
5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2019]: **Sec. 4. (a) This section applies to contracts entered into on  
7 or after July 1, 2019.**

8 **(b) All provisions, clauses, covenants, or agreements contained  
9 in, collateral to, or affecting a contract pertaining to professional  
10 services of design professionals, architects, landscape architects,  
11 surveyors, engineers, geologists, or geotechnical and environmental  
12 consultants that purport to:**

13 **(1) require the professional to defend the promisee against a  
14 professional liability claim; or**

15 **(2) indemnify the promisee against liability other than liability  
16 for damages and losses arising out of third party claims to the  
17 extent the damages and losses are caused by the professional's  
18 willful misconduct or negligence;**

19 **are against public policy and are void and unenforceable.**

