



Reprinted
April 9, 2019

ENGROSSED HOUSE BILL No. 1015

DIGEST OF HB 1015 (Updated April 8, 2019 3:24 pm - DI 119)

Citations Affected: IC 26-2.

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: Upon passage.

Torr, DeLaney

(SENATE SPONSORS — MESSMER, TALLIAN, DORiot)

January 3, 2019, read first time and referred to Committee on Judiciary.
January 29, 2019, reported — Do Pass.
January 31, 2019, read second time, ordered engrossed. Engrossed.
February 4, 2019, read third time, passed. Yeas 76, nays 8.

SENATE ACTION

February 27, 2019, read first time and referred to Committee on Commerce and Technology.
April 1, 2019, reported favorably — Do Pass.
April 8, 2019, read second time, amended, ordered engrossed.

EH 1015—LS 6057/DI 128



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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.

ENGROSSED 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 UPON PASSAGE]: 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~~

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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
6 UPON PASSAGE]: Sec. 4. (a) This section applies to contracts
7 entered into on or after the effective date of this section, as added
8 by HEA 1015-2019.**

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

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

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

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

21 SECTION 3. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1015, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1015 as introduced.)

TORR

Committee Vote: Yeas 11, Nays 0

COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred House Bill No. 1015, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1015 as printed January 29, 2019.)

PERFECT, Chairperson

Committee Vote: Yeas 10, Nays 0

SENATE MOTION

Madam President: I move that Engrossed House Bill 1015 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE UPON PASSAGE]".

Page 2, line 7, delete "July 1, 2019." and insert "**the effective date of this section, as added by HEA 1015-2019.**".

Page 2, after line 19, begin a new paragraph and insert:
"SECTION 3. **An emergency is declared for this act.**".

(Reference is to EHB 1015 as printed April 2, 2019.)

MESSMER

