

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 871

Short Title: Fair Contracting. (Public)

Sponsors: Representatives Arp, Stevens, Reives, and Floyd (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Commerce, if favorable, Rules, Calendar, and Operations of the House

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT DESIGNERS, AND PARTICULARLY SMALL AND WMBE
3 ENTITIES, FROM UNFAIR CONTRACTING AND DUTY TO DEFEND
4 REQUIREMENTS.

5 The General Assembly of North Carolina enacts:

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

7 "**§ 22B-1. Construction indemnity agreements invalid.**

8 (a) Any promise or agreement in, or in connection with, a contract or agreement relative
9 to the ~~design, planning,~~ construction, alteration, repair or maintenance of a building, structure,
10 highway, road, appurtenance or appliance, including moving, demolition and excavating
11 connected therewith, purporting to indemnify or hold harmless the promisee, the promisee's
12 independent contractors, agents, employees, or indemnitees against liability for damages arising
13 out of bodily injury to persons or damage to property proximately caused by or resulting from
14 the negligence, in whole or in part, of the promisee, its independent contractors, agents,
15 employees, or indemnitees, is against public policy and is void and unenforceable.

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

25 (c) Nothing contained in this section shall prevent or prohibit a contract, promise or
26 agreement whereby a promisor shall indemnify or hold harmless any promisee or the promisee's
27 independent contractors, agents, employees or indemnitees against liability for damages resulting
28 from the sole negligence of the promisor, its agents or employees.

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

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

32 (1) ~~nor shall this section apply to promises~~ Promises or agreements under which
33 a public utility as defined in G.S. 62-3(23) including a railroad corporation as
34 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.