

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 871
PROPOSED COMMITTEE SUBSTITUTE H871-PCS40439-ST-18

Short Title: Fair Contracts.

(Public)

Sponsors:

Referred to:

April 22, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE INTERESTS OF DESIGNERS, PARTICULARLY SMALL
3 AND WMBE ENTITIES, FROM UNFAIR CONTRACTING AND DUTY TO DEFEND
4 REQUIREMENTS THAT VIOLATE THE EXISTING PUBLIC POLICY OF NORTH
5 CAROLINA.

6 The General Assembly of North Carolina enacts:

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

8 "§ 22B-1. Construction indemnity agreements invalid.

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

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

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

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

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



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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.