

SENATE BILL 367

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9lr1437

By: **Senators West, Carozza, Eckardt, Gallion, Hough, Salling, and Serafini**
Introduced and read first time: January 31, 2019
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Courts – Prohibited Indemnity and Defense Liability Agreements**

3 FOR the purpose of altering the circumstances under which certain indemnity and defense
4 liability contract or agreement language concerning the provision of certain
5 construction-related services is void and unenforceable; and generally relating to
6 indemnity and defense liability agreements.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 5–401(a)
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2018 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Courts and Judicial Proceedings**

15 5–401.

16 (a) (1) A covenant, promise, agreement, or understanding in, or in connection
17 with or collateral to, a contract or agreement relating to architectural, engineering,
18 inspecting, or surveying services, or the construction, alteration, repair, or maintenance of
19 a building, structure, appurtenance or appliance, including moving, demolition, and
20 excavating connected with those services or that work, purporting to indemnify the
21 promisee against liability for damages arising out of bodily injury to any person [or],
22 damage to property, **OR ECONOMIC LOSS** caused by or resulting from the [sole] negligence
23 of the promisee or indemnitee, or the agents or employees of the promisee or indemnitee, is
24 against public policy and is void and unenforceable.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) A covenant, a promise, an agreement, or an understanding in, or in
2 connection with or collateral to, a contract or an agreement relating to architectural,
3 engineering, inspecting, or surveying services, or the construction, alteration, repair, or
4 maintenance of a building, a structure, an appurtenance, or an appliance, including
5 moving, demolition, and excavating connected with those services or that work, purporting
6 to require the promisor or indemnitor to defend or pay the costs of defending the promisee
7 or indemnitee against liability for damages arising out of bodily injury to any person [or],
8 damage to property, **OR ECONOMIC LOSS** caused by or resulting from the [sole] negligence
9 of the promisee or indemnitee, or the agents or employees of the promisee or indemnitee, is
10 against public policy and is void and unenforceable.

11 (3) This subsection does not affect the validity of any insurance contract,
12 workers' compensation, any general indemnity agreement required by a surety as a
13 condition of execution of a bond for a construction or other contract, or any other agreement
14 issued by an insurer.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2019.