

# HOUSE BILL 168

D3

0lr1228

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By: **Delegates Rosenberg, Anderson, and Dumais**

Introduced and read first time: January 20, 2010

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 16, 2010

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Architectural ~~or~~, Engineering, Inspecting, or Surveying Services –**  
3 **~~Construction Industry –~~ Indemnity Agreements – Void**

4 FOR the purpose of providing that certain indemnity agreements relating to certain  
5 architectural ~~or~~, engineering, inspecting, or surveying services are against  
6 public policy and are void and unenforceable under certain circumstances;  
7 providing that certain provisions of law do not affect the validity of a certain  
8 indemnity agreement; clarifying language; making stylistic changes; providing  
9 for the application of this Act; and generally relating to certain ~~construction~~  
10 ~~industry~~ indemnity agreements.

11 BY repealing and reenacting, with amendments,  
12 Article – Courts and Judicial Proceedings  
13 Section 5–401(a)  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume and 2009 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 5–401.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) (1) A covenant, promise, agreement, or understanding in, or in  
 2 connection with or collateral to, a contract or agreement relating to ~~the~~  
 3 ~~ARCHITECTURAL OR ENGINEERING SERVICES FOR ARCHITECTURAL,~~  
 4 ~~ENGINEERING, INSPECTING, OR SURVEYING SERVICES, OR THE~~ construction,  
 5 alteration, repair, or maintenance of, a building, structure, appurtenance or appliance,  
 6 including ~~INSPECTING, SURVEYING,~~ moving, demolition, and excavating connected  
 7 with [it] THOSE SERVICES OR THAT WORK, purporting to indemnify the promisee  
 8 against liability for damages arising out of bodily injury to any person or damage to  
 9 property caused by or resulting from the sole negligence of the promisee or  
 10 indemnitee, [his] **OR THE** agents or employees **OF THE PROMISEE OR INDEMNITEE**,  
 11 is against public policy and is void and unenforceable.

12 (2) This [section] **SUBSECTION** does not affect the validity of any  
 13 insurance contract, workers' compensation, ANY GENERAL INDEMNITY AGREEMENT  
 14 REQUIRED BY A SURETY AS A CONDITION OF EXECUTION OF A BOND FOR A  
 15 CONSTRUCTION OR OTHER CONTRACT, or any other agreement issued by an  
 16 insurer.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
 18 construed to apply only prospectively and may not be applied or interpreted to have  
 19 any effect on or application to any cause of action arising before the effective date of  
 20 this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 22 October 1, 2010.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.