

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 168  
Judiciary

(Delegate Rosenberg, *et al.*)

Judicial Proceedings

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Architectural, Engineering, Inspecting, or Surveying Services - Indemnity  
Agreements - Void

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This bill adds architectural, engineering, inspecting, and surveying services to the list of services for which indemnity agreements are considered void and unenforceable as a matter of public policy under State law. The bill clarifies that the prohibition on these types of indemnity agreements does not apply to a general indemnity agreement required for a surety bond.

The bill applies prospectively to causes of action arising after the October 1, 2010 effective date.

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**Fiscal Summary**

**State Effect:** Any increase in District Court cases as a result of the bill can be handled with existing budgeted State resources.

**Local Effect:** Any increase in circuit court cases as a result of the bill can be handled with existing budgeted local resources.

**Small Business Effect:** Potential minimal impact on small businesses to the extent that services affected by the bill are exposed to increased litigation as a result of voided indemnity agreements.

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## Analysis

**Current Law:** At common law, a contract can be unenforceable if it has an illegal purpose, is contrary to public policy, or is unconscionable, among other reasons. In general, construction or property maintenance contracts or agreements that indemnify the promisee against property damage or bodily injury caused by or resulting from the sole negligence of the promisee or indemnitee (or their agents or employees) are against public policy and are void and unenforceable. The prohibition also applies to promises, agreements or understandings connected to these contracts or agreements. Moving, demolition, and excavation services are among the service contracts to which the prohibition applies.

However, the prohibition does not apply to an insurance contract, worker's compensation, or any other agreement issued by an insurer.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - January 26, 2010  
mpc/kdm Revised - House Third Reader - March 26, 2010

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