

HOUSE BILL 1302

D3

4lr2771

By: **Delegates Parrott, Cluster, Glass, Hough, and Serafini**

Introduced and read first time: February 7, 2014

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 10, 2014

CHAPTER _____

1 AN ACT concerning

2 **Agreements to Defend or Pay the Cost of Defense – Void**

3 FOR the purpose of providing that certain agreements to defend or pay the costs of
4 defending certain promisees or indemnitees against liability for certain
5 damages are against public policy and are void and unenforceable under certain
6 circumstances; providing for the application of this Act; and generally relating
7 to certain agreements to defend or pay the costs of defending certain promisees
8 or indemnitees.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 5–401(a)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2013 Supplement)

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

16 **Article – Courts and Judicial Proceedings**

17 5–401.

18 (a) (1) A covenant, promise, agreement, or understanding in, or in
19 connection with or collateral to, a contract or agreement relating to architectural,
20 engineering, inspecting, or surveying services, or the construction, alteration, repair,

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 or maintenance of a building, structure, appurtenance or appliance, including moving,
 2 demolition, and excavating connected with those services or that work, purporting to
 3 indemnify the promisee against liability for damages arising out of bodily injury to any
 4 person or damage to property caused by or resulting from the sole negligence of the
 5 promisee or indemnitee, or the agents or employees of the promisee or indemnitee, is
 6 against public policy and is void and unenforceable.

7 **(2) A COVENANT, PROMISE, AGREEMENT, OR UNDERSTANDING**
 8 **IN, OR IN CONNECTION WITH OR COLLATERAL TO, A CONTRACT OR AGREEMENT**
 9 **RELATING TO ARCHITECTURAL, ENGINEERING, INSPECTING, OR SURVEYING**
 10 **SERVICES, OR THE CONSTRUCTION, ALTERATION, REPAIR, OR MAINTENANCE OF**
 11 **A BUILDING, STRUCTURE, APPURTENANCE OR APPLIANCE, INCLUDING MOVING,**
 12 **DEMOLITION, AND EXCAVATING CONNECTED WITH THOSE SERVICES OR THAT**
 13 **WORK, PURPORTING TO REQUIRE THE PROMISOR OR INDEMNITOR TO DEFEND**
 14 **OR PAY THE COSTS OF DEFENDING THE PROMISEE OR INDEMNITEE AGAINST**
 15 **LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY TO ANY PERSON OR**
 16 **DAMAGE TO PROPERTY CAUSED BY OR RESULTING FROM THE SOLE**
 17 **NEGLIGENCE OF THE PROMISEE OR INDEMNITEE, OR THE AGENTS OR**
 18 **EMPLOYEES OF THE PROMISEE OR INDEMNITEE, IS AGAINST PUBLIC POLICY**
 19 **AND IS VOID AND UNENFORCEABLE.**

20 **[(2)](3)** This subsection does not affect the validity of any insurance
 21 contract, workers' compensation, any general indemnity agreement required by a
 22 surety as a condition of execution of a bond for a construction or other contract, or any
 23 other agreement issued by an insurer.

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

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 29 October 1, 2014.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.