

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 1302

(Delegate Parrott, *et al.*)

Judiciary

Judicial Proceedings

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**Agreements to Defend or Pay the Cost of Defense - Void**

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This bill renders void and unenforceable as a matter of public policy under State law, certain agreements to defend or pay the costs of defending specified promisees or indemnitees against liability for damages arising out of bodily injury to any person or damage to property caused by or resulting from the sole negligence of the promisee or the indemnitee, or their agents or employees. The agreements relate to architectural, engineering, inspecting, or surveying services or the construction, alteration, or maintenance of property.

The bill applies prospectively to causes of action arising on or after the bill's October 1, 2014 effective date.

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**Fiscal Summary**

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

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

**Small Business Effect:** Potential meaningful impact on small businesses that have entered into the types of agreements affected by the bill.

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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, contracts or agreements relating to architectural, engineering, inspecting, or surveying services or the construction, alteration, or maintenance of property 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, a general indemnity agreement required for a surety bond, 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 - March 3, 2014  
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Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510