

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS55068-ST-4D*

Short Title: Contractor/Designer Fair Contracting. (Public)

Sponsors: Senator Newton (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT THE INTEREST OF CONTRACTORS AND DESIGNERS, AND
3 PARTICULARLY SMALL AND WMBE ENTITIES, FROM UNFAIR CONTRACTING
4 AND DUTY TO DEFEND REQUIREMENTS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 22B-1 reads as rewritten:

7 "§ 22B-1. Construction indemnity agreements invalid.

8 (a) Any promise or agreement in, or in connection with, a ~~contract~~ contract, promise, or
9 agreement relative to the design, planning, construction, alteration, repair or maintenance of a
10 building, structure, highway, road, appurtenance or appliance, including moving, demolition and
11 excavating connected therewith, purporting to indemnify or hold harmless the promisee, the
12 promisee's independent contractors, agents, employees, or ~~indemnitees~~ any other person or entity
13 against liability for damages arising out of (i) bodily injury to persons or persons, (ii) damage to
14 property property, (iii) economic damages, or (iv) losses or expenses of any type, including
15 attorneys' fees, proximately caused by or resulting from the negligence, in whole or in part, of
16 the promisee, its independent contractors, agents, employees, or indemnitees, any other person or
17 entity is against public policy and is void and unenforceable.

18 (b) ~~Nothing contained in this section shall prevent or prohibit a~~ Any contract, promise or
19 agreement whereby described in subsection (a) of this section may only require that a promisor
20 shall indemnify or hold harmless any promisee or the promisee's independent contractors, agents,
21 employees or indemnitees against liability for damages arising out of (i) bodily injury to persons,
22 (ii) damage to property, (iii) economic damages, or (iv) losses or expenses of any type, including
23 attorneys' fees, proximately caused by or resulting from the sole negligence negligence, in whole
24 or in part, of the promisor, its agents or employees.

25 (c) In any contract, promise, or agreement described in subsections (a) and (b) of this
26 section relative to design or planning, the obligation to indemnify or hold harmless shall not
27 include an obligation to defend the promisee, the promisee's independent contractors, agents,
28 employees, or any other person or entity. An obligation to defend shall not be imposed by any
29 other terms of the contract, promise, or agreement.

30 (d) ~~This section shall not affect an insurance contract, workers' compensation, or any~~
31 ~~other agreement issued by an insurer, nor shall this section apply to promises or agreements under~~
32 ~~which a public utility as defined in G.S. 62-3(23) including a railroad corporation as an~~
33 ~~indemnitee. This section shall not apply to contracts entered into by the Department of~~
34 ~~Transportation pursuant to G.S. 136-28.1.insurer."~~

35 SECTION 2. This act becomes effective October 1, 2019, and applies to contracts
36 entered into, amended, or renewed on or after that date.

