

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE ENROLLED ACT No. 230

AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 26-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. **(a) As used in this section, "construction or design contract" includes a design-build contract under which all of the following for the same project are included:**

- (1) Architectural, engineering, and related design services.**
- (2) Labor, materials, and other construction services.**

(b) All provisions, clauses, covenants, or agreements contained in, collateral to, or affecting any construction or design contract, except those pertaining to highway contracts, which purport to indemnify the promisee against liability for:

- (1) death or bodily injury to persons;
- (2) injury to property;
- (3) design defects; or
- (4) any other loss, damage, or expense arising under **either subdivision (1), (2), or (3);**

from ~~the sole negligence or willful misconduct of the promisee or the promisee's agents, servants, or independent contractors who are directly responsible to the promisee,~~ are against public policy and are void and unenforceable. **Sole negligence does not include vicarious liability, imputed negligence, or assumption of a nondelegable duty.**

SECTION 2. IC 26-2-5-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY

SEA 230 — Concur



1, 2019]: **Sec. 4. (a) This section applies to contracts entered into on or after July 1, 2019.**

(b) All provisions, clauses, covenants, or agreements contained in, collateral to, or affecting a contract pertaining to professional services of design professionals, architects, landscape architects, surveyors, engineers, geologists, or geotechnical and environmental consultants that purport to:

(1) require the professional to defend the promisee against a professional liability claim; or

(2) indemnify the promisee against liability other than liability for damages and losses arising out of third party claims to the extent the damages and losses are caused by the professional's willful misconduct or negligence;

are against public policy and are void and unenforceable.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 230 — Concur

