

SENATE BILL 387

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5lr2221
CF 5lr1771

By: **Senator Hough**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

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

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 5–401(a)
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2014 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 5–401.

17 (a) (1) A covenant, promise, agreement, or understanding in, or in connection
18 with or collateral to, a contract or agreement relating to architectural, engineering,
19 inspecting, or surveying services, or the construction, alteration, repair, or maintenance of
20 a building, structure, appurtenance or appliance, including moving, demolition, and
21 excavating connected with those services or that work, purporting to indemnify the
22 promisee against liability for damages arising out of bodily injury to any person or damage
23 to property caused by or resulting from the sole negligence of the promisee or indemnitee,
24 or the agents or employees of the promisee or indemnitee, is against public policy and is
25 void and unenforceable.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

14 **[(2)] (3)** This subsection does not affect the validity of any insurance
15 contract, workers' compensation, any general indemnity agreement required by a surety as
16 a condition of execution of a bond for a construction or other contract, or any other
17 agreement issued by an insurer.

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

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2015.