
SENATE BILL 5566

State of Washington

52nd Legislature

1991 Regular Session

By Senators Rasmussen, Johnson, Owen, Vognild, Moore, Bluechel, Barr and Sellar.

Read first time February 7, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to allowable provisions in construction contracts;
2 and amending RCW 4.24.115.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.24.115 and 1986 c 305 s 601 are each amended to read
5 as follows:

6 A covenant, promise, agreement or understanding in, or in
7 connection with or collateral to, a contract or agreement relative to
8 the construction, alteration, repair, addition to, subtraction from,
9 improvement to, or maintenance of, any building, highway, road,
10 railroad, excavation, or other structure, project, development, or
11 improvement attached to real estate, including moving and demolition in
12 connection therewith((~~7~~)):

13 (1) Purporting to indemnify against liability for damages arising
14 out of bodily injury to persons or damage to property:

1 (~~(1)~~) (a) Caused by or resulting from the sole negligence of the
2 indemnitee, his agents or employees is against public policy and is
3 void and unenforceable;

4 (~~(2)~~) (b) Caused by or resulting from the concurrent negligence
5 of (~~(a)~~) (i) the indemnitee or the indemnitee's agents or employees,
6 and (~~(b)~~) (ii) the indemnitor or the indemnitor's agents or
7 employees, is valid and enforceable only to the extent of the
8 indemnitor's negligence and only if the agreement specifically and
9 expressly provides therefor, and may waive the indemnitor's immunity
10 under industrial insurance, Title 51 RCW, only if the agreement
11 specifically and expressly provides therefor and the waiver was
12 mutually negotiated by the parties. This subsection applies to
13 agreements entered into after June 11, 1986.

14 (2) Purporting to require a general contractor, subcontractor, or
15 specialty contractor to name an owner or an agent of an owner, another
16 general contractor, subcontractor or other specialty contractor, or
17 other person or entity as an additional or name insured on a liability
18 insurance policy covering liability for damages arising out of bodily
19 injury to persons or damage to property, procured by such general
20 contractor, subcontractor, or specialty contractor, is against public
21 policy and is void and unenforceable. However, nothing contained
22 herein shall make void and unenforceable any additional insured
23 endorsement to the extent such injury or damage (a) arose out of the
24 fault of the procuring general contractor, subcontractor, or specialty
25 contractor, or (b) if fault is not a requirement for liability, where
26 such injury or damage is caused by the procuring general contractor,
27 subcontractor, or specialty contractor. Nothing contained herein shall
28 prohibit an owner from procuring insurance which covers liability for
29 damage arising out of bodily injury to persons or damage to property
30 for a general contractor, subcontractor, specialty contractor, or other

1 person or entity. This section does not apply to surety insurers who
2 are liable for performance of contractual obligations on contracts
3 covered by insurance policies.