
SENATE BILL 5850

State of Washington

63rd Legislature

2013 Regular Session

By Senator Mullet

Read first time 02/22/13. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to construction agreements; and adding a new
2 section to chapter 19.36 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.36 RCW
5 to read as follows:

6 (1) Except as provided in this section, any provision in a
7 construction agreement that requires a party or that party's surety or
8 insurer to indemnify another against liability for damage arising out
9 of death or bodily injury to persons or damage to property caused in
10 whole or in part by the negligence of the indemnitee is void.

11 (2) Subsection (1) of this section does not affect any provision in
12 a construction agreement that requires a party or that party's surety
13 or insurer to indemnify another against liability for damage arising
14 out of death or bodily injury to persons or damage to property to the
15 extent that the death or bodily injury to persons or damage to property
16 arises out of the fault of the indemnitor, or the fault of the
17 indemnitor's agents, representatives, or subcontractors.

18 (3) Except as provided in this section, a provision in a
19 construction agreement is void if the provision requires a party or

1 that party's surety or insurer to waive a right of subrogation,
2 indemnity, or contribution for amounts paid by reason of a loss caused
3 in whole or in part by the negligence of another person.

4 (4) Subsection (3) of this section does not affect a provision for
5 waiver of subrogation, indemnity, or contribution that applies to
6 proceeds of a property insurance policy.

7 (5) As used in this section, "construction agreement" means any
8 written agreement for the planning, design, construction, alteration,
9 repair, improvement or maintenance of any building, highway, road
10 excavation or other structure, project, development, or improvement
11 attached to real estate including moving, demolition, or tunneling in
12 connection therewith.

13 (6) This section does not apply to:

14 (a) Any real property lease or rental agreement between a landlord
15 and tenant whether or not any provision of the lease or rental
16 agreement relates to or involves planning, design, construction,
17 alteration, repair, improvement, or maintenance as long as the
18 predominant purpose of the lease or rental agreement is not planning,
19 design, construction, alteration, repair, improvement, or maintenance
20 of real property; or

21 (b) Any personal property lease or rental agreement.

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