

HOUSE BILL No. 1319

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-2-5.

Synopsis: Additional insured in construction projects. Declares void and unenforceable a contractual or insurance provision requiring insurance coverage for an additional insured with respect to certain construction projects to the extent the additional insured would be indemnified for certain liability.

Effective: July 1, 2016.

Torr

January 19, 2016, read first time and referred to Committee on Insurance.



Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1319

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

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

1 SECTION 1. IC 26-2-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2016]: Sec. 1. All provisions, clauses,
3 covenants, or agreements contained in, collateral to, or affecting any
4 construction or design contract except those pertaining to highway
5 contracts, which purport to indemnify the promisee against liability for:
6 (1) death or bodily injury to persons;
7 (2) injury to property;
8 (3) design defects; or
9 (4) any other loss, damage or expense arising under **either**
10 **subdivision** (1), (2), or (3);
11 from the ~~sole~~ negligence or willful misconduct of the promisee or the
12 promisee's agents, servants or independent contractors who are directly
13 responsible to the promisee, are against public policy and are void and
14 unenforceable.
15 SECTION 2. IC 26-2-5-4 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2016]: **Sec. 4. (a) This section applies to a construction contract**



1 or insurance policy or endorsement that is entered into, issued,
2 delivered, amended, or renewed after June 30, 2016.

3 (b) As used in this section, "consolidated insurance program"
4 means a program under which a person procures and provides:

- 5 (1) commercial general liability insurance coverage;
6 (2) worker's compensation insurance coverage; or
7 (3) both types of coverage described in subdivisions (1) and
8 (2);

9 for purposes of one (1) or more construction projects.

10 (c) As used in this section, "construction contract" means the
11 following:

12 (1) A:

13 (A) contract for services or supplies; or

14 (B) performance bond for the performance of a contract
15 described in clause (A);

16 entered into in connection with a construction project.

17 (2) An agreement:

18 (A) to which:

19 (i) an architect, an engineer, or a contractor; and

20 (ii) an owner's lender;

21 are parties; and

22 (B) concerning an assignment of, or modifications to, a
23 construction contract described in subdivision (1).

24 (d) As used in this section, "construction project" means the
25 following:

26 (1) The:

27 (A) design, construction, remodeling, maintenance, or
28 repair (including related excavation or demolition) of; or

29 (B) furnishing of material or equipment in connection with
30 work described in clause (A) on;

31 an improvement to real property.

32 (2) The location of:

33 (A) the real property; and

34 (B) any other location incidental and necessary to the
35 work, as specified in the contract for the work;

36 described in subdivision (1).

37 (e) Subsection (f) does not apply:

38 (1) to a commercial general liability insurance policy or
39 endorsement that is issued under a consolidated insurance
40 program; and

41 (2) to the extent that the commercial general liability
42 insurance policy or endorsement lists, adds, or removes a



1 **named insured.**
2 **(f) A provision in:**
3 **(1) a construction contract that requires the purchase of; or**
4 **(2) an insurance policy or endorsement that provides;**
5 **additional insured coverage for purposes of indemnification**
6 **described in section 1 of this chapter is void and unenforceable.**

