

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	5 - 0 - 0
Yeas:	Beyer, Kruse, Prozanski, Walker, Burdick
Nays:	0
Exc.:	0
Prepared By:	Matt Kalmanson, Counsel
Meeting Dates:	5/21

WHAT THE MEASURE DOES: Prohibits provisions in construction agreements – amended by HB 2708 to include written agreements for the planning and design of a project attached to real estate – that require indemnification for damages caused by negligence.

ISSUES DISCUSSED:

- Nature of indemnification agreements
- Joint and several liability in construction claims
- Legislative history of ORS 31.140
- Policy against allowing indemnification for negligence in construction agreements
- Current practice

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 30.140 prohibits clauses in construction agreements that require one party to indemnify another party, i.e., assume liability for damages caused by negligence. A policy behind prohibiting indemnification for negligence is the concern that, if a party is not liable for their negligent acts, they will be less careful. Currently, the statute defines “construction agreement” to mean a written agreement for the construction, alteration, repair, improvement or maintenance of any real estate project, but not including rental agreements. HB 2708 would amend the definition of “construction agreement” to include agreements for the planning and design of real estate projects.