

House Bill 2708

Sponsored by COMMITTEE ON CONSUMER PROTECTION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits certain indemnity clauses in construction agreements for planning or design of building, highway, road excavation or other structure, project, development or improvement attached to real estate. Applies only to construction agreements entered into on or after effective date of Act.

A BILL FOR AN ACT

1
2 Relating to construction agreements; creating new provisions; and amending ORS 30.140.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 30.140 is amended to read:

5 30.140. (1) Except to the extent provided under subsection (2) of this section, any provision in
6 a construction agreement that requires a person or that person's surety or insurer to indemnify
7 another against liability for damage arising out of death or bodily injury to persons or damage to
8 property caused in whole or in part by the negligence of the indemnitee is void.

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

14 (3) As used in this section, "construction agreement" means any written agreement for the
15 **planning, design**, construction, alteration, repair, improvement or maintenance of any building,
16 highway, road excavation or other structure, project, development or improvement attached to real
17 estate including moving, demolition or tunneling in connection therewith. [*Without limiting those*
18 *agreements that are not construction agreements, a "construction agreement" does not include:*]

19 **(4) This section does not apply to:**

20 (a) Any real property lease or rental agreement between a landlord and tenant whether or not
21 any provision of the lease or rental agreement relates to or involves **planning, design**, construction,
22 alteration, repair, improvement or maintenance as long as the predominant purpose of the lease or
23 rental agreement is not **planning, design**, construction, alteration, repair, improvement or maintenance
24 of real property; or

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

26 [~~4~~] (5) No provision of this section shall be construed to apply to a "railroad" as defined in
27 ORS 824.200.

28 **SECTION 2.** The amendments to ORS 30.140 by section 1 of this 2007 Act apply only to
29 construction agreements entered into on or after the effective date of this 2007 Act.
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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.