

B-Engrossed
Senate Bill 961

Ordered by the House June 1
Including Senate Amendments dated May 2 and House Amendments dated
June 1

Sponsored by Senator MORSE

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.

Voids construction agreement provisions that require waiver of right of subrogation, indemnity or contribution for amounts paid by reason of *[loss]* **death or bodily injury, or damage to property**, caused by negligence of another party. Creates exceptions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to construction agreements; and declaring an emergency.

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

4 **SECTION 1. (1) Except as provided in this section, a provision in a construction agree-**
5 **ment is void to the extent that the provision requires a party or the party's surety or insurer**
6 **to waive a right of subrogation, indemnity or contribution for amounts paid by reason of**
7 **death or bodily injury, or damage to property, caused in whole or in part by the negligence**
8 **of another person.**

9 **(2) This section does not apply to a provision for waiver of subrogation, indemnity or**
10 **contribution in an insurance policy issued pursuant to ORS 737.602 or to a provision for**
11 **waiver of subrogation, indemnity or contribution that applies to proceeds of a property in-**
12 **surance policy.**

13 **(3) This section does not apply to a provision for waiver of subrogation, indemnity or**
14 **contribution in a real property lease or rental agreement between a landlord and tenant,**
15 **whether or not any provision of the lease or rental agreement relates to or involves planning,**
16 **designing, constructing, altering, repairing, improving or maintaining, as long as the pre-**
17 **dominant purpose of the lease or rental agreement is not planning, designing, constructing,**
18 **altering, repairing, improving or maintaining real property.**

19 **(4) This section does not apply to a provision for waiver of subrogation, indemnity or**
20 **contribution in a personal property lease or rental agreement.**

21 **(5) This section does not apply to a provision for waiver of subrogation, indemnity or**
22 **contribution in a construction agreement in which one of the parties is a railroad as defined**
23 **in ORS 824.200.**

24 **(6) As used in this section, "construction agreement" has the meaning given that term**
25 **in ORS 30.140.**

26 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**

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.

1 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
2 **on its passage.**

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