

## SENATE AMENDMENTS TO SENATE BILL 961

By COMMITTEE ON JUDICIARY

May 2

1 On page 1 of the printed bill, delete lines 5 through 31 and insert:

2 **“SECTION 1.** ORS 30.140 is amended to read:

3 **“30.140. (1) Except [to the extent provided under subsection (2) of] as provided in** this section,  
4 any provision in a construction agreement that requires a [person] **party** or that [person’s] **party’s**  
5 surety or insurer to indemnify another against liability for damage arising out of death or bodily  
6 injury to persons or damage to property caused in whole or in part by the negligence of the  
7 indemnitee is void.

8 **“(2) Subsection (1) of** this section does not affect any provision in a construction agreement  
9 that requires a [person] **party** or that [person’s] **party’s** surety or insurer to indemnify another  
10 against liability for damage arising out of death or bodily injury to persons or damage to property  
11 to the extent that the death or bodily injury to persons or damage to property arises out of the fault  
12 of the indemnitor, or the fault of the indemnitor’s agents, representatives or subcontractors.

13 **“(3) Except as provided in this section, a provision in a construction agreement is void**  
14 **if the provision requires a party or that party’s surety or insurer to waive a right of**  
15 **subrogation, indemnity or contribution for amounts paid by reason of a loss caused in whole**  
16 **or in part by the negligence of another person.**

17 **“(4) Subsection (3) of this section does not affect a provision for waiver of subrogation,**  
18 **indemnity or contribution in an insurance policy issued pursuant to ORS 737.602, or a pro-**  
19 **vision for waiver of subrogation, indemnity or contribution that applies to proceeds of a**  
20 **property insurance policy.**

21 **“[(3)] (5) As used in this section, ‘construction agreement’ means any written agreement for the**  
22 **planning, design, construction, alteration, repair, improvement or maintenance of any building,**  
23 **highway, road excavation or other structure, project, development or improvement attached to real**  
24 **estate including moving, demolition or tunneling in connection therewith.**

25 **“[(4)] (6) This section does not apply to:**

26 **“(a) Any real property lease or rental agreement between a landlord and tenant whether or not**  
27 **any provision of the lease or rental agreement relates to or involves planning, design, construction,**  
28 **alteration, repair, improvement or maintenance as long as the predominant purpose of the lease or**  
29 **rental agreement is not planning, design, construction, alteration, repair, improvement or mainte-**  
30 **nance of real property; or**

31 **“(b) Any personal property lease or rental agreement.**

32 **“[(5)] (7) No provision of this section shall be construed to apply to a [‘railroad’] as defined in**  
33 **ORS 824.200.”.**

34 On page 2, delete lines 1 through 4.

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