

# SENATE BILL 234

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SB 387/15 – JPR

6lr2197  
CF 6lr2577

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By: **Senator Hough**

Introduced and read first time: January 22, 2016

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Agreements to Defend or Pay the Cost of Defense – Void**

3 FOR the purpose of providing that certain agreements to defend or pay the costs of  
4 defending certain promisees or indemnitees against liability for certain damages are  
5 against public policy and are void and unenforceable under certain circumstances;  
6 providing for the application of this Act; and generally relating to certain agreements  
7 to defend or pay the costs of defending certain promisees or indemnitees.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 5–401(a)  
11 Annotated Code of Maryland  
12 (2013 Replacement Volume and 2015 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
14 That the Laws of Maryland read as follows:

15 **Article – Courts and Judicial Proceedings**

16 5–401.

17 (a) (1) A covenant, promise, agreement, or understanding in, or in connection  
18 with or collateral to, a contract or agreement relating to architectural, engineering,  
19 inspecting, or surveying services, or the construction, alteration, repair, or maintenance of  
20 a building, structure, appurtenance or appliance, including moving, demolition, and  
21 excavating connected with those services or that work, purporting to indemnify the  
22 promisee against liability for damages arising out of bodily injury to any person or damage  
23 to property caused by or resulting from the sole negligence of the promisee or indemnitee,  
24 or the agents or employees of the promisee or indemnitee, is against public policy and is  
25 void and unenforceable.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(2) A COVENANT, A PROMISE, AN AGREEMENT, OR AN**  
2 **UNDERSTANDING IN, OR IN CONNECTION WITH OR COLLATERAL TO, A CONTRACT OR**  
3 **AN AGREEMENT RELATING TO ARCHITECTURAL, ENGINEERING, INSPECTING, OR**  
4 **SURVEYING SERVICES, OR THE CONSTRUCTION, ALTERATION, REPAIR, OR**  
5 **MAINTENANCE OF A BUILDING, A STRUCTURE, AN APPURTENANCE, OR AN**  
6 **APPLIANCE, INCLUDING MOVING, DEMOLITION, AND EXCAVATING CONNECTED**  
7 **WITH THOSE SERVICES OR THAT WORK, PURPORTING TO REQUIRE THE PROMISOR**  
8 **OR INDEMNITOR TO DEFEND OR PAY THE COSTS OF DEFENDING THE PROMISEE OR**  
9 **INDEMNITEE AGAINST LIABILITY FOR DAMAGES ARISING OUT OF BODILY INJURY TO**  
10 **ANY PERSON OR DAMAGE TO PROPERTY CAUSED BY OR RESULTING FROM THE SOLE**  
11 **NEGLIGENCE OF THE PROMISEE OR INDEMNITEE, OR THE AGENTS OR EMPLOYEES**  
12 **OF THE PROMISEE OR INDEMNITEE, IS AGAINST PUBLIC POLICY AND IS VOID AND**  
13 **UNENFORCEABLE.**

14           **[(2)] (3)** This subsection does not affect the validity of any insurance  
15 contract, workers' compensation, any general indemnity agreement required by a surety as  
16 a condition of execution of a bond for a construction or other contract, or any other  
17 agreement issued by an insurer.

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
19 apply only prospectively and may not be applied or interpreted to have any effect on or  
20 application to any cause of action arising before the effective date of this Act.

21           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2016.