CHAPTER 2

Contracts Against Public Policy

**SECTION 32‑2‑10.** Hold harmless clauses in certain construction contracts.

Notwithstanding any other provision of law, a promise or agreement in connection with the design, planning, construction, alteration, repair or maintenance of a building, structure, highway, road, appurtenance or appliance, including moving, demolition and excavating, purporting to indemnify the promisee, its independent contractors, agents, employees, or indemnitees against liability for damages arising out of bodily injury or property damage proximately caused by or resulting from the sole negligence of the promisee, its independent contractors, agents, employees, or indemnitees is against public policy and unenforceable. Nothing contained in this section shall affect a promise or agreement whereby the promisor shall indemnify or hold harmless the promisee or the promisee’s independent contractors, agents, employees or indemnitees against liability for damages resulting from the negligence, in whole or in part, of the promisor, its agents or employees. The provisions of this section shall not affect any insurance contract or workers’ compensation agreements; nor shall it apply to any electric utility, electric cooperative, common carriers by rail and their corporate affiliates or the South Carolina Public Service Authority.

HISTORY: 1980 Act No. 466.

Library References

Contracts 114.

Westlaw Topic No. 95.

C.J.S. Contracts Section 271.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Contracts Section 4, Contracts Against Public Policy.

Treatises and Practice Aids

Bruner and O’Connor on Construction Law Section 10:90, Anti‑Indemnity Statutes‑Statutes Prohibiting Indemnity Against Loss Due to the Indemnitee’s Sole Negligence.

Restatement (3d) Torts: Apportionment Liability Section 22, Indemnity.

Restatement (3d) Torts: Apportionment Liability Section 31 PFD, Indemnity.

Restatement (3d) Torts: Apportionment Liability Section 32 PFD REV, Indemnity.

LAW REVIEW AND JOURNAL COMMENTARIES

Risk allocation through indemnity obligations in construction contracts. 40 S.C. L. Rev. 989 (Summer 1989).