

HOUSE MESSAGE SUMMARY

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BILL: SB 428, 1st Eng.
SPONSOR: Senator Dyer
SUBJECT: Building Construction
PREPARED BY: Senate Committee on Regulated Industries
DATE: May 1, 2001

I. Amendments Contained in Message:

House Amendment 1 – 785035 (body with title)

II. Summary of Amendments Contained in Message:

House Amendment 1 makes void and unenforceable any portion of a construction contract in which one party agrees to indemnify or hold harmless the other party unless the contract contains a monetary limit on the extent of the indemnification that bears a reasonable commercial relationship to the contract and is part of the bid documents or project specifications. The indemnification may cover acts and omissions of the indemnitee as well as the indemnitor and the indemnitor's employees, contractors, and agents. However, the indemnification for acts or omissions of the indemnitee cannot include damages resulting from gross negligence, or willful, wanton, or intentional misconduct of the indemnitee, or for statutory violation, or punitive damages.

The amendment also makes current law on indemnification clauses in construction contracts and design contracts applicable only to contracts with public agencies. This law provides that such contracts may require one party to indemnify and hold harmless the other party for damages resulting from the acts or omissions of the indemnifying party and persons employed or utilized by the indemnifying party in performance of the contract. Any other indemnity provision in such a contract is void and unenforceable.