

BILL ANALYSIS

Senate Research Center
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S.B. 561
By: Sibley
Jurisprudence
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DIGEST AND PURPOSE

Currently, Texas law provides that a contractor cannot be required to indemnify an engineer or architect from certain liability arising from the negligence of the engineer or architect. Engineers and architects, however, are often faced with contractual provisions that require the engineer or architect to indemnify an owner against liability arising from the owner's negligence. These provisions are uninsurable under the coverages typically carried by architects and engineers. As proposed, S.B. 561 provides that these provisions are void and unenforceable to the extent that an engineer or architect is required to indemnify an owner against the owner's negligence. A similar provision applying to construction contracts entered into by governmental entities already exist in the Local Government Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 130, Civil Practice and Remedies Code, as follows:

CHAPTER 130. New heading: INDEMNIFICATION IN CERTAIN CONSTRUCTION CONTRACTS

SECTION 2. Amends Section 130.001, Civil Practice and Remedies Code, by redefining "construction contract" to include "registered architect, registered engineer, or supplier concerning the design."

SECTION 3. Amends Section 130.002, Civil Practice and Remedies Code, by providing that a covenant or promise in, in connection with, or collateral to a construction contract other than a contract for a single family or multifamily residence is void and unenforceable if the covenant or promise provides for a registered architect or registered engineer whose work product is the subject of the construction contract to indemnify or hold harmless an owner or owner's agent or employee from liability for certain damages.

SECTION 4. Amends Section 130.004, Civil Practice and Remedies Code, by providing that except as provided by Section 130.002(b), this chapter does not apply to an owner of an interest in real property or persons employed solely by that owner. Makes a conforming change.

SECTION 5. Amends Section 271.904 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, by deleting Subsection (b) which makes reference to an agreed upon covenant.

SECTION 6. Effective date: September 1, 2001.
Makes application of the Act prospective.