

SENATE SUBSTITUTE TO HB 136

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to
 2 contracts contravening public policy generally, so as to provide that any contract which
 3 imposes certain taxes or fees on an insurance company for certain services shall be deemed
 4 to be contrary to public policy and unenforceable; to provide that any provision of a contract
 5 of insurance which provides for indemnification against liability for damages arising out of
 6 bodily injury to persons, death, or damage to property caused by an indemnitee or its, his, or
 7 her officers, agents, or employees in connection with a contract or agreement relative to the
 8 construction, alteration, repair, or maintenance of a building structure, appurtenances, and
 9 appliances is against public policy, void, and unenforceable; to provide for related matters;
 10 to provide for applicability; to provide an effective date; to repeal conflicting laws; and for
 11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

13 Code Section 13-8-2 of the Official Code of Georgia Annotated, relating to contracts
 14 contravening public policy generally, is amended as follows:

15 "(a) A contract which is against the policy of the law cannot be enforced. Contracts
 16 deemed contrary to public policy include but are not limited to:

- 17 (1) Contracts tending to corrupt legislation or the judiciary;
 18 (2) Contracts in general restraint of trade, as distinguished from contracts in partial
 19 restraint of trade as provided for in Code Section 13-8-2.1;
 20 (3) Contracts to evade or oppose the revenue laws of another country;
 21 (4) Wagering contracts;
 22 (5) Contracts of maintenance or champerty; or
 23 (6) Contracts, express or implied, which impose additional taxes or any other fees of any
 24 kind on an insurance company for any services provided by a county or municipal
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1 corporation to such insurance company's insured which is in addition to the tax
 2 authorized by subsection (a) of Code Section 33-8-8.2.

3 (b) A covenant, promise, agreement, or understanding in or in connection with or collateral
 4 to a contract or agreement relative to the construction, alteration, repair, or maintenance of
 5 a building structure, appurtenances, and appliances, including moving, demolition, and
 6 excavating connected therewith, purporting to require that one party to such contract or
 7 agreement shall indemnify, or hold harmless, insure, or defend the other party to the
 8 contract or other named the promisee indemnitee, including its, his, or her officers, agents,
 9 or employees, against liability or claims for damages, losses, or expenses, including
 10 attorney fees, arising out of bodily injury to persons, death, or damage to property caused
 11 by or resulting from the sole negligence of the promisee indemnitee, or its, his, or her
 12 officers, agents, or employees, or indemnitee is against public policy and is void and
 13 unenforceable, provided that this subsection shall not affect the validity of any insurance
 14 contract, workers' compensation, or agreement issued by an admitted insurer. Any
 15 provision in an insurance contract issued pursuant to any such covenant, promise,
 16 agreement, or understanding to insure against any such liability or claims is, to that extent,
 17 against public policy and void and unenforceable. This subsection shall not affect any
 18 obligation under workers' compensation or coverage or insurance specifically relating to
 19 workers' compensation, nor shall this subsection apply to any requirement that one party
 20 to the contract purchase a project specific insurance policy, including an owner's or
 21 contractor's protective insurance, builder's risk insurance, installation coverage, project
 22 management protective liability insurance, an owner controlled insurance policy, or a
 23 contractor controlled insurance policy."

24 SECTION 2.

25 This Act shall not be applied to impair any obligation of contract or agreement entered into
 26 prior to the effective date of this Act, but this Act shall apply to any contract entered into,
 27 extended, or renewed on or after such date.

28 SECTION 3.

29 This Act shall become effective on July 1, 2007.

30 SECTION 4.

31 All laws and parts of laws in conflict with this Act are repealed.