

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 11-4.4 of the Code of Virginia, relating to contracts with design*  
3 *professionals; provisions requiring a duty to defend void.*

4  
5 Approved

[S 658]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 11-4.4 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 11-4.4. Certain indemnification and duty to defend provisions in contracts with design**  
9 **professionals declared void.**

10 Any provision contained in any contract relating to the planning or design of a building, structure or  
11 appurtenance thereto, including moving, demolition or excavation connected therewith, or any provision  
12 contained in any contract relating to the planning or design of construction projects other than buildings  
13 by which the architect or professional engineer performing such work purports to indemnify or hold  
14 harmless another party to the contract against liability for damage arising out of bodily injury to persons  
15 or damage to property suffered in the course of the performance of the contract, caused by or resulting  
16 solely from the negligence of such other party, his agents or employees, is against public policy and is  
17 void and unenforceable.

18 This section shall apply to such contracts between an architect or professional engineer and any  
19 public body as defined in § 2.2-4301. Every provision contained in a contract between an architect or  
20 professional engineer and a public body relating to the planning or design of a building, structure or  
21 appurtenance thereto, including moving, demolition or excavation connected therewith, or relating to the  
22 planning or design of construction projects other than buildings by which the architect or professional  
23 engineer performing such work purports to indemnify or hold harmless the public body against liability  
24 is against public policy and is void and unenforceable. This section shall not be construed to alter or  
25 affect any provision in such a contract that purports to indemnify or hold harmless the public body  
26 against liability for damage arising out of the negligent acts, errors or omissions, recklessness or  
27 intentionally wrongful conduct of the architect or professional engineer in performance of the contract.

28 *Any provision contained in any contract relating to the planning or design of a building, structure,*  
29 *or appurtenance thereto, including moving, demolition, or excavation connected therewith, or any*  
30 *provision contained in any contract relating to the planning or design of construction projects by which*  
31 *any party purports to impose a duty to defend on any other party to the contract, is against public*  
32 *policy and is void and unenforceable.*

33 This section shall not affect the validity of any insurance contract, workers' compensation, or any  
34 agreement issued by an admitted insurer.