

# ACT No. 379

2023 Regular Session

HOUSE BILL NO. 573

BY REPRESENTATIVE MCFARLAND

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AN ACT

To amend and reenact R.S. 38:2195(B) and (C) and R.S. 48:251.7(B) and to enact R.S. 38:2195(D) and R.S. 48:251.7(C), relative to prohibited provisions in public contracts; to provide that any public contract provision that violates provisions of law governing motor carrier transportation contracts and construction contracts is invalid; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2195(B) and (C) are hereby amended and reenacted and R.S. 38:2195(D) is hereby enacted to read as follows:

§2195. Prohibited provisions

\* \* \*

B. It is hereby declared that any provision contained in a public contract, other than a provision naming another as a co-insured or additional beneficiary in a contract of insurance, which requires a contracting private party to assume liability for damages arising out of injuries or property damage to a public entity caused by the negligence of anyone other than the contracting private party, its employees, or agents, is contrary to the public policy of the state of Louisiana. Any and all such provisions in any and all public contracts shall be null and void.

C. The provisions of this Section shall be inapplicable with respect to intrastate intergovernmental contracts and to contracts with private providers for the placement and care of persons in the custody of the state.

~~€~~ D. The provisions of this Section shall not apply to contracts between any public entity and the owner of immovable property when the purpose of such

1 contract is to grant the public entity a servitude, right of way, or other authority to  
2 go upon, construct works, perform activities, or otherwise exercise control over or  
3 use the owner's property.

4 Section 2. R.S. 48:251.7(B) is hereby amended and reenacted and R.S. 48:251.7(C)  
5 is hereby enacted to read as follows:

6 §251.7. Prohibited provisions

7 \* \* \*

8 B. It is hereby declared that any provision contained in a department  
9 contract, other than a provision naming another as a co-insured or additional  
10 beneficiary in a contract of insurance, which requires a contracting private party to  
11 assume liability for damages arising out of injuries or property damage to the  
12 department caused by the negligence of anyone other than the contracting private  
13 party, its employees, or agents, is contrary to the public policy of the state of  
14 Louisiana. Any and all such provisions in any and all department contracts shall be  
15 null and void.

16 C. The provisions of this Section shall not apply to contracts between the  
17 department and the owner of immovable property when the purpose of such contract  
18 is to grant the department a servitude, right-of-way, or other authority to go upon,  
19 construct works, perform activities, or to otherwise exercise control over or use the  
20 owner's property.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_