

Testimony of Joseph Costello

On behalf of Bancroft Contracting Corporation, South Paris, Maine

In Support of LD 1761

Before the Joint Standing Committee on Judiciary

January 7, 2026

Senator Carney, Representative Kuhn, and members of the Judiciary Committee:

My name is Joseph Costello, and I am here today as a Vice President of Bancroft Contracting Corporation in South Paris, Maine. Bancroft Contracting is a second-generation, family-owned, self-performing general contracting firm that has operated in this state for nearly fifty years. We specialize in industrial and heavy civil construction. We employ over 150 Maine residents and wake up every day focused on keeping our employees and our job sites safe.

I am here to urge you to support LD 1761.

In the construction industry, indemnification clauses are not theoretical—they are a regular contracting obstacle with real-world consequences. At Bancroft Contracting, we are often compelled to sign contracts with indemnity provisions that make us legally and financially responsible for the negligent acts, the unsafe conditions, and the professional errors made by others on the project.

As a general contractor, we accept full responsibility for our actions and those of our subcontractors. Yet in heavy industrial construction full job site control is rarely the norm. Contractors and subcontractors are regularly required to work within continuously operating production facilities. These are dynamic environments that keep Maine running. Having given up the traditional elements of site control, it is profoundly unfair to require a contractor to indemnify an owner's negligent acts or their unsafe site conditions.

What we have seen result from indemnification clauses is a loss of accountability—which ultimately harms the general wellbeing of the Maine worker. When responsibility for actions is shifted away from the party making the decisions, the incentive to engage in best safety practices is diminished. Prohibiting indemnification clauses restores a simple, common-sense principle: each party should be responsible for its own actions.

What is particularly pernicious is that these clauses are not the result of good-faith negotiation; rather they are presented as non-negotiable and imposed as a condition of doing business. Parties can do so because of imbalances in bargaining positions. That is not risk management—it is risk transfer based on economic might.

Nearly all other states have already recognized that overly broad indemnification clauses are harmful to construction contracts and have enacted statutory protections against their utilization. This bill puts us on a level playing field with the rest of the country.

LD 1761 does not prevent reasonable risk mitigation through insurance in contracts. It simply ensures that liability rests where it belongs—with the party whose negligence caused the injury.

As a general contractor, I want clear rules, fair contracts, and shared accountability. This bill helps achieve all three.

I respectfully urge the Committee to support LD 1761 and allow it to move forward.

Thank you for your time and for your service to the people of Maine.