

By Representative Bense

1 A bill to be entitled
2 An act relating to professional services
3 contracts; creating s. 725.08, F.S.; providing
4 for indemnification in design professional
5 contracts and voiding all others as being
6 against public policy; providing definitions;
7 providing for application; amending s. 725.06,
8 F.S.; conforming to the act; providing an
9 effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Section 725.08, Florida Statutes, is
14 created to read:

15 725.08 Design professional contracts; limitation in
16 indemnification.--

17 (1) If a design professional provides professional
18 services to or for a client, whether a public agency or
19 private entity, such client may require in a professional
20 services contract with the design professional that the design
21 professional indemnify and hold harmless the client, and its
22 officers and employees, from liabilities, damages, losses, and
23 costs, including, but not limited to, reasonable attorneys'
24 fees, to the extent caused by the negligence, recklessness, or
25 intentionally wrongful conduct of the design professional and
26 other persons employed or utilized by the design professional
27 in the performance of the contract.

28 (2) Except as specifically provided in subsection (1),
29 a professional services contract may not require that the
30 design professional defend, indemnify, or hold harmless the
31 client, its employees, officers, directors, or agents from any

1 liability, damage, loss, claim, action, or proceeding, and any
2 such contract provision will be void as against the public
3 policy of this state.

4 (3) "Professional services contract" means a written
5 or oral agreement relating to the planning, design,
6 construction, administration, study, evaluation, consulting,
7 or other professional and technical support services furnished
8 in connection with any actual or proposed construction,
9 improvement, alteration, repair, maintenance, operation,
10 management, relocation, demolition, excavation, or other
11 facility, land, air, water, or utility development or
12 improvement.

13 (4) "Design professional" means an individual or
14 entity licensed by the state who holds a current certificate
15 of registration under chapter 481 to practice architecture or
16 under chapter 471 to practice engineering, and who enters into
17 a professional services contract.

18 (5) This section does not affect contracts or
19 agreements entered into before the effective date of this
20 section.

21 Section 2. Section 725.06, Florida Statutes, is
22 amended to read:

23 725.06 Construction contracts; limitation on
24 indemnification.--Any portion of any agreement or contract
25 for, or in connection with, any construction, alteration,
26 repair, or demolition of a building, structure, appurtenance,
27 or appliance, including moving and excavating connected with
28 it, or any guarantee of, or in connection with, any of them,
29 between an owner of real property and a ~~an architect,~~
30 ~~engineer,~~ general contractor, subcontractor,
31 sub-subcontractor, or materialman, or between any combination

1 thereof, wherein any party referred to herein obtains
2 indemnification from liability for damages to persons or
3 property caused in whole or in part by any act, omission, or
4 default of that party arising from the contract or its
5 performance shall be void and unenforceable unless:

6 (1) The contract contains a monetary limitation on the
7 extent of the indemnification and shall be a part of the
8 project specifications or bid documents, if any, or

9 (2) The person indemnified by the contract gives a
10 specific consideration to the indemnitor for the
11 indemnification that shall be provided for in his or her
12 contract and section of the project specifications or bid
13 documents, if any.

14 Section 3. This act shall take effect upon becoming a
15 law.

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18 HOUSE SUMMARY

19 Provides for indemnification in described design
20 professional contracts. Defines a design professional as
21 an individual or entity licensed by the state who holds a
22 current certificate of registration to practice
23 architecture or engineering. See bill for details.
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