

By the Committee on Regulated Industries and Senator Clary

315-1881-00

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

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

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

725.08 Design professional contracts; limitation in
indemnification.--

(1) If a design professional provides professional
services to or for a public agency, the agency may require in
a professional services contract with the design professional
that the design professional indemnify and hold harmless the
agency, and its officers and employees, from liabilities,
damages, losses, and costs, including, but not limited to,
reasonable attorneys' fees, to the extent caused by the
negligence, recklessness, or intentionally wrongful conduct of
the design professional and other persons employed or utilized
by the design professional in the performance of the contract.

(2) Except as specifically provided in subsection (1),
a professional services contract may not require that the
design professional defend, indemnify, or hold harmless the
client, its employees, officers, directors, or agents from any
liability, damage, loss, claim, action, or proceeding, and any

1 such contract provision will be void as against the public
2 policy of this state.

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

12 (4) "Design professional" means an individual or
13 entity licensed by the state who holds a current certificate
14 of registration under chapter 481 to practice architecture or
15 landscape architecture, under chapter 472 to practice land
16 surveying and mapping, or under chapter 471 to practice
17 engineering, and who enters into a professional services
18 contract.

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

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

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

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

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

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

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

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 Senate Bill 1996

21 The Committee Substitute for Senate Bill 1996 adds land
22 surveyors, mappers, and landscape architects to the definition
23 of design professional. It narrows application of the bill to
24 professional services contracts with public agencies.
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