

By Representative Mahon

1 A bill to be entitled
2 An act relating to construction contracts;
3 amending s. 725.06, F.S.; providing that
4 indemnification in construction contracts is
5 against public policy and void; providing
6 exceptions; providing an effective date.
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8 Be It Enacted by the Legislature of the State of Florida:
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10 Section 1. Section 725.06, Florida Statutes, is
11 amended to read:

12 (Substantial rewording of section. See
13 s. 725.06, F.S., for present text.)

14 725.06 Construction contracts; limitation on
15 indemnification.--

16 (1) Any portion of any agreement or contract for or in
17 connection with, or any guarantee of or in connection with,
18 any construction, alteration, repair, or demolition of a
19 building, structure, appurtenance, or appliance, including
20 moving and excavating associated therewith, between an owner
21 of real property and an architect, engineer, general
22 contractor, subcontractor, sub-subcontractor, or materialman
23 or any combination thereof wherein any party referred to
24 herein obtains indemnification from liability for damages to
25 persons or property caused in whole or in part by any act,
26 omission, or default of that party arising from the contract
27 or its performance shall be void and unenforceable unless:

28 (a) The contract contains a monetary limitation on the
29 extent of the indemnification and shall be a part of the
30 project specifications or bid documents, if any; or
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1 (b) The person indemnified by the contract gives a
2 specific consideration to the indemnitor for the
3 indemnification that shall be provided for in his or her
4 contract and section of the project specifications or bid
5 documents, if any.

6 (2) Notwithstanding the provisions of subsection (1),
7 if a construction contractor provides service to or for a
8 public agency, the agency may require in a construction
9 contract with the contractor that the contractor indemnify and
10 hold harmless the agency, its officers and employees, and the
11 agency's consultants and design professionals from
12 liabilities, damages, losses, and costs, including, but not
13 limited to, reasonable attorney's fees, to the extent caused
14 by the negligence, recklessness, or intentionally wrongful
15 conduct of the contractor and other persons employed or
16 utilized by the contractor in the performance of the contract.

17 (3) Except as specifically provided in subsection (2),
18 a construction contract may not require that the contractor
19 defend, indemnify, or hold harmless the agency, its employees,
20 officers, directors, or agents from any liability, damage,
21 loss, claim, action, or proceeding, and any such contract
22 provision shall be void as against the public policy of this
23 state.

24 Section 2. This act shall take effect upon becoming a
25 law.

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28 HOUSE SUMMARY

29 Provides that an indemnification agreement in a
30 construction contract is void as against public policy.
31 Provides exceptions. See bill for details.