

hbd-032

Bill No. SB 428, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Mahon offered the following:

Amendment (with title amendment)

On page 17, lines 1-28,
remove from the bill: all of said lines,
and insert in lieu thereof:

Section 10. Section 725.06, Florida Statutes, is amended to read:

725.06 Construction contracts; limitation on indemnification.--

(1) Any portion of any agreement or contract for or in connection with, or any guarantee of or in connection with, any construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance, including moving and excavating associated therewith, between an owner of real property and an architect, engineer, general contractor, subcontractor, sub-subcontractor, or materialman or any combination thereof wherein any party referred to herein promises to indemnify or hold harmless the other party to the agreement, contract, or guarantee for liability for

hbd-032

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1 damages to persons or property caused in whole or in part by
2 any act, omission, or default of the indemnitee arising from
3 the contract or its performance, shall be void and
4 unenforceable unless the contract contains a monetary
5 limitation on the extent of the indemnification that bears a
6 reasonable commercial relationship to the contract and is part
7 of the project specifications or bid documents, if any.
8 Notwithstanding the foregoing, the monetary limitation on the
9 extent of the indemnification provided to the owner of real
10 property by any party in privity of contract with such owner
11 shall not be less than \$1 million per occurrence, unless
12 otherwise agreed by the parties. Indemnification provisions in
13 any such agreements, contracts, or guarantees may not require
14 that the indemnitor indemnify the indemnitee for damages to
15 persons or property caused in whole or in part by any act,
16 omission, or default of a party other than:
17 (a) The indemnitor;
18 (b) Any of the indemnitor's contractors,
19 subcontractors, sub-subcontractors, materialmen, or agents of
20 any tier or their respective employees; or
21 (c) The indemnitee or its officers, directors, agents,
22 or employees. However, such indemnification shall not include
23 claims of, or damages resulting from, gross negligence, or
24 willful, wanton or intentional misconduct of the indemnitee or
25 its officers, directors, agents or employees, or for statutory
26 violation or punitive damages except and to the extent the
27 statutory violation or punitive damages are caused by or
28 result from the acts or omissions of the indemnitor or any of
29 the indemnitor's contractors, subcontractors,
30 sub-subcontractors, materialmen, or agents of any tier or
31 their respective employees.

hbd-032

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1 ~~(2)(1)~~ A construction contract for a public agency or
2 in connection with a public agency's project may require a
3 party to that contract to indemnify and hold harmless the
4 other party to the contract, their officers and employees,
5 from liabilities, damages, losses and costs, including, but
6 not limited to, reasonable attorney's fees, to the extent
7 caused by the negligence, recklessness, or intentional
8 wrongful misconduct of the indemnifying party and persons
9 employed or utilized by the indemnifying party in the
10 performance of the construction contract.

11 ~~(3)(2)~~ Except as specifically provided in subsection
12 ~~(2)(1)~~, a construction contract for a public agency or in
13 connection with a public agency's project may not require one
14 party to indemnify, defend, or hold harmless the other party,
15 its employees, officers, directors, or agents from any
16 liability, damage, loss, claim, action, or proceeding, and any
17 such contract provision is void as against public policy of
18 this state.

19 (4) This section does not affect any contracts,
20 agreements, or guarantees entered into before the effective
21 date of this section or any renewals thereof.

22 Section 11. Subsection (2) of section 725.08, Florida
23 Statutes, is amended to read:

24 725.08 Design professional contracts; limitation in
25 indemnification.--

26 (2) Except as specifically provided in subsection (1),
27 a professional services contract entered into with a public
28 agency may not require that the design professional defend,
29 indemnify, or hold harmless the agency, its employees,
30 officers, directors, or agents from any liability, damage,
31 loss, claim, action, or proceeding, and any such contract

hbd-032

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1 provision shall ~~will~~ be void as against the public policy of
2 this state.

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5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 On page 1, lines 27-30,
8 remove from the title of the bill: all of said lines,

9

10 and insert in lieu thereof:

11 amending s. 725.06, F.S.; revising
12 indemnification and hold harmless restrictions
13 for certain construction agreements, contracts,
14 or guarantees; providing application; amending
15 s. 725.08, F.S.; revising indemnification and
16 hold harmless restrictions for certain
17 professional services contracts; repealing s.
18 713.18(3),

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