

781-112AXD-32

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 to Amendment (343015) (with title amendment)**

On page 13, line 28, through page 14, line 24, of the amendment,

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

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1 to the agreement, contract, or guarantee for liability for  
2 damages to persons or property caused in whole or in part by  
3 any act, omission, or default of the indemnitee arising from  
4 the contract or its performance, shall be void and  
5 unenforceable unless the contract contains a monetary  
6 limitation on the extent of the indemnification that bears a  
7 reasonable commercial relationship to the contract and is part  
8 of the project specifications or bid documents, if any.  
9 Notwithstanding the foregoing, the monetary limitation on the  
10 extent of the indemnification provided to the owner of real  
11 property by any party in privity of contract with such owner  
12 shall not be less than \$1 million per occurrence, unless  
13 otherwise agreed by the parties. Indemnification provisions in  
14 any such agreements, contracts, or guarantees may not require  
15 that the indemnitor indemnify the indemnitee for damages to  
16 persons or property caused in whole or in part by any act,  
17 omission, or default of a party other than:

18 (a) The indemnitor;  
19 (b) Any of the indemnitor's contractors,  
20 subcontractors, sub-subcontractors, materialmen, or agents of  
21 any tier or their respective employees; or  
22 (c) The indemnitee or its officers, directors, agents,  
23 or employees. However, such indemnification shall not include  
24 claims of, or damages resulting from, gross negligence, or  
25 willful, wanton or intentional misconduct of the indemnitee or  
26 its officers, directors, agents or employees, or for statutory  
27 violation or punitive damages except and to the extent the  
28 statutory violation or punitive damages are caused by or  
29 result from the acts or omissions of the indemnitor or any of  
30 the indemnitor's contractors, subcontractors,  
31 sub-subcontractors, materialmen, or agents of any tier or

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1 their respective employees.

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

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

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

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

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

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

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

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

7 And the title is amended as follows:

8 On page 16, lines 4-7, of the amendment,  
9 remove from the amendment: all of said lines,

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11 and insert in lieu thereof:

12 amending s. 725.06, F.S.; revising  
13 indemnification and hold harmless restrictions  
14 for certain construction agreements, contracts,  
15 or guarantees; providing application; amending  
16 s. 725.08, F.S.; revising indemnification and  
17 hold harmless restrictions for certain  
18 professional services contracts; repealing s.  
19 713.18(3),

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