



123276

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2010	.	
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The Committee on Regulated Industries (Dean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

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

725.08 Design professional contracts; limitations on  
~~limitation in indemnification and liability.~~

(1) Notwithstanding ~~the provisions of~~ s. 725.06, 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



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13 professional indemnify and hold harmless the agency, and its  
14 officers and employees, from liabilities, damages, losses, and  
15 costs, including, but not limited to, reasonable attorneys'  
16 fees, to the extent caused by the negligence, recklessness, or  
17 intentionally wrongful conduct of the design professional and  
18 other persons employed or used ~~utilized~~ by the design  
19 professional in the performance of the contract.

20 (2) Except as specifically provided in subsection (1), a  
21 professional services contract entered into with a public agency  
22 may not require that the design professional defend, indemnify,  
23 or hold harmless the agency, its employees, officers, directors,  
24 or agents from any liability, damage, loss, claim, action, or  
25 proceeding, and any such contract provision is ~~shall be~~ void as  
26 against the public policy of this state.

27 (3) Notwithstanding any other law, a party to a  
28 professional services contract does not have a cause of action  
29 in tort against a design professional for the recovery of purely  
30 economic damages that are caused by the design professional's  
31 negligence or malpractice committed in the performance of the  
32 professional services contract if the design professional  
33 maintains, as specified in the contract, insurance covering the  
34 design professional's liability for the performance of the  
35 professional services rendered under the contract or the design  
36 professional is protected by statutory liability limitations for  
37 public agencies and their employees, and if the professional  
38 services contract does not purport to limit the liability of the  
39 design professional to less than the insurance coverage  
40 specified in the contract. This subsection does not:

41 (a) Apply to claims for economic damages resulting from



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42 personal injury or damage to property other than the property  
43 that is the subject of the professional services contract.

44 (b) Affect contracts or agreements entered into, or  
45 professional services performed, before the effective date of  
46 this subsection.

47 (4) As used in this section, the term:

48 (a)~~(3)~~ "Professional services contract" means a written or  
49 oral agreement relating to the planning, design, construction,  
50 administration, study, evaluation, consulting, or other  
51 professional and technical support services furnished in  
52 connection with any actual or proposed construction,  
53 improvement, alteration, repair, maintenance, operation,  
54 management, relocation, demolition, excavation, or other  
55 facility, land, air, water, or utility development or  
56 improvement.

57 (b)~~(4)~~ "Design professional" means an individual or entity  
58 licensed by the state who holds a current certificate of  
59 registration under chapter 481 to practice architecture or  
60 landscape architecture, under chapter 472 to practice land  
61 surveying and mapping, or under chapter 471 to practice  
62 engineering, and who enters into a professional services  
63 contract.

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

66 Section 2. This act shall take effect July 1, 2010.

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

69 And the title is amended as follows:

70 Delete everything before the enacting clause



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71 and insert:

72                                   A bill to be entitled  
73           An act relating to design professionals; amending s.  
74           725.08, F.S.; limiting the liability of design  
75           professionals for certain economic damages resulting  
76           from the performance of professional services that are  
77           the subject of a contract under certain circumstances;  
78           providing an effective date.