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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/24/2010	.	
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The Committee on Regulated Industries (Deutch) 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 utilized by the design professional in  
19 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 shall be void as  
26 against the public policy of this state.

27 (3) "Professional services contract" means a written or  
28 oral agreement relating to the planning, design, construction,  
29 administration, study, evaluation, consulting, or other  
30 professional and technical support services furnished in  
31 connection with any actual or proposed construction,  
32 improvement, alteration, repair, maintenance, operation,  
33 management, relocation, demolition, excavation, or other  
34 facility, land, air, water, or utility development or  
35 improvement.

36 (4) "Design professional" means an individual or entity  
37 licensed by the state who holds a current certificate of  
38 registration under chapter 481 to practice architecture or  
39 landscape architecture, under chapter 472 to practice land  
40 surveying and mapping, or under chapter 471 to practice  
41 engineering, and who enters into a professional services



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42 contract.

43 (5) Notwithstanding any other law, a party to a  
44 professional services contract does not have a cause of action  
45 in tort against a design professional for the recovery of purely  
46 economic damages that are caused by the design professional's  
47 negligence or malpractice committed in the performance of the  
48 professional services contract if insurance is maintained that  
49 covers and pays, as specified in the contract for professional  
50 services, the economic damages that are caused by the design  
51 professional's negligence or malpractice committed in the  
52 performance of the professional services contract, and if the  
53 professional services contract does not purport to limit the  
54 liability of the design professional to less than the insurance  
55 specified in the contract.

56 (a) This subsection does not apply to claims for economic  
57 damages resulting from personal injury or damage to property  
58 other than the property that is the subject of the professional  
59 services contract.

60 (b) This subsection does not apply unless:

61 1. The insurance required by this subsection covers and  
62 pays all the economic damages that are caused by the design  
63 professional's negligence or malpractice committed in the  
64 performance of the professional services contract; or

65 2. The coverage limit of the insurance required pursuant to  
66 this subsection is a reasonable estimate of the economic damages  
67 that would have been expected if the design professional was  
68 negligent or committed professional malpractice in the  
69 performance of the professional services contract.

70 (c) This subsection does not apply if residential property



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71 is the subject of the professional services contract.

72 (d) This section does not affect contracts or agreements  
73 entered into, or professional services performed, before July 1,  
74 2010.

75 ~~(6)~~(5) This section does not affect contracts or agreements  
76 entered into before the effective date of this section.

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

78  
79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete everything before the enacting clause  
82 and insert:

83 A bill to be entitled  
84 An act relating to the liability of design  
85 professionals; amending s. 725.08, F.S.; prohibiting  
86 tort causes of action against a design professional  
87 for purely economic damages under certain  
88 circumstances if insurance coverage is maintained for  
89 potential economic damages from the design  
90 professional's negligence or malpractice; providing an  
91 exception; providing for prospective application of  
92 the act; providing an effective date.