

By the Committee on Regulated Industries; and Senator Negron

580-03627-10

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1 A bill to be entitled
2 An act relating to design professionals; amending s.
3 725.08, F.S.; limiting the liability of design
4 professionals for certain economic damages resulting
5 from the performance of professional services that are
6 the subject of a contract under certain circumstances;
7 providing an effective date.

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9 Be It Enacted by the Legislature of the State of Florida:

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

13 725.08 Design professional contracts; limitations on
14 ~~limitation in~~ indemnification and liability.-

15 (1) Notwithstanding ~~the provisions of~~ s. 725.06, if a
16 design professional provides professional services to or for a
17 public agency, the agency may require in a professional services
18 contract with the design professional that the design
19 professional indemnify and hold harmless the agency, and its
20 officers and employees, from liabilities, damages, losses, and
21 costs, including, but not limited to, reasonable attorneys'
22 fees, to the extent caused by the negligence, recklessness, or
23 intentionally wrongful conduct of the design professional and
24 other persons employed or used ~~utilized~~ by the design
25 professional in the performance of the contract.

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

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30 or agents from any liability, damage, loss, claim, action, or
31 proceeding, and any such contract provision is ~~shall be~~ void as
32 against the public policy of this state.

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

47 (a) Apply to claims for economic damages resulting from
48 personal injury or damage to property other than the property
49 that is the subject of the professional services contract.

50 (b) Affect contracts or agreements entered into, or
51 professional services performed, before the effective date of
52 this subsection.

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

54 (a)~~(3)~~ "Professional services contract" means a written or
55 oral agreement relating to the planning, design, construction,
56 administration, study, evaluation, consulting, or other
57 professional and technical support services furnished in
58 connection with any actual or proposed construction,

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59 improvement, alteration, repair, maintenance, operation,
60 management, relocation, demolition, excavation, or other
61 facility, land, air, water, or utility development or
62 improvement.

63 (b)~~(4)~~ "Design professional" means an individual or entity
64 licensed by the state who holds a current certificate of
65 registration under chapter 481 to practice architecture or
66 landscape architecture, under chapter 472 to practice land
67 surveying and mapping, or under chapter 471 to practice
68 engineering, and who enters into a professional services
69 contract.

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

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