

SUBSTITUTE FOR
HOUSE BILL NO. 5466

A bill to amend 1966 PA 165, entitled
"An act to invalidate certain requirements for indemnity in the
construction industry,"
by amending section 1 (MCL 691.991).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. A covenant, promise, agreement or understanding in, or
2 in connection with or collateral to, a contract or agreement
3 relative to the **DESIGN**, construction, alteration, repair or
4 maintenance of a building, structure, appurtenance and appliance,
5 **OR INFRASTRUCTURE** including moving, demolition and excavating
6 connected therewith, purporting to indemnify the promisee against
7 liability for damages arising out of bodily injury to persons or
8 damage to property caused by or resulting from the sole negligence

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of the promisee or indemnitee, his agents or employees, is against public policy and is void and unenforceable.

(2) WHEN ENTERING INTO A CONTRACT WITH A [CONTRACTOR OR] MICHIGAN-LICENSED ARCHITECT, PROFESSIONAL ENGINEER, OR SURVEYOR IN CONNECTION WITH OR COLLATERAL TO, A CONTRACT OR AGREEMENT RELATIVE TO THE DESIGN, CONSTRUCTION, ALTERATION, REPAIR OR MAINTENANCE OF A BUILDING, STRUCTURE, APPURTENANCE, APPLIANCE, OR INFRASTRUCTURE, INCLUDING MOVING, DEMOLITION, AND EXCAVATING CONNECTED THEREWITH, A PUBLIC ENTITY SHALL NOT REQUIRE THE [CONTRACTOR OR] MICHIGAN-LICENSED ARCHITECT, PROFESSIONAL ENGINEER, OR SURVEYOR TO DEFEND [THE PUBLIC ENTITY OR] ANY OTHER PARTY FROM CLAIMS, OR TO ASSUME ANY LIABILITY OR INDEMNIFY THE PUBLIC ENTITY [OR ANY OTHER PARTY] FOR ANY AMOUNT GREATER THAN THE DEGREE OF FAULT OF THE [CONTRACTOR OR] MICHIGAN-LICENSED ARCHITECT, PROFESSIONAL ENGINEER, OR SURVEYOR [AND THAT OF THEIR RESPECTIVE SUBCONSULTANTS]. A CONTRACT PROVISION EXECUTED IN VIOLATION OF THIS SECTION IS AGAINST PUBLIC POLICY AND IS VOID AND UNENFORCEABLE.

(3) AS USED IN THIS SECTION, "PUBLIC ENTITY" MEANS THE STATE AND ALL AGENCIES THEREOF, ANY PUBLIC BODY CORPORATE WITHIN THE STATE AND ALL AGENCIES THEREOF, OR ANY NON-INCORPORATED PUBLIC BODY WITHIN THE STATE OF WHATEVER NATURE AND ALL AGENCIES THEREOF; INCLUDING, BUT NOT LIMITED TO, CITIES, VILLAGES, TOWNSHIPS, COUNTIES, SCHOOL DISTRICTS, INTERMEDIATE SCHOOL DISTRICTS, AUTHORITIES, AND COLLEGES OR UNIVERSITIES DESCRIBED IN SECTION 4, 5, OR 6 OF ARTICLE 8 OF THE STATE CONSTITUTION OF 1963 OR ESTABLISHED UNDER SECTION 7 OF ARTICLE 8 OF THE STATE CONSTITUTION OF 1963, AND THEIR EMPLOYEES AND AGENTS, WHICH WOULD INCLUDE, BUT NOT BE LIMITED TO, CONSTRUCTION MANAGERS RETAINED BY THE PUBLIC ENTITY.

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1 (4) NOTHING IN THIS ACT AFFECTS THE APPLICATION OF 1964 PA

2 170, MCL 691.1401 TO 691.1419.

[Enacting section 1. This amendatory act takes effect September 1,
2012.]