VOID CONSTRUCTION CONTRACTS

Act 165 of 1966

AN ACT to invalidate certain requirements for indemnity in the construction industry.

History: 1966, Act 165, Eff. Mar. 10, 1967

The People of the State of Michigan enact:

691.991 Building construction or design; certain provisions for indemnification void; contractor defined; "public entity" defined; application of MCL 691.1401 to 691.1419.

Sec. 1.

(1) In a contract for the design, construction, alteration, repair, or maintenance of a building, a structure, an appurtenance, an appliance, a highway, road, bridge, water line, sewer line, or other infrastructure, or any other improvement to real property, including moving, demolition, and excavating connected therewith, a provision purporting to indemnify the promisee against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence 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 Michigan-licensed architect, professional engineer, landscape architect, or professional surveyor for the design of a building, a structure, an appurtenance, an appliance, a highway, road, bridge, water line, sewer line, or other infrastructure, or any other improvement to real property, or a contract with a contractor for the construction, alteration, repair, or maintenance of any such improvement, including moving, demolition, and excavating connected therewith, a public entity shall not require the Michigan-licensed architect, professional engineer, landscape architect, or professional surveyor or the contractor 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 Michigan-licensed architect, professional engineer, landscape architect, or professional surveyor, or the contractor and that of his or her respective subconsultants or subcontractors. A contract provision executed in violation of this section is against public policy and is void and unenforceable.

(3) For the purposes of this section, a contractor may be an individual, sole proprietorship, partnership, corporation, limited liability company, joint venture, construction manager, or other business arrangement.

(4) As used in this section, "public entity" means this state and all agencies thereof, any public body corporate within this state and all agencies thereof, and any nonincorporated public body within this state of whatever nature and all agencies thereof; including, but not limited to, cities, villages, townships, counties, school districts, intermediate school districts, authorities, and community and junior colleges as provided for in section 7 of article VIII of the state constitution of 1963, and their employees and agents, including, but not limited to, construction managers or other business arrangements retained by or contracting with the public entity to manage or administer the contract for the public entity. However, public entity does not include institutions of higher education as described or provided for in section 4 or 6 of article VIII of the state constitution of 1963, or their employees or agents.

(5) Nothing in this act affects the application of 1964 PA 170, MCL 691.1401 to 691.1419.

History: 1966, Act 165, Eff. Mar. 10, 1967 ;-- Am. 2012, Act 468, Eff. Mar. 1, 2013

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