

SENATE 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. (1) ~~A covenant, promise, agreement or understanding~~
2 ~~in, or in connection with or collateral to, a contract or agreement~~
3 ~~relative to~~ **IN A CONTRACT FOR the DESIGN**, construction, alteration,
4 repair, or maintenance of a building, **A** structure, **AN** appurtenance,
5 ~~and AN~~ appliance, **A HIGHWAY, ROAD, BRIDGE, WATER LINE, SEWER LINE,**
6 **OR OTHER INFRASTRUCTURE, OR ANY OTHER IMPROVEMENT TO REAL PROPERTY,**
7 including moving, demolition, and excavating connected therewith, **A**
8 **PROVISION** purporting to indemnify the promisee against liability

House Bill No. 5466 as amended December 12, 2012

1 for damages arising out of bodily injury to persons or damage to
2 property caused by or resulting from the sole negligence of the
3 promisee or indemnitee, his agents or employees, is against public
4 policy and is void and unenforceable.

5 (2) WHEN ENTERING INTO A CONTRACT WITH A MICHIGAN-LICENSED
6 ARCHITECT, PROFESSIONAL ENGINEER, LANDSCAPE ARCHITECT, OR
7 PROFESSIONAL SURVEYOR FOR THE DESIGN OF A BUILDING, A STRUCTURE, AN
8 APPURTENANCE, AN APPLIANCE, A HIGHWAY, ROAD, BRIDGE, WATER LINE,
9 SEWER LINE, OR OTHER INFRASTRUCTURE, OR ANY OTHER IMPROVEMENT TO
10 REAL PROPERTY, OR A CONTRACT WITH A CONTRACTOR FOR THE
11 CONSTRUCTION, ALTERATION, REPAIR, OR MAINTENANCE OF ANY SUCH
12 IMPROVEMENT, INCLUDING MOVING, DEMOLITION, AND EXCAVATING CONNECTED
13 THEREWITH, A PUBLIC ENTITY SHALL NOT REQUIRE THE MICHIGAN-LICENSED
14 ARCHITECT, PROFESSIONAL ENGINEER, LANDSCAPE ARCHITECT, OR
15 PROFESSIONAL SURVEYOR OR THE CONTRACTOR TO DEFEND THE PUBLIC ENTITY
16 OR ANY OTHER PARTY FROM CLAIMS, OR TO ASSUME ANY LIABILITY OR
17 INDEMNIFY THE PUBLIC ENTITY OR ANY OTHER PARTY FOR ANY AMOUNT
18 GREATER THAN THE DEGREE OF FAULT OF THE MICHIGAN-LICENSED
19 ARCHITECT, PROFESSIONAL ENGINEER, LANDSCAPE ARCHITECT, OR
20 PROFESSIONAL SURVEYOR, OR THE CONTRACTOR AND THAT OF HIS OR HER
21 RESPECTIVE SUBCONSULTANTS <<OR SUBCONTRACTORS>>. A CONTRACT PROVISION
22 EXECUTED IN VIOLATION OF THIS SECTION IS AGAINST PUBLIC POLICY AND IS VOID AND
23 UNENFORCEABLE.

24 (3) FOR THE PURPOSES OF THIS SECTION, A CONTRACTOR MAY BE AN
25 INDIVIDUAL, SOLE PROPRIETORSHIP, PARTNERSHIP, CORPORATION, LIMITED
26 LIABILITY COMPANY, JOINT VENTURE, CONSTRUCTION MANAGER, OR OTHER
27 BUSINESS ARRANGEMENT.

1 (4) AS USED IN THIS SECTION, "PUBLIC ENTITY" MEANS THIS STATE
2 AND ALL AGENCIES THEREOF, ANY PUBLIC BODY CORPORATE WITHIN THIS
3 STATE AND ALL AGENCIES THEREOF, AND ANY NONINCORPORATED PUBLIC BODY
4 WITHIN THIS STATE OF WHATEVER NATURE AND ALL AGENCIES THEREOF;
5 INCLUDING, BUT NOT LIMITED TO, CITIES, VILLAGES, TOWNSHIPS,
6 COUNTIES, SCHOOL DISTRICTS, INTERMEDIATE SCHOOL DISTRICTS,
7 AUTHORITIES, AND COMMUNITY AND JUNIOR COLLEGES AS PROVIDED FOR IN
8 SECTION 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF 1963, AND
9 THEIR EMPLOYEES AND AGENTS, INCLUDING, BUT NOT LIMITED TO,
10 CONSTRUCTION MANAGERS OR OTHER BUSINESS ARRANGEMENTS RETAINED BY OR
11 CONTRACTING WITH THE PUBLIC ENTITY TO MANAGE OR ADMINISTER THE
12 CONTRACT FOR THE PUBLIC ENTITY. HOWEVER, PUBLIC ENTITY DOES NOT
13 INCLUDE INSTITUTIONS OF HIGHER EDUCATION AS DESCRIBED OR PROVIDED
14 FOR IN SECTION 4 OR 6 OF ARTICLE VIII OF THE STATE CONSTITUTION OF
15 1963, OR THEIR EMPLOYEES OR AGENTS.

16 (5) NOTHING IN THIS ACT AFFECTS THE APPLICATION OF 1964 PA
17 170, MCL 691.1401 TO 691.1419.

18 Enacting section 1. This amendatory act takes effect March 1,
19 2013.