

HOUSE BILL No. 4687

May 2, 2013, Introduced by Rep. Yonker and referred to the Committee on Regulatory Reform.

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), as amended by 2012 PA 468.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) In a contract for the design, construction,
2 alteration, repair, or maintenance of a building, a structure, an
3 appurtenance, an appliance, a highway, road, bridge, water line,
4 sewer line, or other infrastructure, or any other improvement to
5 real property, including moving, demolition, and excavating
6 connected therewith, a provision purporting to indemnify the
7 promisee against liability for damages arising out of bodily injury
8 to persons or damage to property caused by or resulting from the
9 sole negligence of the promisee or indemnitee, his agents or
10 employees, is against public policy and is void and unenforceable.

1 (2) When entering into a contract with a Michigan-licensed
2 architect, professional engineer, ~~landscape architect,~~ or
3 professional surveyor **OR LANDSCAPE ARCHITECT AUTHORIZED TO DO**
4 **BUSINESS IN THIS STATE** for the design of a building, a structure,
5 an appurtenance, an appliance, a highway, road, bridge, water line,
6 sewer line, or other infrastructure, or any other improvement to
7 real property, or a contract with a contractor for the
8 construction, alteration, repair, or maintenance of any such
9 improvement, including moving, demolition, and excavating connected
10 therewith, a public entity shall not require the Michigan-licensed
11 architect, professional engineer, ~~landscape architect,~~ or
12 professional surveyor, **THE LANDSCAPE ARCHITECT**, or the contractor
13 to defend the public entity or any other party from claims, or to
14 assume any liability or indemnify the public entity or any other
15 party for any amount greater than the degree of fault of the
16 Michigan-licensed architect, professional engineer, ~~landscape~~
17 ~~architect,~~ or professional surveyor, **THE LANDSCAPE ARCHITECT**, or
18 the contractor and that of his or her respective subconsultants or
19 subcontractors. A contract provision executed in violation of this
20 section is against public policy and is void and unenforceable.

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

25 (4) As used in this section, "public entity" means this state
26 and all agencies thereof, any public body corporate within this
27 state and all agencies thereof, and any nonincorporated public body

1 within this state of whatever nature and all agencies thereof;
2 including, but not limited to, cities, villages, townships,
3 counties, school districts, intermediate school districts,
4 authorities, and community and junior colleges as provided for in
5 section 7 of article VIII of the state constitution of 1963, and
6 their employees and agents, including, but not limited to,
7 construction managers or other business arrangements retained by or
8 contracting with the public entity to manage or administer the
9 contract for the public entity. However, public entity does not
10 include institutions of higher education as described or provided
11 for in section 4 or 6 of article VIII of the state constitution of
12 1963, or their employees or agents.

13 (5) Nothing in this act affects the application of 1964 PA
14 170, MCL 691.1401 to 691.1419.

15 Enacting section 1. This amendatory act does not take effect
16 unless Senate Bill No. ____ or House Bill No. 4685(request no.
17 02039'13) of the 97th Legislature is enacted into law.