

SENATE BILL No. 531

September 19, 2013, Introduced by Senator CASPERSON 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

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

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

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

27 (4) As used in this section, "public entity" means this state

1 and all agencies thereof, any public body corporate within this
2 state and all agencies thereof, and any nonincorporated public body
3 within this state of whatever nature and all agencies thereof;
4 including, but not limited to, cities, villages, townships,
5 counties, school districts, intermediate school districts,
6 authorities, and community and junior colleges as provided for in
7 section 7 of article VIII of the state constitution of 1963, and
8 their employees and agents, including, but not limited to,
9 construction managers or other business arrangements retained by or
10 contracting with the public entity to manage or administer the
11 contract for the public entity. However, public entity does not
12 include institutions of higher education as described or provided
13 for in section 4 or 6 of article VIII of the state constitution of
14 1963, or their employees or agents.

15 (5) Nothing in this act affects the application of 1964 PA
16 170, MCL 691.1401 to 691.1419.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 513

19 of the 97th Legislature is enacted into law.