

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

3 (2) WHEN ENTERING INTO A CONTRACT WITH A [CONTRACTOR OR] MICHIGAN-
LICENSED

4 ARCHITECT, PROFESSIONAL ENGINEER, OR SURVEYOR IN CONNECTION WITH OR

5 COLLATERAL TO, A CONTRACT OR AGREEMENT RELATIVE TO THE DESIGN,

6 CONSTRUCTION, ALTERATION, REPAIR OR MAINTENANCE OF A BUILDING,

7 STRUCTURE, APPURTENANCE, APPLIANCE, OR INFRASTRUCTURE, INCLUDING

8 MOVING, DEMOLITION, AND EXCAVATING CONNECTED THEREWITH, A PUBLIC

9 ENTITY SHALL NOT REQUIRE THE [CONTRACTOR OR] MICHIGAN-LICENSED ARCHITECT,

10 PROFESSIONAL ENGINEER, OR SURVEYOR TO DEFEND [THE PUBLIC ENTITY OR] ANY
OTHER PARTY FROM

11 CLAIMS, OR TO ASSUME ANY LIABILITY OR INDEMNIFY THE PUBLIC ENTITY [OR ANY
OTHER PARTY]

12 FOR ANY AMOUNT GREATER THAN THE DEGREE OF FAULT OF THE [CONTRACTOR
OR] MICHIGAN-

13 LICENSED ARCHITECT, PROFESSIONAL ENGINEER, OR SURVEYOR [AND THAT OF THEIR
RESPECTIVE SUBCONSULTANTS]. A CONTRACT

14 PROVISION EXECUTED IN VIOLATION OF THIS SECTION IS AGAINST PUBLIC

15 POLICY AND IS VOID AND UNENFORCEABLE.

16 (3) AS USED IN THIS SECTION, "PUBLIC ENTITY" MEANS THE STATE

17 AND ALL AGENCIES THEREOF, ANY PUBLIC BODY CORPORATE WITHIN THE

18 STATE AND ALL AGENCIES THEREOF, OR ANY NON-INCORPORATED PUBLIC BODY

19 WITHIN THE STATE OF WHATEVER NATURE AND ALL AGENCIES THEREOF;

20 INCLUDING, BUT NOT LIMITED TO, CITIES, VILLAGES, TOWNSHIPS,

21 COUNTIES, SCHOOL DISTRICTS, INTERMEDIATE SCHOOL DISTRICTS,

22 AUTHORITIES, AND COLLEGES OR UNIVERSITIES DESCRIBED IN SECTION 4,

23 5, OR 6 OF ARTICLE 8 OF THE STATE CONSTITUTION OF 1963 OR

24 ESTABLISHED UNDER SECTION 7 OF ARTICLE 8 OF THE STATE CONSTITUTION

25 OF 1963, AND THEIR EMPLOYEES AND AGENTS, WHICH WOULD INCLUDE, BUT

26 NOT BE LIMITED TO, CONSTRUCTION MANAGERS RETAINED BY THE PUBLIC

27 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.]