
A BILL FOR AN ACT

RELATING TO PROCUREMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to prohibit
2 provisions in certain governmental procurement contracts that
3 require any person providing professional services to defend the
4 governmental body against any liability; provided that the
5 contract may require the person to indemnify and hold harmless
6 the governmental body for damages or losses due to the
7 negligence of the person providing the professional services.

8 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
9 amended by adding a new section to part VII to be appropriately
10 designated and to read as follows:

11 "§103D- Defense of a governmental body. (a) If a
12 governmental body enters into a contract with a person, licensed
13 pursuant to chapter 464, for professional services to be
14 performed by one or more professionals, the contract shall not
15 require the person to defend the governmental body, its
16 officers, employees, or agents against any liability, damage, or
17 loss, in any claim, action, or proceeding.



1 (b) Notwithstanding subsection (a), the contract may
2 require a person to indemnify and hold harmless the governmental
3 body, and its officers, employees, and agents from and against
4 any liability, damage, loss, cost, and expense, including
5 reasonable attorneys' fees, and all claims, suits, and demands
6 therefore, arising out of or resulting from the negligent acts,
7 errors, or omissions of the person, the person's employees,
8 officers, agents, or subcontractors in the performance of their
9 professional services.

10 (c) The defense of a governmental body provision of any
11 contract between a governmental body and a person in violation
12 of this section is contrary to the public policy of this State
13 and is void.

14 (d) As used in this section, "person" means any person,
15 partnership, corporation, or other entity conducting business in
16 the State."

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.

20 SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Michael J. Meyers

Tommy Chey
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By a joint
resolution
of the
House of
Representatives

Ronald S. Smith

John M. Olson
Kirk Caldwell

JAN 22 2007



Report Title:

Procurement; Indemnification

Description:

Prohibits contract requiring provider of professional services to indemnify and hold governmental body harmless, except for negligent acts, errors, or omissions.

