
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 governmental procurement contracts of less than \$5,000,000 that
3 are exclusively for the services of engineers, architects,
4 surveyors, or landscape architects, from requiring the
5 contractor to defend the governmental body against any liability
6 not arising from the contractor's own negligence.

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

10 "§103D- Defense of a governmental body. (a) On or
11 after July 1, 2007, no contract of less than \$5,000,000 that is
12 entered into by the State or by any county, political
13 subdivision of the State, or state or county agency or official,
14 that is exclusively for services that may only lawfully be
15 provided by a person licensed under chapter 464, shall require
16 the contractor to defend the State or county, or its officers,
17 employees, or agents, from any liability, damage, loss, or



1 claim, action, or proceeding arising out of the contractor's
2 performance under the contract.

3 (b) Subsection (a) notwithstanding, nothing herein shall
4 be construed to bar, limit, or interfere with the right of the
5 State or a county, or any of its officials or agencies, to
6 contractually require any person licensed under Chapter 464 to
7 indemnify or hold harmless the State or county, and its
8 officers, employees, or agents, from and against any liability,
9 loss, damage, cost, or expense arising from the negligent acts,
10 errors, or omissions of the person, or of the person's
11 employees, officers, or subcontractors in the performance of
12 their professional services.

13 (c) No claim by the State or by any county, political
14 subdivision of the State based on any provision in a contract
15 entered into prior to July 1, 2007, that requires a person
16 licensed under chapter 464 to defend the State or a county, or
17 its officers, employees, or agents, from any liability, damage,
18 loss, or claim, action, or proceeding, shall be commenced more
19 than ten years after the date of execution of the contract."

20 SECTION 3. New statutory material is underscored.

21 SECTION 4. This Act shall take effect on January 1, 2112.



Report Title:

Procurement; Indemnification

Description:

Prohibits government contracts under \$5,000,000 and exclusively for the services of architects, engineers, surveyors, or landscape architects from requiring the contractor to defend the government from any liability arising out of the contractor's performance under the contract. Allows provisions in contracts between the State or counties and the licensed professionals that require indemnification due to negligent acts. Creates ten-year statute of limitations on claims for defense of the State from date of execution of the contract for contracts entered into prior to July 1, 2007. (HB963 HD2)

