

CHAPTER 33

CONSTRUCTION CONTRACTS — INDEMNITY PROVISIONS

S.F. 396

AN ACT relating to the regulation of indemnification provisions in construction contracts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. **537A.5 Indemnity agreements — construction contracts.**

1. As used in this section, “*construction contract*” means an agreement relating to the construction, alteration, improvement, development, demolition, excavation, rehabilitation, maintenance, or repair of buildings, highways, roads, streets, bridges, tunnels, transportation facilities, airports,¹ water or sewage treatment plants, power plants, or any other improvements to real property in this state, including shafts, wells, and structures, whether on ground, above ground, or underground, and includes agreements for architectural services, design services, engineering services, construction services, construction management services, development services, maintenance services, material purchases, equipment rental, and labor. “*Construction contract*” includes all public, private, foreign, or domestic agreements as described in this subsection other than such public agreements relating to highways, roads, and streets.

2. Except as excluded under subsection 3, a provision in a construction contract that requires one party to the construction contract to indemnify, hold harmless, or defend any other party to the construction contract, including the indemnitee’s employees, consultants, agents, or others for whom the indemnitee is responsible, against liability, claims, damages, losses, or expenses, including attorney fees, to the extent caused by or resulting from the negligent act or omission of the indemnitee or of the indemnitee’s employees, consultants, agents, or others for whom the indemnitee is responsible, is void and unenforceable as contrary to public policy.

3. This section does not apply to the indemnification of a surety by a principal on any surety bond, an insurer’s obligation to its insureds under any insurance policy or agreement, a borrower’s obligations to its lender, or any obligation of strict liability otherwise imposed by law.

Approved April 7, 2011

¹ See chapter 131, §99, 158 herein