



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

April 7, 2011

The Honorable Matthew Schultz
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 396, an Act relating to the regulation of indemnification provisions in construction contracts.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Terry E. Branstad".

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House



Senate File 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, 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.



JOHN P. KIBBIE

President of the Senate



KRAIG PAULSEN

Speaker of the House


I hereby certify that this bill originated in the Senate and is known as Senate File 396, Eighty-fourth General Assembly.



MICHAEL E. MARSHALL

Secretary of the Senate

Approved April 7, 2011



TERRY E. BRANSTAD

Governor