

By Senator Martin

33-00430-26

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1 A bill to be entitled
2 An act relating to professional services contracts;
3 amending s. 725.08, F.S.; providing that a
4 professional services contract between a design
5 professional and a contracting party, rather than
6 between a design professional and a public agency, may
7 require the design professional to indemnify and hold
8 harmless the contracting party, and its officers and
9 employees, only against certain liability and damages;
10 providing that all professional services contracts,
11 rather than professional services contracts entered
12 into with a public agency, may not require the design
13 professional to defend, indemnify, or hold harmless
14 the contracting party or its employees, officers,
15 directors, or agents; declaring that such a contract
16 provision is void as against public policy; specifying
17 that a professional services contract must require a
18 design professional to perform to a certain level of
19 professional skill and care; prohibiting a
20 professional services contract from subjecting a
21 design professional to a different standard of care;
22 providing applicability; prohibiting a professional
23 services contract from requiring a design professional
24 to list additional insureds on its policy; providing
25 an effective date.

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27 Be It Enacted by the Legislature of the State of Florida:

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29 Section 1. Present subsections (3), (4), and (5) of section

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725.08, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, new subsections (3) and (4) are added to that section, and subsections (1) and (2) and present subsection (5) of that section are amended, to read:

725.08 Design professional contracts; limitation in indemnification.—

(1) Notwithstanding ~~the provisions of~~ s. 725.06, if a design professional provides professional services to or for a contracting party ~~public agency~~, the contracting party ~~agency~~ may require ~~in a professional services contract with the design professional~~ that the design professional indemnify and hold harmless the contracting party ~~agency~~, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney ~~attorneys'~~ fees, only to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the design professional and other persons employed or used ~~utilized~~ by the design professional in the performance of the contract.

(2) Except as specifically provided in subsection (1), a professional services contract ~~entered into with a public agency~~ may not require that the design professional defend, indemnify, or hold harmless the contracting party ~~or agency~~, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision is ~~shall be~~ void as against the public policy of this state.

(3)(a) A professional services contract must require the design professional to perform the services with the level of professional skill and care ordinarily provided by a competent design professional practicing under the same or similar

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59 circumstances and professional licenses as expeditiously as is
60 prudent.

61 (b) A professional services contract may not subject a
62 design professional to a standard of care different than that
63 provided in paragraph (a).

64 (c) If the standard of care in a professional services
65 contract differs from the professional skill and care as
66 described in paragraph (a), paragraph (a) applies.

67 (4) A professional services contract may not require a
68 design professional to list a contracting party or any other
69 person or entity as an additional insured on the design
70 professional's policy of professional liability insurance.

71 (7)~~(5)~~ This section does not affect contracts or agreements
72 entered into before July 1, 2026 ~~the effective date of this~~
73 section.

74 Section 2. This act shall take effect July 1, 2026.