

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2432

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 32-1159, Arizona Revised Statutes, is amended to  
3 read:

4 32-1159. Indemnity agreements in construction and  
5 architect-engineer contracts void; definitions

6 A. A covenant, clause or understanding in, collateral to or affecting  
7 a construction contract or architect-engineer professional service contract  
8 that purports to **INSURE OR** indemnify, to hold harmless or to defend the  
9 promisee from or against liability for loss or damage resulting from the ~~sole~~  
10 negligence of the promisee or the promisee's agents, employees or ~~indemnitee~~  
11 **INDEMNITEES** is against the public policy of this state and is void.

12 B. Notwithstanding subsection A **OF THIS SECTION**, a contractor who is  
13 responsible for the performance of a construction contract may fully  
14 indemnify a person for whose account the construction contract is not being  
15 performed and who, as an accommodation, enters into an agreement with the  
16 contractor that permits the contractor to enter on or adjacent to its  
17 property to perform the construction contract for others.

18 C. This section applies to all **CONSTRUCTION** contracts **AND**  
19 **ARCHITECT-ENGINEER PROFESSIONAL SERVICE CONTRACTS** entered into between  
20 private parties. This section does not apply to:

21 1. Agreements to which this state or a political subdivision of this  
22 state is a party, including intergovernmental agreements and agreements  
23 governed by sections 34-226 and 41-2586.

24 2. Agreements entered into by agricultural improvement districts under  
25 title 48, chapter 17.

26 3. **AGREEMENTS FOR INDEMNIFICATION OF A SURETY ON A PAYMENT OR**  
27 **PERFORMANCE BOND BY ITS PRINCIPAL OR INDEMNITORS.**

1           4. AGREEMENTS BETWEEN AN INSURER UNDER AN INSURANCE POLICY OR CONTRACT  
2 AND ITS NAMED INSUREDS.

3           5. AGREEMENTS BETWEEN AN INSURER UNDER AN INSURANCE POLICY OR CONTRACT  
4 AND ITS ADDITIONAL INSUREDS, EXCEPT THAT THESE AGREEMENTS ARE SUBJECT TO THE  
5 LIMITATIONS OF SUBSECTIONS A AND B OF THIS SECTION.

6           6. AGREEMENTS BETWEEN AN INSURER AND ITS INSUREDS UNDER A SINGLE  
7 INSURANCE POLICY OR CONTRACT FOR A DEFINED PROJECT OR WORKPLACE, EXCEPT THAT  
8 SUCH AGREEMENTS SHALL NOT REQUIRE OR PERMIT ONE OR MORE INSUREDS UNDER THOSE  
9 AGREEMENTS TO INDEMNIFY, TO HOLD HARMLESS OR TO DEFEND ANY OTHER INSURED  
10 UNDER THOSE AGREEMENTS BEYOND THE LIMITATIONS OF SUBSECTIONS A AND B OF THIS  
11 SECTION AND THE INSURER SHALL NOT BE EXCUSED FROM ITS DUTY UNDER THOSE  
12 AGREEMENTS TO DEFEND, INDEMNIFY AND PAY ON BEHALF OF ITS INSUREDS.

13           D. ~~In~~ FOR THE PURPOSES OF this section:

14           1. "Architect-engineer professional service contract" means a written  
15 or oral agreement relating to the SURVEY, design, design-build, construction  
16 administration, study, evaluation or other professional services furnished in  
17 connection with any actual or proposed construction, alteration, repair,  
18 maintenance, moving, demolition or excavation of any structure, street or  
19 roadway, appurtenance or other development or improvement to land.

20           2. "Construction contract" means a written or oral agreement relating  
21 to the ACTUAL OR PROPOSED construction, alteration, repair, maintenance,  
22 moving, demolition or excavation OF ANY STRUCTURE, STREET OR ROADWAY,  
23 APPURTENANCE or other development or improvement to land.

24           Sec. 2. Effective date

25           This act is effective from and after December 31, 2013."

26 Amend title to conform

AL MELVIN

3/9/12  
10:31 AM  
S: JT/ly