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# A BILL FOR AN ACT

RELATING TO PROCUREMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Chapter 103D, Hawaii Revised Statutes, is  
2 amended by adding a new section to part VII to be appropriately  
3 designated and to read as follows:

4 "§103D- Defense of a governmental body. (a) If a  
5 governmental body enters into a contract with a person for  
6 professional services to be performed by one or more  
7 construction design professionals as defined in section 386-1,  
8 the contract shall not require the person to defend the  
9 governmental body, its officers, employees, or agents against  
10 any liability, damage, or loss, in any claim, action, or  
11 proceeding.

12 (b) Notwithstanding subsection (a), the contract may  
13 require a person to indemnify and hold harmless the governmental  
14 body, and its officers and employees, from and against any  
15 liability, loss, damage, cost, and expense, including all  
16 reasonable attorneys' fees, and all claims, suits, and demands  
17 therefor, arising out of or resulting from the negligent and  
18 other wrongful acts, errors, or omissions of the person, the

1 person's employees, officers, agents, or subcontractors in the  
2 performance of their professional services.

3 (c) Any provision of a contract between a governmental  
4 body and a person in violation of subsection (a) is contrary to  
5 the public policy of this State and is void.

6 (d) As used in this section, "person" means any person,  
7 partnership, corporation, or other entity conducting business in  
8 the state."

9 SECTION 2. New statutory material is underscored.

10 SECTION 3. This Act shall take effect on July 1, 2096.



**Report Title:**

Procurement; Indemnification; Governmental Body

**Description:**

Prohibits provisions in certain governmental procurement contracts that require contractors to defend the governmental body; allows such contracts to require a contractor to indemnify and hold harmless the governmental body. (HB2594 HD1)

