

JAN 25 2006

S.B. NO. 3198

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 for construction design
6 professional services with a person who is a licensee under
7 chapter 464, the contract shall not require the person to defend
8 the governmental body, its officers, employees, or agents from
9 any liability, damage, loss, or claim, action, or proceeding.
10 (b) The contract may require the person to indemnify and
11 hold harmless the governmental body, and its officers and
12 employees from and against any liability, loss, damage, cost and
13 expense, including all reasonable attorneys' fees, and all
14 claims, suits, and demands therefor, arising out of or resulting
15 from the negligent and other wrongful acts, errors, or omissions
16 of the person, the persons' employees, officers, agents, or
17 subcontractors in the performance of their professional
18 services.



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

4 SECTION 2. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

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Report Title:

Procurement; Indemnification; Governmental Body

Description:

Prohibits provisions in governmental procurement contracts that require the contractor to defend the governmental body; allows contracts to require a contractor to indemnify and hold harmless the governmental body.

