

JAN 17 2007

A BILL FOR AN ACT

RELATING TO PROCUREMENT.

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

1 SECTION 1. The purpose of this Act is to prohibit
2 provisions in certain governmental procurement contracts that
3 require contractors to defend the governmental body, and to
4 allow the contracts to require a contractor to indemnify and
5 hold harmless the governmental body.

6 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§103D- Defense of a governmental body. (a) If a
10 governmental body enters into a contract with a person for
11 professional services to be performed by one or more
12 professionals as defined in chapter 464, the contract shall not
13 require the person to defend the governmental body, its
14 officers, employees, or agents against any liability, damage, or
15 loss, in any claim, action, or proceeding.

16 (b) Notwithstanding subsection (a), the contract may
17 require a person to indemnify and hold harmless the governmental



1 body, and its officers and employees, from and against any
2 liability, loss, damage, cost, and expense, including reasonable
3 attorneys' fees, and all claims, suits, and demands therefore,
4 arising out of or resulting from the negligent acts, errors, or
5 omissions of the person, the person's employees, officers,
6 agents, or subcontractors in the performance of their
7 professional services.

8 (c) The defense of a governmental body provision of any
9 contract between a governmental body and a person in violation
10 of subsection (a) is void.

11 (d) As used in this section, "person" means any person,
12 partnership, corporation, or other entity conducting business in
13 the State."

14 SECTION 3. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun, before its effective date.

17 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY:

Norman Sakamifjo



Report Title:

Procurement; Contracts; Defense of a Governmental Body

Description:

Contracts between a governmental body and professional architects, landscape architects, engineers, and surveyors, shall not require defense of a governmental body; contracts may require indemnification and holding harmless of the governmental body.

