



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 865

S.P. 290

In Senate, March 5, 2013

An Act Regarding Contract Indemnification

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CUSHING of Penobscot.
Cosponsored by Representative WILLETTE of Mapleton and
Senators: COLLINS of York, MASON of Androscoggin, THIBODEAU of Waldo,
WHITTEMORE of Somerset, YOUNGBLOOD of Penobscot, Representatives: BLACK of
Wilton, CRAY of Palmyra, LOCKMAN of Amherst.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 10 MRSA §1112**, as enacted by PL 1993, c. 461, §1, is amended to read:

3 **§1112. Application**

4 ~~This~~ Except for section 1120-A, this chapter does not apply to contracts entered into
5 by the Department of Transportation.

6 **Sec. 2. 10 MRSA §1120-A** is enacted to read:

7 **§1120-A. Indemnification agreements against public policy**

8 It is against public policy and is void and unenforceable if, notwithstanding any other
9 provision of this chapter, a provision, clause, covenant or agreement contained in,
10 collateral to or affecting a construction contract purports to require a contractor or
11 subcontractor, a contractor's or subcontractor's surety or that surety's insurer to indemnify
12 the promisee against liability for damages for:

13 **1. Death or bodily injury.** Death or bodily injury to persons;

14 **2. Injury to property.** Injury to property;

15 **3. Design defects.** Design defects; or

16 **4. Other loss.** Loss, damage or expense arising under subsection 1, 2 or 3 from the
17 negligence or willful misconduct of the promisee or the promisee's agents, servants or
18 independent contractors who are directly responsible to the promisee.

19 **SUMMARY**

20 This bill prohibits certain indemnification agreements by which a contracting party
21 indemnifies itself from its own negligence or willful misconduct.