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HOUSE BILL 3208

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State of Washington

61st Legislature

2010 Regular Session

By Representatives Haigh and Dammeier

1 AN ACT Relating to indemnification agreements involving design  
2 professionals; and amending RCW 4.24.115.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.24.115 and 1986 c 305 s 601 are each amended to read  
5 as follows:

6 (1) A covenant, promise, agreement or understanding in, or in  
7 connection with or collateral to, a contract or agreement relative to  
8 the construction, alteration, repair, addition to, subtraction from,  
9 improvement to, or maintenance of, any building, highway, road,  
10 railroad, excavation, or other structure, project, development, or  
11 improvement attached to real estate, including moving and demolition in  
12 connection therewith, purporting to indemnify against liability for  
13 damages arising out of bodily injury to persons or damage to property:

14 ~~((1))~~ (a) Caused by or resulting from the sole negligence of the  
15 indemnitee, his or her agents or employees is against public policy and  
16 is void and unenforceable;

17 ~~((2))~~ (b) Caused by or resulting from the concurrent negligence  
18 of ~~((a))~~ (i) the indemnitee or the indemnitee's agents or employees,  
19 and ~~((b))~~ (ii) the indemnitor or the indemnitor's agents or

1 employees, is valid and enforceable only to the extent of the  
2 indemnitor's negligence and only if the agreement specifically and  
3 expressly provides therefor, and may waive the indemnitor's immunity  
4 under industrial insurance, Title 51 RCW, only if the agreement  
5 specifically and expressly provides therefor and the waiver was  
6 mutually negotiated by the parties. This subsection applies to  
7 agreements entered into after June 11, 1986.

8 (2) A covenant, promise, agreement or understanding in, or in  
9 connection with or collateral to, a contract or agreement with an  
10 agency, as defined in RCW 39.80.020, for architect, landscape  
11 architect, engineering, or land surveying services, purporting to  
12 indemnify, including the cost to defend, the public agency by the  
13 architect, landscape architect, engineer, or land surveyor against  
14 liability for claims against the public agency, are unenforceable,  
15 except for claims that arise out of, pertain to, or relate to the  
16 negligence, recklessness, or willful misconduct of the architect,  
17 landscape architect, engineer, or land surveyor. This section shall  
18 not be waived or modified by contractual agreement, act, or omission of  
19 the parties. Contractual provisions, clauses, covenants, or agreements  
20 not expressly prohibited herein are reserved to the agreement of the  
21 parties.

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