

171.1

ARTICLE 13

171.2

BUILDING AND CONSTRUCTION CONTRACTS

171.3 Section 1. Minnesota Statutes 2022, section 15.71, is amended by adding a subdivision
171.4 to read:

171.5 Subd. 1a. **Indemnification agreement.** "Indemnification agreement" means an agreement
171.6 by the promisor to indemnify, defend, or hold harmless the promisee against liability or
171.7 claims of liability for damages arising out of bodily injury to persons or out of physical
171.8 damage to tangible or real property.

171.9 Sec. 2. Minnesota Statutes 2022, section 15.71, is amended by adding a subdivision to
171.10 read:

171.11 Subd. 1b. **Promisee.** "Promisee" includes that party's independent contractors, agents,
171.12 employees, or indemnitees.

171.13 Sec. 3. Minnesota Statutes 2022, section 15.72, is amended by adding a subdivision to
171.14 read:

171.15 Subd. 3. **Unenforceability of certain agreements.** (a) An indemnification agreement
171.16 contained in, or executed in connection with, a contract for a public improvement is
171.17 unenforceable except to the extent that:

171.18 (1) the underlying injury or damage is attributable to the negligent or otherwise wrongful
171.19 act or omission, including breach of a specific contractual duty, of the promisor or the
171.20 promisor's independent contractors, agents, employees, or delegates; or

171.21 (2) an owner, a responsible party, or a governmental entity agrees to indemnify a
171.22 contractor directly or through another contractor with respect to strict liability under
171.23 environmental laws.

171.24 (b) A provision in a public building or construction contract that requires a party to
171.25 provide insurance coverage to one or more other parties, including third parties, for the
171.26 negligence or intentional acts or omissions of any of those other parties, including third
171.27 parties, is against public policy and is void and unenforceable.

171.28 (c) Paragraph (b) does not affect the validity of a provision that requires a party to provide
171.29 or obtain workers' compensation insurance, construction performance or payment bonds,
171.30 builder's risk policies, owner or contractor-controlled insurance programs or policies, or
171.31 project-specific insurance for claims arising out of the promisor's negligent acts or omissions
172.1 or the negligent acts or omissions of the promisors, independent contractors, agents,
172.2 employees, or delegates.

172.3 (d) Paragraph (b) does not affect the validity of a provision that requires the promisor
172.4 to provide or obtain insurance coverage for the promisee's vicarious liability, or liability
172.5 imposed by warranty, arising out of the acts or omissions of the promisor.

172.6 (e) Paragraph (b) does not apply to building and construction contracts for work within
172.7 50 feet of public or private railroads, or railroads regulated by the Federal Railroad
172.8 Administration.

172.9 Sec. 4. Minnesota Statutes 2022, section 337.01, subdivision 3, is amended to read:

172.10 Subd. 3. **Indemnification agreement.** "Indemnification agreement" means an agreement
172.11 by the promisor to indemnify, defend, or hold harmless the promisee against liability or
172.12 claims of liability for damages arising out of bodily injury to persons or out of physical
172.13 damage to tangible or real property.

172.14 Sec. 5. Minnesota Statutes 2022, section 337.05, subdivision 1, is amended to read:

172.15 Subdivision 1. **Agreements valid.** (a) Except as otherwise provided in paragraph (b),
172.16 sections 337.01 to 337.05 do not affect the validity of agreements whereby a promisor agrees
172.17 to provide specific insurance coverage for the benefit of others.

172.18 (b) A provision that requires a party to provide insurance coverage to one or more other
172.19 parties, including third parties, for the negligence or intentional acts or omissions of any of
172.20 those other parties, including third parties, is against public policy and is void and
172.21 unenforceable.

172.22 (c) Paragraph (b) does not affect the validity of a provision that requires a party to provide
172.23 or obtain workers' compensation insurance, construction performance or payment bonds,
172.24 ~~or project-specific insurance, including, without limitation, builder's risk policies or owner~~
172.25 ~~or contractor-controlled insurance programs or policies~~ builder's risk policies, owner or
172.26 contractor-controlled insurance programs or policies, or project-specific insurance for claims
172.27 arising out of the promisor's negligent acts or omissions or the negligent acts or omissions
172.28 of the promisors, independent contractors, agents, employees, or delegates.

172.29 (d) Paragraph (b) does not affect the validity of a provision that requires the promisor
172.30 to provide or obtain insurance coverage for the promisee's vicarious liability, or liability
172.31 imposed by warranty, arising out of the acts or omissions of the promisor.

173.1 (e) Paragraph (b) does not apply to building and construction contracts for work within
173.2 50 feet of public or private railroads, or railroads regulated by the Federal Railroad
173.3 Administration.

173.4 Sec. 6. **EFFECTIVE DATE.**

173.5 Sections 1 to 5 are effective the day following final enactment and apply to agreements
173.6 entered into on or after that date.