

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 389**

H. P. 341

House of Representatives, January 22, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Callahan of Mechanic Falls.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT Relating to Certain Types of Indemnity Provisions in Construction Contracts.**

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

14 MRSA § 166 is enacted to read:

**§ 166. Agreements to indemnify against public policy**

1. **Covenant void.** Any provision contained in any contract for the construction, alteration, repair or maintenance of any building, structure or appurtenance thereto, including highways and bridges, or for any moving, demolition or excavation connected therewith, by which the contractor performing the work purports to indemnify or hold harmless another party to the contract against liability for damage arising out of bodily injury to persons or damage to property suffered in the course of performance of the contract, caused by or resulting solely from the negligence of such other party or his agents or employees, is against public policy and is void and unenforceable.

2. **Nonapplication.** This section shall not affect the validity of any insurance contract, workers compensation or any agreement issued by an admitted insurer, nor shall it apply to any provision of any contract entered into prior to the effective date of this section.

## STATEMENT OF FACT

The inclusion of the so-called "broad form" hold harmless clause in construction contracts has given rise to an extraordinarily severe responsibility being placed on the parties of the contract. Both the insurance industry and the construction industry are increasingly aware of and concerned with these clauses, which require indemnification of persons beyond the control of the indemnifier. This bill will make such broad form hold harmless clauses against public interest void and unenforceable.