

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1025

H.P. 721

House of Representatives, March 12, 1991

Received by the Clerk of the House on March 8, 1991. Referred to the Committee on Legal Affairs and 1400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CASHMAN of Old Town.
Cosponsored by Representative GURNEY of Portland.

STATE OF MAINE

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

**An Act Relating to Certain Types of Indemnity Provisions in
Construction Contracts.**



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

4 14 MRSA §169, is enacted to read:

6 **§169. Agreements to indemnify against public policy**

8 **1. Provision void.** Any provision contained in any
10 construction contract that requires the contractor performing the
12 work to indemnify or hold harmless another party to the contract
14 against liability or damage arising out of bodily injury to
16 persons or property damage suffered in the course of the
performance of the contract, caused by or resulting in whole or
in part from the negligence or other legal fault of that other
party or the agents or employees of that other party, is against
public policy and is void and unenforceable.

18 **2. Construction contracts covered.** This section applies to
20 all contracts for the construction, alteration, repair or
22 maintenance of any building, structure, appurtenance to any
building or structure, including roads and bridges, and any
moving, demolition or excavation connected to such work.

24 **3. Exception; nonapplication.** This section does not affect
26 the validity of any insurance contract or workers' compensation
policy. This section does not apply to any contract entered into
before the effective date of this section.

28 **STATEMENT OF FACT**

30 This bill addresses the use of "broad form" hold-harmless
32 clauses in the construction contracts. These clauses require the
34 contractor to indemnify the owner or other party to the
36 construction contract for injury or damage caused by someone in
the control of the owner or other party. The inclusion of "broad
38 form" hold-harmless clauses in construction contracts has given
rise to an extraordinarily severe responsibility being placed on
the parties to the contract. Both the insurance industry and the
40 construction industry are increasingly aware of and concerned
with these clauses that require indemnification of persons beyond
42 the control of the contractor. This bill declares "broad form"
hold-harmless clauses to be against public interest and therefore
44 void and unenforceable.