

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 865

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S.P. 290

In Senate, March 5, 2013

### An Act Regarding Contract Indemnification

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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.