

HOUSE BILL NO. 151

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JOHNSON BY REQUEST

Introduced: 2/22/07

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring an indemnification and hold harmless provision in professional**
2 **services contracts of state agencies, quasi-public agencies, municipalities, and political**
3 **subdivisions."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 36.90 is amended by adding a new section to read:

6 **Article 4. Required Contract Provision.**

7 **Sec. 36.90.300. Indemnification and hold harmless provision required.** (a)

8 A public agency shall include in a professional services contract entered into by the
9 public agency a provision that indemnifies the public agency and holds the public
10 agency harmless for the negligent acts, errors, or omissions of the consultant who
11 contracts with the public agency to provide the professional services. The provision
12 must include an apportionment of joint liability on a comparative fault basis.

13 (b) A provision that reads substantially as follows satisfies the requirement of
14 (a) of this section:

1 The consultant shall indemnify and hold harmless the contracting
2 agency from and against any claim of, or liability for, negligent acts,
3 errors, and omissions of the consultant under this agreement. The
4 consultant is not required to indemnify the contracting agency for a
5 claim of, or liability for, the independent negligent acts, errors, and
6 omissions of the contracting agency. If there is a claim of, or liability
7 for, a joint negligent act, error, or omission of the consultant and the
8 contracting agency, the indemnification and hold harmless obligation of
9 this provision shall be apportioned on a comparative fault basis. In this
10 provision, "consultant" and "contracting agency" include the
11 employees, agents, and contractors who are directly responsible,
12 respectively, to each. In this provision, "independent negligent acts,
13 errors, and omissions" means negligence other than in the contracting
14 agency's selection, administration, monitoring, or controlling of the
15 consultant, or in approving or accepting the consultant's work.

16 (c) In this section,

17 (1) "professional services" has the meaning given in AS 36.30.990;

18 (2) "public agency" means a department, institution, board,
19 commission, division, authority, public corporation, committee, school district,
20 political subdivision, or other administrative unit of a municipality, of a political
21 subdivision, or of the executive or legislative branch of state government, including
22 the University of Alaska, the Alaska Aerospace Development Corporation, the Alaska
23 Housing Finance Corporation, the Alaska Industrial Development and Export
24 Authority, the Alaska Energy Authority, the Alaska Railroad Corporation, and a
25 regional educational attendance area.