

SENATE BILL NO. 693

BY SENATOR MORRELL

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AN ACT

To amend and reenact R.S. 9:2780.1(A)(2)(a) and (5), (B), (C), and (D), to enact R.S. 9:2780.1(G), and to repeal Section 2 of Act No. 492 of the 2010 Regular Session of the Legislature, relative to construction contracts; to provide relative to definitions; to exclude certain contracts; to provide relative to the enforcement of certain clauses in construction contracts; to repeal a provision excluding certain contracts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2780.1(A)(2)(a) and (5), (B), (C), and (D) are hereby amended and reenacted and R.S. 9:2780.1(G) is hereby enacted to read as follows:

§2780.1. Certain contract provisions invalid; motor carrier transportation contracts; construction contracts

A. For purposes of this Section, the following terms have the meanings ascribed to them by this Subsection, except where the context clearly indicates otherwise:

\* \* \*

(2)(a) "Construction contract" shall mean any agreement for the ~~design,~~ construction, alteration, **or** renovation, ~~repair, or maintenance~~ of a building, structure, highway, road, bridge, water line, sewer line, oil line, gas line,

1 appurtenance, or other improvement to real property, **, or repair or maintenance of**  
 2 **a highway, road, or bridge**, including any moving, demolition, or excavation,  
 3 except that no deed, lease, easement, license, or other instrument granting an interest  
 4 in or the right to possess property will be deemed to be a construction contract even  
 5 if the instrument includes the right to design, construct, alter, renovate, repair, or  
 6 maintain improvements on such real property.

7 \* \* \*

8 (5) "Third party" means any party not subject to the contractual obligations  
 9 between the indemnities **indemnitee** and indemnitor, **excluding, however, any**  
 10 **party who has otherwise contracted with the indemnitor or is at the**  
 11 **indemnitee's facility at the invitation or direction of the indemnitor.**

12 B. Notwithstanding any provision of law to the contrary **and except as**  
 13 **otherwise provided in this Section**, any provision, clause, covenant, or agreement  
 14 contained in, collateral to, or affecting a motor carrier transportation contract or  
 15 construction contract which purports to indemnify, defend, or hold harmless, or has  
 16 the effect of indemnifying, defending, or holding harmless, the indemnities  
 17 **indemnitee** from or against any liability for loss or damage resulting from the  
 18 negligence or intentional acts or omissions of the indemnities **indemnitee**, an agent  
 19 or employee of the indemnities **indemnitee**, or a third party over which the  
 20 indemnitor has no control is contrary to the public policy of this state and is null,  
 21 void, and unenforceable.

22 C. Notwithstanding any provision of law to the contrary **and except as**  
 23 **otherwise provided in this Section**, any provision, clause, covenant, or agreement  
 24 contained in, collateral to, or affecting a motor carrier transportation contract or  
 25 construction contract which purports to require an indemnitor to procure liability  
 26 insurance covering the acts or omissions or both of the indemnities **indemnitee**, its  
 27 employees or agents, or the acts or omissions of a third party over whom the  
 28 indemnitor has no control is null, void, and unenforceable. However, nothing in this  
 29 Section shall be construed to prevent the indemnities **indemnitee** from requiring the  
 30 indemnitor to provide proof of insurance for obligations covered by the contract.



1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_