

## HOUSE BILL No. 2668

By Representative Watkins

1-19

9 AN ACT concerning contracts; relating to indemnification provisions and  
10 additional insured parties; amending K.S.A. 2005 Supp. 16-121 and  
11 repealing the existing section.

12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2005 Supp. 16-121 is hereby amended to read as  
15 follows: 16-121. (a) When used in this section:

16 ~~(1) “Construction contract” means an agreement for the design, con-~~  
17 ~~struction, alteration, renovation, repair or maintenance of a building,~~  
18 ~~structure, highway, road, bridge, water line, sewer line, oil line, gas line,~~  
19 ~~appurtenance or other improvement to real property, including any mov-~~  
20 ~~ing, demolition or excavation, except that no deed, lease, easement, li-~~  
21 ~~cence or other instrument granting an interest in or the right to possess~~  
22 ~~property shall be deemed to be a construction contract even if the in-~~  
23 ~~strument includes the right to design, construct, alter, renovate, repair or~~  
24 ~~maintain improvements on such real property.~~

25 ~~—(2) (1) “Damages” means personal injury damages, property damages~~  
26 ~~or economic loss.~~

27 ~~(3) (2) “Indemnification provision” means a covenant, promise,~~  
28 ~~agreement, clause or understanding in connection with, contained in or~~  
29 ~~collateral to, a construction contract that requires the promisor to hold~~  
30 ~~harmless, indemnify or defend the promisee or others against liability for~~  
31 ~~loss or damages.~~

32 ~~(3) “Indemnatee” shall include an agent, employee or independent~~  
33 ~~contractor who is directly responsible to the indemnitee.~~

34 (b) An indemnification provision in a ~~construction~~ contract or other  
35 agreement, ~~including, but not limited to, a right of entry, entered into in~~  
36 ~~connection with a construction contract,~~ which requires the indemnitor  
37 to indemnify the indemnitee for the indemnitee’s negligence or *inten-*  
38 *tional acts or omissions* is against public policy and is void and  
39 unenforceable.

40 (c) ~~This act shall not be construed to affect or impair the contractual~~  
41 ~~obligation of a contractor or owner to provide railroad protective insur-~~  
42 ~~ance or general liability insurance. A provision in a contract or other~~  
43 ~~agreement which requires a party to provide liability coverage to another~~

1 *party as an additional insured for such other party's own negligence or*  
2 *intentional acts or omissions is against public policy and is void and unen-*  
3 *forceable.*

4 (d) This section applies only to ~~indemnification~~ contract provisions  
5 entered into after the act takes effect.

6 Sec. 2. K.S.A. 2005 Supp. 16-121 is hereby repealed.

7 Sec. 3. This act shall take effect and be in force from and after its  
8 publication in the statute book.