



CONSTRUCTION ANTI-INDEMNITY STATUTES

“Attorneys For Policyholders in Insurance Coverage Disputes”

www.sdvlaw.com

This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed			Statute	
		Sole Negligence of Indemnitee	Concurrent Negligence			Sole Negligence of Indemnitor
			Full Indemnity	Partial Indemnity		
AK	All Construction and Design Contracts	No	Yes		Alaska Stat. § 45.45.900	
AL		Yes	Yes		No Statute. Indemnification contracts allowed if clearly stated. See e.g., <i>Industrial Tile, Inc. v. Stewart</i> , 388 So.2d 171, 175 (Ala.1980), cert. denied, 449 U.S. 1081, 101 S.Ct. 864, 66 L.Ed.2d 805 (1981).	
AZ	Public Construction and Design Contracts	No		Yes	Ariz. Rev. Stat. § 34-226 (Definitions) Ariz. Rev. Stat. § 41-2586	
AZ	Private Construction and Design Contracts	No *Allows for indemnification of an adjacent property owner.	Yes		Ariz. Rev. Stat. § 34-226 (Definitions) Ariz. Rev. Stat. § 32-1159	
AR		Yes	Yes		No Statute. Indemnification contracts allowed if clearly stated. See <i>Chevron USA v. Murph Exploration & Production Co.</i> , 356 Ark. 324, 329, 151 SW 3d 306, 310 (2004).	
CA	Residential Construction and Design Contracts, post Jan 1, 2008.	No		Yes	Cal. Civ. Code § 2782(c) & (e)(1)	
CA	Commercial Construction and Design Contracts, post Jan 1, 2008.	No	Yes		Cal. Civ. Code § 2782 et seq.	
CO	"Public Entity" Construction and Design Contracts	No		Yes	Colo. Rev. Stat. § 13-50.5-102(8)	
CT	All Construction Contracts. No Mention of Design.	No		Yes	Conn. Gen. Stat. § 52-572k	
DC		Yes	Yes		No Statute. <i>N.P.P. Contractors, Inc. v. John Canning & Co.</i> , 715 A.2d 139, 142 (D.C. 1998) (indemnification contract allowed as it	

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.



This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed				Statute
		Sole Negligence of Indemnitee	Concurrent Negligence		Sole Negligence of Indemnitor	
			Full Indemnity	Partial Indemnity		
						was clear and unambiguous).
DE	All Construction and Design Contracts	No		Yes	Yes	Del. Code Ann. Tit.6, § 2704
FL	All Construction and Design Contracts (see exception per Fla. Stat. § 725.08)	No, unless there is monetary limit on the extent of the indemnification that bears a reasonable commercial relationship to the contract.	No, unless there is monetary limit on the extent of the indemnification that bears a reasonable commercial relationship to the contract.	Yes	Yes	Fla. Stat. § 725.06 Fla. Stat. § 725.08 (Allows a public agency to require a design professional to hold that agency harmless for design professional's negligence, recklessness or wrongdoing.)
GA	All Construction Contracts. No Mention of Design.	No	Yes		Yes	Ga. Code Ann. § 13-8-2(b)
HI	All Construction Contracts. No Mention of Design.	No	Yes		Yes	Hawaii Rev. Stat. § 431:10-222
IA		Yes	Yes		Yes	No Statute. Indemnification contracts allowed if clearly stated. See e.g., <i>McNally & Nimergood v. Neumann-Kiewit Constructors, Inc.</i> , 648 N.W.2d 564 (Iowa 2002).
ID	All Construction Contracts. No Mention of Design.	No	Yes		Yes	Idaho Code § 29-114
IL	All Construction Contracts. No Mention of Design.	No		Yes	Yes	Ill. Stat. Ann. 740 ¶ 35/1
IN	All Construction and Design Contracts. Highway Contracts are excepted.	No	Yes		Yes	Ind. Code Ann. 26-2-5-1,-2

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.



This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed			Statute	
		Sole Negligence of Indemnitee	Concurrent Negligence			Sole Negligence of Indemnitor
			Full Indemnity	Partial Indemnity		
KS		Yes	Yes		No Statute. Indemnification contracts allowed if clearly stated. See e.g., <i>Shoup v. Higgins Rental Center, Inc.</i> , 991 F.Supp. 1265, 1267 (D.Kan. 1998)	
KY	All Construction Contracts. No Mention of Design.	No		Yes	Ky. Rev. Stat. § 371.180	
LA	All public works contracts between a contractor and a public entity or between a contractor and design specialist.	No		Yes	La. Rev. Stat. Ann. 38:2216(G)	
MA	All contracts in which a subcontractor agrees to indemnify another for injury or damage not caused by the subcontractor.	No	Yes		Mass. Gen. Ann. Laws Ch. 149 § 29C; See <i>Bruce Johnson, et al v. Modern Continental Construction Co.</i> , 49 Mass.App.Ct. 545 (2000)(explaining application of statute); see also <i>James Kelly, et al v. Dimeo, Inc.</i> , 31 Mass.App.Ct. 626 (1991)(allowing full indemnity)	
MD	All Construction Contracts.	No	Yes		Md. Cts. & Jud. Proc. Code § 5-401	
ME		Yes	Yes		No Statute. Indemnification contracts allowed if clearly stated. See e.g., <i>Denaco v. Blanche</i> , 148 Me. 120, 90 A.2d 707 (Me. 1952)	
MI	All contracts "relative to" construction. No specific mention of design contracts or design professionals.	No	Yes		Mich. Comp. Laws Ann. 691.991 Note, there is some confusion over whether the anti-indemnity statute applies to insurance obligations. The statute on its face does not apply to insurance. See <i>Sentry Ins. Co. v. Great Lakes Steel Corp.</i> , 147 Mich. App.214 (1985) c.f. <i>Peeples v. City of Detroit</i> , 99 Mich. App.285 (1980); <i>Chrysler Corp. v. Skyline Industrial Services, et. al</i> , 448 Mich. 113 (1995).	

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.



This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed			Statute	
		Sole Negligence of Indemnitee	Concurrent Negligence			Sole Negligence of Indemnitor
			Full Indemnity	Partial Indemnity		
MN	All construction contracts.	No	Yes, if injury is attributable to breach of duty, or a negligent or wrongful act or omission.		Yes	Minn. Stat. Ann. § 337.01 (Definitions) Minn. Stat. Ann. § 337.02
MO	All construction contracts. (Exception for contracts between state and governmental agencies, or between such entities and a private person.)	No		Yes	Yes	Mo. Rev. Stat. 434.100.2(1)
MS	All construction contracts.	No		Yes	Yes	Miss. Code Ann. § 31-5-41
MT	All construction contracts.	No			Yes	Mont. Rev. Code Ann. § 28-2-2111 (“a construction contract provision that requires one party to the contract to indemnify, hold harmless, insure, or defend the other party...for liability...caused by the negligence...of the other party...is void as against the public policy of this state.”) Note: No case law exists which interprets this statute.
NC	All construction and design contracts.	No		Yes	Yes	N.C. Gen. Stat. Ann. 22B-1
ND	All contracts where contractor indemnifies owner or its agents for design errors.	No		Yes	Yes	N.D. Cent. Code 9-08-02.1
NE	All Construction and Design Contracts.	No		Yes	Yes	Neb. Rev. Stat. § 25-21,187(1)
NH	All contracts with design professionals.	No		Yes	Yes	N.H. Rev. Stat. Ann. § 338-A:1

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.



This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed			Statute	
		Sole Negligence of Indemnitee	Concurrent Negligence			Sole Negligence of Indemnitor
			Full Indemnity	Partial Indemnity		
NJ	All construction contracts.	No	Yes		Yes	N.J. Stat. Ann. § 2A:40A-1
NJ	All agreements where the indemnitee is a design professional and liability arises out of design services	No	Yes		Yes	N.J. Stat. Ann. § 2A:40A-2
NM	All construction-related design contracts.	No		Yes	Yes	N.M. Stat. Ann. § 56-7-1. See J.R. Hale Contracting Co. v. Union Pac. R.R., 143 N.M. 574 (2007) (§56-7-1 “bars enforcement of an indemnification clause in construction contracts on public policy grounds where the indemnification is based on the indemnity’s own negligence.”
NV	All agreements.	No		Yes	Yes	Nev. Rev. Stat. Ann. 616B.609
NY	All construction contracts.	No		Yes	Yes	N.Y. Gen. Oblig. Law § 5-322.1
NY	Design professional seeking indemnity for liability arising out of defective maps, plans, design or specifications.	No		Yes	Yes	N.Y. Gen. Oblig. Law § 5-324; See Brooks v. Judlau Contracting, 11 N.Y.3d 204 (2008)
OH	All construction and design contracts.	No		Yes	Yes	Ohio Rev. Code Ann. § 2305.31 Conflict among Ohio Appellate courts regarding whether statute extends to additional insured endorsements. Compare Buckeye Union Ins. Co. v. Zavarella Bros. Const. Co., 121 Ohio App. 3d 147 (8th Dist. 1997)(AI endorsement barred) with Stickovich v. Cleveland, 143 Ohio App.3d 13 (8th Dist. 2001)(AI endorsement permitted).
OK	Construction Agreements	Yes		Yes	Yes	15 Okl. St. § 221 Note: This statute may limit additional insured coverage.

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.



This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed				Statute
		Sole Negligence of Indemnitee	Concurrent Negligence		Sole Negligence of Indemnitor	
			Full Indemnity	Partial Indemnity		
OR	All construction and design contracts. Does not apply to railroads as defined in O.R.S. 824.200.	No		Yes	Yes	Or. Rev. Stat. § 30.140(1) &(2) NOTE: See <i>Walsh Construction Co. v. Mutual Enumclaw</i>, 338 Or. 1 (2005) (extending statute to additional insured claims), Also See <i>Richardson v. Howard S. Wright Constr. Co.</i>, 2007 U.S. Dist. LEXIS 37011, Also See <i>Hoffman Constr. Co. v. Travelers Indem. Ins. Co.</i>, 2005 U.S. Dist. LEXIS 39752 (D. Or. Nov. 28, 2005).
PA	All construction design contracts where design professional is the indemnitee.	No	Yes		Yes	Pa. Stat. Ann. Tit. 68 § 491
PA	Construction contracts.	Yes	Yes		Yes	Indemnification contracts allowed if clearly stated. See e.g., <i>Ocean Spray Cranberries, Inc. v. Refrigerated Food</i> , 2007 PA Super 311; 936A.2d 81 (2007)
RI	All construction and design contracts.	No		Yes	Yes	R.I. Gen. Law § 6-34-1
SC	All construction and design contracts. Electric utility, RR carriers, SCPSA exempted.	No	Yes		Yes. Specifically provided for in Statute	S.C. Code An. § 32-2-10
SD	All construction and design contracts.	No	Yes		Yes	S.D. Codified Laws Ann. § § 56-3-18
TN	All Construction Contracts	No	Yes		Yes	Tenn. Code Ann. § 62-6-123; NOTE: See <i>Posey v. Union Carbide Corp.</i>, 507 F. Supp. 39 (D. Tenn. 1980) (limiting the availability of additional insured coverage when underlying contract between named insured and additional insured violates Tenn. Code Ann. § 62-6-123); see also <i>Rentenbach Constructors, Inc. v. Bowen</i>, 2000 Tenn. App. LEXIS 747 (Tenn. Ct. App. Nov. 13, 2000).

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.



This survey of state laws is a quick reference guide that should only be used as a starting point in researching the applicable law to a given situation. Depending on the facts of each situation, there may be additional legal authority which impacts the analysis of a particular issue.

STATE CONSTRUCTION ANTI-INDEMNITY STATUTES

State	Types of Persons Contracts Affected	Type of Indemnity Allowed			Statute	
		Sole Negligence of Indemnitee	Concurrent Negligence			Sole Negligence of Indemnitor
			Full Indemnity	Partial Indemnity		
TX	All construction-related design contracts.	No		Yes	Yes	Tex. Civ. Prac. & Rem. Code § 130.002(1)&(2)
UT	All Construction Contracts	No	Yes		Yes	Utah Code Ann. § § 13-8-1-2
VA	All Construction Contracts	No	Yes		Yes	Va. Code Ann. § 11-4.1
VT		Yes	Yes		Yes	No Statute. Indemnification contracts allowed if clearly stated. See e.g., <i>Hamelin v. Simpson Paper (Vermont) Co.</i> , 167 Vt. 17, 19, 702 A.2d 86 (1997).
WA	All Construction Contracts	No		Yes	Yes	Wash. Rev. Code Ann. 4.24.115(1)&(2); <i>Gilbert H. Moen Co. v. Island Steel Erectors, Inc.</i> , 128 Wn.2d 745, 912 P.2d 472 (1996)
WI	All Construction Contracts	No		Yes	Yes	Wis. Stat. Ann. § 895.447(1)
WV	All Construction Contracts	No	Yes		Yes	W. Va. Code § 55-8-14
WY		Yes	Yes		Yes	No Statute. Indemnification contracts allowed if clearly stated. See e.g., <i>Northwinds of Wyoming, Inc. v. Phillips Petroleum Co.</i> , 779 P.2d 753, 759 (WY 1989)

	No Anti-Indemnity Statute
	Indemnification for Vicarious Liability Only
	Indemnification of Sole Negligence Prohibited

This is a general survey of state statutes through 7/30/09. The listing may not reflect statutory changes or court decisions which may modify the scope or import of the statutes listed above. This document should not be construed as an attempt to offer or render a legal opinion or provide legal advice.

