S T A T E O F N E W Y O R K

1109

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to permitting a party to enforce indemnity provisions of safety service agreements in the context of construction projects

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 5-322.1 of the general obligations law, as amended by chapter 67 of the laws of 1993, is amended to read as follows:

1. A covenant, promise, agreement or understanding in, or in connection with or collateral to a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenances and appliances including moving, demolition and excavating connected therewith, purporting to indemnify or hold harmless the promisee against liability for damage arising out of bodily injury to persons or damage to property contributed to, caused by or resulting from the negligence of the promisee, his agents or employees, or indemnitee, whether such negligence be in whole or in part, is against public policy and is void and unenforceable; provided that this section shall not affect the validity of any insurance contract, workers' compensation agreement or other agreement issued by an admitted insurer. [This subdivision shall not preclude a promisee requiring indemnification for damages arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of a party other than the promisee, whether or not the promisor is partially negligent.] AND PROVIDED FURTHER, WHERE THE PROMISOR HAS EXPLICITLY UNDERTAKEN TO PROVIDE SAFETY SERVICES WHICH INCLUDE THE OBLIGATION TO INSPECT AND CORRECT ANY CONDITIONS REASONABLY ASSOCIATED WITH THE CONSTRUCTION ACTIVITY TO WHICH THOSE SERVICES ARE DIRECTED OR TO AREAS OF INGRESS AND

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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EGRESS TO THAT CONSTRUCTION ACTIVITY, INCLUDING BUT NOT LIMITED TO MODIFICATION OF EQUIPMENT OR STRUCTURES, THE PROVISION OF WARNINGS OR TRAINING, OR ANY OTHER SERVICE REASONABLY NECESSARY TO INSURE THAT PROMISEE'S OBLIGATION TO PROVIDE A REASONABLY SAFE WORK ENVIRONMENT UNDER APPLICABLE COMMON LAW OR APPLICABLE STATUTORY LAW, THIS SUBDIVISION SHALL NOT EFFECT THE ENFORCEABILITY OF A PROVISION INDEMNIFYING OR HOLDING HARMLESS THE PROMISEE.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.