

SENATE BILL No. 97

By Committee on Financial Institutions and Insurance

1-25

9 AN ACT concerning construction contracts; relating to indemnification
10 provisions; amending K.S.A. 2004 Supp. 16-121 and repealing the ex-
11 isting section.
12

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

14 Section 1. K.S.A. 2004 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~~, excavation, oil and gas lease or other con-
21 tract pertaining to oil and gas exploration, development, operations and
22 production activities on or in connection with an oil and gas lease, except
23 that no deed, lease, easement, license or other instrument granting an
24 interest in or the right to possess property shall be deemed to be a con-
25 struction contract even if the instrument includes the right to design,
26 construct, alter, renovate, repair or maintain improvements on such real
27 property.

28 (2) "Damages" means personal injury damages, property damages or
29 economic loss.

30 (3) "Indemnification provision" means a covenant, promise, agree-
31 ment or understanding in connection with a construction contract that
32 requires the promisor to hold harmless, indemnify or defend the prom-
33 isee or others against liability for damages.

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 is against
38 public policy and is void and unenforceable.

39 (c) This act shall not be construed to affect or impair the contractual
40 obligation of a contractor or owner to provide railroad protective insur-
41 ance or general liability insurance.

42 (d) This section applies only to indemnification provisions entered
43 into after the act takes effect.

- 1 Sec. 2. K.S.A. 2004 Supp. 16-121 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.