

# A State-By-State Guide to Construction Anti-Indemnity Statutes

STATE	CONTRACTS	STATUTES & CASE LAW	INDEMNITY		
			Sole Negligence of Indemnatee	Indemnatee's Concurrent Negligence	Indemnitor's Negligence (Sole & Concurrent)
<b>Alabama</b>		No statute. Indemnity provisions generally held valid. Indemnification for an indemnitee's own negligence must be clearly and unequivocally stated. <i>Craig Constr. Co., Inc. v. Hendrix</i> , 568 So.2d 752 (Ala. 1990). There is a limit to Alabama's acceptance of broad indemnity agreements. "Agreements that purport to indemnify another for the other's intentional conduct are void as a matter of public policy." <i>Price-Williams Associates, Inc. v. Nelson</i> , 631 So. 2d 1016, 1019 (Ala. 1994)	Yes	Yes	Yes
<b>Alaska</b>	Construction & Design	Alaska Statute § 45.45.900	No	Yes	Yes
<b>Arizona</b>	Construction & Design	Ariz. Rev. Stat. § 34-226 & § 41-2586 (public construction ) and 32-1159 (private construction)	No	Private Contracts Only	Yes
<b>Arkansas</b>	Construction & Design	A.C.A. § 4-56-104; <i>Arkansas Power &amp; Light Co. v. Home Ins. Co.</i> , 602 F.Supp. 740, 746 (E.D. Ark. 1985). A.C.A. § 22-9-214 (public construction).	No	Yes	Yes
<b>California</b>	Residential Construction Contracts post Jan. 1, 2009	Cal. Civ. Code § 2782(d)	No	No	Yes
<b>California</b>	Non-residential Construction Contracts	Cal. Civ. Code § 2782 & 2782.05 (Contracts entered into on or after January 1, 2013 will no longer be allowed to contain indemnification for the indemnitee's own active negligence.)	No	Yes but only for passive fault for contracts entered into before Jan 1, 2013	Yes
<b>Colorado</b>	Construction	C.R.S. § 13-21-111.5. (Applicable to construction agreements entered into on or after July 1, 2007). For construction contracts entered into before July 1, 2007, indemnification is allowed for the indemnitee's own negligence if clearly and unequivocally stated. <i>Williams v. White Mountain Constr. Co.</i> 749 P.2d 423, 426 (Colo. 1998)	No (except for contracts entered into before July 1, 2007)	No (except for contracts entered into before July 1, 2007)	Yes

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<b>Colorado</b>	Construction & Design with Public Entities	C.R.S. § 13-50.5-102	No	No	Yes
<b>Connecticut</b>	Construction	Conn. General Statute § 52-572k (Applicable to contracts entered into on or after October 14, 1977.)	No	No	Yes
<b>Delaware</b>	Construction & Design	Del. Code Ann. Tit. 6 § 2704	No	No	Yes
<b>District of Columbia</b>	Construction	No statute.			Yes
<b>Florida</b>	Construction	Fla. Stat. § 725.06 (Applicable to contracts entered into on or after July 1, 2001.)	No, unless there is a monetary limit.	No, unless there is a monetary limit.	Yes
<b>Florida</b>	Design	Fla. Stat. § 725.08 (Applicable to contracts entered into on or after May 25, 2000.)	No	No	Yes
<b>Georgia</b>	Construction	Ga. Codes Ann. § 13-8-2(b)	No	Yes	Yes
<b>Georgia</b>	Design	Ga. Codes Ann. § 13-8-2	No	No	Yes
<b>Hawaii</b>	Construction	Hawaii Rev. Stat. § 431:10-222; <i>Haole v. State</i> , 111 Haw. 144 (Haw. 2006). (Applicable to contracts entered into on or after the statute's 1977 effective (specific date is not stated).	No	Yes	Yes
<b>Idaho</b>	Construction	Idaho Code Section § 29-114.	No	Yes	Yes
<b>Illinois</b>	Construction	740 ILCS 35/1	No	No	Yes
<b>Indiana</b>	Construction & Design (except Highway)	Ind. Code § 26-2-5-1 (construction & design) & § 26-2-5-2 (exception for construction and design contracts for projects that constitute dangerous instrumentalities and cannot be insured) ; <i>GKN Co. v. Starnes Trucking, Inc.</i> 798 N.E. 2d 548, 552 (Ind. Ct. App. 2003)	No	Yes	Yes
<b>Iowa</b>	Construction & Design	Iowa Code 537A.5.	No	No	Yes

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<b>Kansas</b>	Construction & Design	Kan. Stat. Ann. § 16-121 (Applicable to contracts entered into on or after January 1, 2009.)	No	No	Yes
<b>Kentucky</b>	Construction & Design entered on or after June 20 2005	Ky. Rev. Stat. § 371.180 (Applicable to contracts entered into on or after June 20, 2005.)	No	No	Yes
<b>Louisiana</b>	Design & Construction	La. Rev. Stat. § 9:2780.1. Effective January 1, 2011. (prohibits indemnification for indemnitee's negligence over which indemnitor has no control)	No	No	Yes
<b>Maine</b>		No statute. <i>State Farm Mutual. Ins. Co. v. Koshy</i> , 995 A.2d 651, 667-668 (Me. 2010)			Yes
<b>Maryland</b>	Construction & Design	Md. Code Ann., Cts & Jud. Proc. § 5-401	No	Yes	Yes
<b>Massachusetts</b>	Construction	Mass. Gen. Laws Ch. 149 § 29C; <i>Rush v. Norfolk Elec. Co., Inc.</i> 70 Mass. App. Ct. 373 (2007) (indemnity for entire loss, even though subcontractor only partially responsible, is permissible).	No	Yes	Yes
<b>Michigan</b>	Construction	Mich. Comp. Laws § 691.991; <i>Peeples v. Detroit</i> , 297 N.W.2d 839 (Mich. App. 1980)	No	Yes.	Yes
<b>Minnesota</b>	Construction	Minn. Stat. Ann. §§ 337.01- 337.05 (exceptions stated for an owner, a responsible party, or a governmental entity that agrees to indemnify a contractor directly or through another contractor with respect to strict liability under environmental laws. §337.02(2))	No	No	Yes
<b>Mississippi</b>	Construction	Miss. Code Ann. § 31-5-41	No	No	Yes
<b>Missouri</b>	Construction	Mo. Rev. Stat. § 434.100 (exceptions stated for contracts between state agencies and private persons and governmental entities) (Applicable to contracts entered into after August 28, 1999.)	No	No	Yes
<b>Montana</b>	Construction	Montana Code Ann. § 28-2-2111 (private construction and design) (enacted 2003) & Montana Code Ann. § 18-2-124 (public construction) (enacted 2007)	No	No	Yes

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<b>Nebraska</b>	Construction	Nebraska Rev. Stat. § 25-21, 187(1)	No	No	Yes
<b>Nevada</b>	Residential Contracts post February 24, 2015	Nev. Rev. Stat. Ann. § 40.693 (contracts requiring subcontractor to indemnify the general contractor/developer for the contractor's negligence (whether active, passive, or intentional) are unenforceable)	Limited	Limited	Yes
<b>New Hampshire</b>	Construction & Design	N.H. Rev. Stat. Ann. § 338-A:1 (design) N.H. Rev. Stat. Ann. § 338-A:2 (construction)	No	No	Yes
<b>New Jersey</b>	Construction & Design	N.J. Stat. Ann. § 2A:40A-1 (construction) & § 2A:40A-2 (design)	No	Yes	Yes
<b>New Mexico</b>	Construction & Design	N.M. Stat. Ann. § 56-7-1 (construction & design contracts) & § 56-7-2 (oil, gas, and water wells or mineral mines)	No	No	Yes
<b>New York</b>	Construction & Design	N.Y. Gen. Oblig. Law § 5-322.1 (construction); N.Y. Gen. Oblig. Law § 5-324 (design professional seeking indemnity for defects in maps, plans, designs and specifications) (For construction contracts, applicable to contracts entered into after August 20, 1975.)	No	No	Yes
<b>North Carolina</b>	Construction & Design	N.C. Gen. Stat. Ann. 22B-1	No	No	Yes
<b>North Dakota</b>		No specific anti-indemnity statute. N.D. Cent. Code § 9-08-02. (No indemnification for intentional conduct); N.D. Cent. Code § 9-08-02.1 (owner cannot be indemnified by contractor for design errors); N.D. Cent. Code § 22-02-02 (no indemnity for a future act if known to be unlawful); N.D. Cent. Code § 22-02-03 (indemnity for a past act valid even if know to be wrongful, unless felony)			Yes
<b>Ohio</b>	Construction & Design	Ohio Rev. Code Ann. § 2305.31	No	No	Yes
<b>Oklahoma</b>	Construction	Okla. Stat. Ann. Tit. 15, § 221	No	No	Yes
<b>Oregon</b>	Construction & Design	Or. Rev. Stat. § 30.140; <i>Walsh Construction Co. v. Mutual Enumclaw</i> , 338 Or. 1 (2005) (statute applies to additional insured claims)	No	No	Yes

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<b>Pennsylvania</b>	Design Contracts - Design Professional is Indemnatee	Pa. Stat. Ann. Tit 68 § 491	No	In limited circumstances – see statute.	Yes
<b>Rhode Island</b>	Construction & Design	R.I. Gen. Law § 6-34-1	No	No	Yes
<b>South Carolina</b>	Construction & Design	S.C. Code Ann. § 32-2-10	No	Yes	Yes
<b>South Dakota</b>	Construction & Design	S.D. Codified Laws § 56-3-16 (design) & § 56-3-18 (construction)	No	Yes	Yes
<b>Tennessee</b>	Construction	Tenn. Code Ann. § 62-6-123	No	Yes	Yes
<b>Texas</b>	Construction & Design	Tex. Ins. Code § 151.001 <i>et. seq.</i> , § 151.102 in particular. Effective Jan. 1, 2012. (Excluding residential construction and public works § 151.105(10); (Exception for indemnity for claim for bodily injury or death to indemnitor's employee or its agents or subcontractors § 151.103.)	No	No	Yes
<b>Texas</b>	Residential Construction	Texas imposes the fair notice requirement which includes the express-negligence test and the conspicuousness requirement. <i>Enserch Corp. v. Parker</i> , 794 S.W.2d 2, 8 (Tex. 1990); Indemnity provision must be clearly and unambiguously stated. <i>Houston Lighting &amp; Power Co. v. Atchison, Topeka &amp; Santa Fe Ry. Co.</i> , 890 S.W.2d 455, 458 (Tex. 1994).	If clearly stated.	If clearly stated.	Yes
<b>Utah</b>	Construction & Design	Utah Code Ann. § 13-8-1 (construction) (Applicable to contracts entered into on or after the statute's 1969 effective (specific date is not stated).	No	Yes, in limited circumstances (Utah Code Ann. § 13-8-1(3))	Yes
<b>Vermont</b>		No statute. Indemnification contracts allowed if clearly stated. See <i>Tateosian v. Vermont</i> , 945 A.2d 833, 841 (Vt. 2007)		Yes	

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<b>Virginia</b>	Construction & Design	Va. Code Ann. § 11-4.1 (construction) & § 11-4.4 (design) (For construction contracts, applicable to contracts entered into after July 1, 1973.)	No	Yes	Yes
<b>Washington</b>	Construction & Design	Wash. Rev. Code Ann. § 4.24.115 (For concurrent negligence, applicable to contracts entered into after June 11, 1986.)	No	No (Concurrent limited to the extent of indemnitor's negligence)	Yes
<b>West Virginia</b>	Construction	W. Va. Code § 55-8-14	No		Yes
<b>Wisconsin</b>	Construction	Wis. Stat. § 895.447 Applicable to contracts entered into after July 1, 1978.)	No	No	Yes
<b>Wyoming</b>		No general anti-indemnity statute. Indemnification agreements allowed if clearly stated. <i>United Pacific Resources Co. v. Dolenc</i> , 86 P.3d 1287 (Wyo. 2004)	If clearly stated.	If clearly stated.	Yes

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