

exceed \$20,000,000 \$4,330,000, the proceeds of which, except as provided in subdivision 1, are appropriated to the state municipal bond guaranty fund for the purpose of providing funds to be loaned to municipalities for the acquisition and betterment of public lands and buildings and other public improvements of a capital nature, when needed to pay the principal of or interest on bonds issued for this purpose or bonds issued to refund such guaranteed bonds, in accordance with the provisions of sections 475A.01 to 475A.06. The bonds shall be sold, issued, and secured as provided in subdivisions 1 to 6 and in Article XI, Section 7 of the Constitution.

Sec. 54. Laws 1983, chapter 344, section 6, subdivision 8, is amended to read:

Subd. 8. ~~Split Rock~~ Baptism River Rest Area 620,000

Sec. 55. **REPEALER.**

Minnesota Statutes 1982, sections 16A.63; 16A.64, as amended by Laws 1983, chapter 301, sections 94 and 95; 16A.65; and 116.16, subdivisions 6 and 7; and Laws 1981, chapter 275; Laws 1981, chapter 334, section 11, subdivision 4; Laws 1982, chapter 639, section 5, are repealed.

Sec. 56. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved April 26, 1984

CHAPTER 598 — S.F.No. 1974

An act relating to commerce; clarifying the limitations on enforcement of indemnification agreements in construction contracts; amending Minnesota Statutes 1983 Supplement, sections 337.01, subdivisions 2, 3, and 4; 337.02; 337.03; and 337.05, subdivision 2, and by adding subdivisions; and Laws 1983, chapter 333, section 6; proposing new law coded in Minnesota Statutes, chapter 337.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1983 Supplement, section 337.01, subdivision 2, is amended to read:

Subd. 2. **BUILDING AND CONSTRUCTION CONTRACT.** "Building and construction contract" means a contract for the design, construction, alteration, improvement, repair or maintenance of real property, highways, roads or bridges. The term does not include contracts for the maintenance or repair of machinery, equipment or other such devices used as part of a manufacturing,

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converting or other production process, including electric, gas, steam, and telephone utility equipment used for production, transmission, or distribution purposes.

Sec. 2. Minnesota Statutes 1983 Supplement, section 337.01, subdivision 3, is amended to read:

Subd. 3. **INDEMNIFICATION AGREEMENT.** "Indemnification agreement" means an agreement by the promisor to indemnify or hold harmless the promisee against liability or claims of liability for damages arising out of bodily injury to persons or out of physical damage to tangible or real property.

Sec. 3. Minnesota Statutes 1983 Supplement, section 337.01, subdivision 4, is amended to read:

Subd. 4. **PROMISEE.** "Promisee" includes that party's independent contractors, agents, employees or indemnities indemnitees.

Sec. 4. Minnesota Statutes 1983 Supplement, section 337.02, is amended to read:

337.02 UNENFORCEABILITY OF CERTAIN AGREEMENTS.

An indemnification agreement contained in, or executed in connection with, a building and construction contract is unenforceable except to the extent that the underlying injury or damage is attributable to the promisor's negligent or otherwise wrongful act or omission, including breach of a specific contractual duty, of the promisor or the promisor's independent contractors, agents, employees, or delegates.

Sec. 5. Minnesota Statutes 1983 Supplement, section 337.03, is amended to read:

337.03 NONAPPLICATION TO CERTAIN AGREEMENTS.

Sections 337.01 to 337.05 do not apply to an agreement by which a ~~contractor~~ responsible for the performance of promisor that is a party to a building and construction contract indemnifies a person, firm, corporation, or public agency for whose account the construction is not being performed, but who, as an accommodation, permits the contractor promisor or the promisor's independent contractors, agents, employees, or delegates to enter upon or adjacent to its property for the purpose of performing the building and construction contract for another. Sections 337.01 to 337.05 do not apply to an indemnification agreement ~~which that~~ which that is an integral part of an offer to compromise or settlement of a disputed claim, if:

- (a) the settlement is based on consideration;
- (b) the dispute relates to an alleged event ~~which that~~ which that is related to a construction contract and ~~which that~~ which that occurred before the settlement is made; and

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(c) the indemnification relates only to claims ~~which~~ that have arisen or may arise from the past event.

Sec. 6. Minnesota Statutes 1983 Supplement, section 337.05, subdivision 2, is amended to read:

Subd. 2. INDEMNIFICATION FOR BREACH OF AGREEMENT.

If:

(a) a promisor agrees to provide specific types and limits of insurance; and

(b) a claim arises within the scope of the specified ~~coverage~~ insurance; and

(c) the promisor did not obtain and keep in force the specified ~~coverage~~ insurance;

then, as to that claim and regardless of section 337.02, the promisee ~~may~~ shall have indemnification from the promisor to the same extent as the specified ~~coverage~~ insurance.

Sec. 7. Minnesota Statutes 1983 Supplement, section 337.05, is amended by adding a subdivision to read:

Subd. 4. INDEMNIFICATION REGARDING DEDUCTIBLE AMOUNTS. If:

(1) a promisor agrees to provide specific types and limits of insurance; and

(2) a claim arises within the scope of the specified insurance; and

(3) the insurance provided by the promisor includes a self-insured retention or a deductible amount;

then, as to that claim and regardless of section 337.02, the promisee shall have indemnification from the promisor to the full extent of the deductible amount or self-insured retention.

Sec. 8. Minnesota Statutes 1983 Supplement, section 337.05, is amended by adding a subdivision to read:

Subd. 5. NO WAIVER BY CERTIFICATES. A promisor's obligation to provide specified insurance is not waived by either or both of the following:

(1) a promisee's failure to require or insist upon certificates or other evidence of insurance;

(2) a promisee's acceptance of a certificate or other evidence of insurance that shows a variance from the specified coverage.

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Sec. 9. **[337.06] COMMON LAW RIGHTS.**

Subject to section 337.02, sections 337.01 to 337.06 do not in any way restrict rights to indemnification that the common law may provide.

Sec. 10. Laws 1983, chapter 333, section 6, is amended to read:

Sec. 6. **EFFECTIVE DATE.**

Sections 1 to 5 are effective ~~May~~ August 1, 1984, and apply to all applicable agreements executed on or after that date.

Sec. 11. **EFFECTIVE DATE.**

Sections 1 to 9 are effective August 1, 1984. Section 10 is effective the day following final enactment.

Approved April 26, 1984

CHAPTER 599 — S.F.No. 1114

An act relating to natural resources; authorizing additions to and deletions from certain state parks and waysides; authorizing land acquisition in relation thereto; authorizing land exchange within Lake County; authorizing the conveyance of certain property to the city of Melrose; amending Minnesota Statutes 1982, section 86A.05, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. NATURAL RESOURCES; ADDITIONS TO AND DELETIONS FROM CERTAIN STATE PARKS.

Subdivision 1. The lands described in this section are, as specified in this section, added to or deleted from the boundaries of the state parks designated in this section. The commissioner of natural resources is authorized to acquire by gift, purchase, or, if authorized by law, by condemnation proceedings the lands as described which are added. Any land which now is or hereafter becomes tax-forfeited land and is located within the described park boundaries is withdrawn from sale and is transferred from the custody, control, and supervision of the county board of the county to the commissioner of natural resources, free from any trust in favor of the interested taxing districts. The commissioner shall execute a certificate of acceptance of the lands on behalf of the state for these purposes and transmit it to the county auditor of the county for record as provided by law in the case of tax-forfeited land transferred to the commissioner by resolution of the county board for conservation purposes. Any lands within the herein described boundaries which may be owned by the United States and managed by any of its agents may be acquired by land exchange, direct transfer, or purchase as federal laws may prescribe. The lands acquired pursuant to this

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