

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1665 Session of 2021

INTRODUCED BY QUINN, ZIMMERMAN, MALAGARI, THOMAS, POLINCHOCK, STEPHENS AND SCHROEDER, JUNE 21, 2021

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 15, 2021

AN ACT

1 ~~Providing for enforceability of certain indemnity provisions in~~ <--
2 ~~certain snow removal and ice control services contracts~~
3 ~~relating to commercial property.~~
4 AMENDING THE ACT OF JULY 9, 1970 (P.L.484, NO.164), ENTITLED "AN <--
5 ACT RELATING TO INDEMNIFICATION AGREEMENTS BETWEEN
6 ARCHITECTS, ENGINEERS OR SURVEYORS AND OWNERS, CONTRACTORS,
7 SUBCONTRACTORS OR SUPPLIERS," FURTHER PROVIDING FOR TITLE OF
8 ACT AND PROVIDING FOR INDEMNIFICATION AGREEMENTS RELATING TO
9 SNOW REMOVAL OR ICE CONTROL SERVICES.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 ~~Section 1. Short title.~~ <--

13 ~~This act shall be known and may be cited as the Commercial~~
14 ~~Property Snow Removal and Ice Control Services Contract~~
15 ~~Liability Limitation Act.~~

16 ~~Section 2. Definitions.~~

17 ~~The following words and phrases when used in this act shall~~
18 ~~have the meanings given to them in this section unless the~~
19 ~~context clearly indicates otherwise:~~

20 ~~"Commercial property." A property or portion of a property~~
21 ~~that is used, occupied or is intended, arranged or designed to~~

1 ~~be used or occupied for the purpose of operating a business, an~~
2 ~~office, a manufacturing facility or a public accommodation. The~~
3 ~~term includes any of the following:~~

4 ~~(1) All or part of a building, structure or facility on~~
5 ~~the property or portion of the property.~~

6 ~~(2) A residential development operating under a~~
7 ~~homeowners' association for the maintenance of the property~~
8 ~~or portion of the property.~~

9 ~~(3) An apartment complex consisting of five or more~~
10 ~~residential dwelling units.~~

11 ~~"Person." Includes a corporation, partnership, limited~~
12 ~~liability company, business trust, other association, estate,~~
13 ~~trust, foundation or individual. The term does not include the~~
14 ~~Commonwealth, a political subdivision or an instrumentality of~~
15 ~~the Commonwealth or a political subdivision.~~

16 ~~"Service provider." A person providing services for a~~
17 ~~commercial property under a snow removal and ice control~~
18 ~~services contract.~~

19 ~~"Service receiver." A person receiving services for a~~
20 ~~commercial property under a snow removal and ice control~~
21 ~~services contract.~~

22 ~~"Snow removal and ice control services contract." A contract~~
23 ~~or agreement for the performance of any of the following:~~

24 ~~(1) Plowing, shoveling, relocating or other removal of~~
25 ~~snow or other mixed precipitation from a surface.~~

26 ~~(2) De icing services.~~

27 ~~(3) A service incidental to an activity under paragraph~~
28 ~~(1) or (2), including operating or otherwise moving snow~~
29 ~~removal or de icing equipment or materials.~~

30 ~~Section 3. Certain indemnity agreements void.~~

1 ~~A provision, clause, covenant or agreement that is part of or~~
2 ~~in connection with a snow removal and ice control services~~
3 ~~contract is against public policy and void if the provision,~~
4 ~~clause, covenant or agreement requires, or has the effect of~~
5 ~~requiring, a service provider to:~~

6 ~~(1) indemnify a service receiver for damages resulting~~
7 ~~from the acts or omissions of the service receiver or the~~
8 ~~service receiver's agents or employees; or~~

9 ~~(2) defend a service receiver against tort liability for~~
10 ~~damages resulting from the acts or omissions of the service~~
11 ~~receiver or the service receiver's agents or employees.~~

12 ~~Section 4. Applicability.~~

13 ~~The provisions of this act:~~

14 ~~(1) Shall apply to snow removal and ice control services~~
15 ~~contracts entered into on or after the effective date of this~~
16 ~~section.~~

17 ~~(2) Shall not apply to an insurance policy, a surety~~
18 ~~bond or workers' compensation.~~

19 ~~Section 5. Construction.~~

20 ~~Nothing in this act shall be construed to affect an immunity~~
21 ~~or affirmative defense arising under other law.~~

22 ~~Section 6. Effective date.~~

23 ~~This act shall take effect immediately.~~

24 SECTION 1. THE TITLE OF THE ACT OF JULY 9, 1970 (P.L.484, <--
25 NO.164), ENTITLED "AN ACT RELATING TO INDEMNIFICATION AGREEMENTS
26 BETWEEN ARCHITECTS, ENGINEERS OR SURVEYORS AND OWNERS,
27 CONTRACTORS, SUBCONTRACTORS OR SUPPLIERS," IS AMENDED TO READ:

28 AN ACT
29 RELATING TO INDEMNIFICATION AGREEMENTS BETWEEN ARCHITECTS,
30 ENGINEERS OR SURVEYORS AND OWNERS, CONTRACTORS,

1 SUBCONTRACTORS OR SUPPLIERS AND INDEMNIFICATION AGREEMENTS
2 RELATING TO SNOW REMOVAL OR ICE CONTROL SERVICES.

3 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
4 SECTION 1.1. THE FOLLOWING APPLY TO SNOW REMOVAL OR ICE
5 CONTROL SERVICES:

6 (1) IN A SNOW REMOVAL OR ICE CONTROL SERVICES CONTRACT
7 BETWEEN A PROVIDER AND A RECEIVER, ANY PROVISION IN THE CONTRACT
8 WHICH PROVIDES THAT THE RECEIVER SHALL BE INDEMNIFIED, HELD
9 HARMLESS OR INSURED BY THE PROVIDER FROM DAMAGES, CLAIMS, LOSSES
10 OR EXPENSES ARISING OUT OF BODILY INJURY TO PERSONS, DAMAGE TO
11 PROPERTY OR ECONOMIC DAMAGE CAUSED BY OR RESULTING FROM THE
12 RECEIVER'S NEGLIGENCE, IN WHOLE OR IN PART, SHALL BE VOID IF
13 THE PROVIDER HAS BEEN DIRECTED NOT TO PERFORM THE SNOW REMOVAL
14 OR ICE CONTROL SERVICES BY THE RECEIVER.

15 (2) AS USED IN THIS SECTION, THE TERM "SNOW REMOVAL OR ICE
16 CONTROL SERVICES CONTRACT" MEANS A CONTRACT OR AGREEMENT FOR THE
17 PERFORMANCE OF, OR INCIDENTAL TO, ANY PLOWING OF SNOW,
18 RELOCATION OF SNOW OR OTHER REMOVAL OF SNOW OR MIXED
19 PRECIPITATION FROM A SURFACE OR DEICING SERVICES. THE TERM
20 INCLUDES MOVING SNOW REMOVAL OR DEICING EQUIPMENT OR MATERIALS.

21 (3) FOR THE PURPOSES OF THIS SECTION, A PROVIDER OF SNOW
22 REMOVAL OR ICE CONTROL SERVICES SHALL INCLUDE AGENTS AND
23 EMPLOYEES OF THE PROVIDER.

24 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.