

CHAPTER 328

COURTS

SENATE BILL 18-062

BY SENATOR(S) Moreno, Aguilar, Priola;
also REPRESENTATIVE(S) Melton.

AN ACT**CONCERNING LIABILITY LIMITS IN SNOW AND ICE REMOVAL CONTRACTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 13-21-129 as follows:

13-21-129. Snow removal service liability limitation - exceptions - short title - definitions. (1) THIS SECTION MAY BE CITED AS THE "SNOW REMOVAL SERVICE LIABILITY LIMITATION ACT".

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "PUBLIC UTILITY" HAS THE SAME MEANING AS SET FORTH IN SECTION 40-1-103.

(b) "SERVICE PROVIDER" MEANS A PERSON PROVIDING SERVICES UNDER A SNOW REMOVAL AND ICE CONTROL SERVICES CONTRACT.

(c) "SERVICE RECEIVER" MEANS A PERSON RECEIVING SERVICES UNDER A SNOW REMOVAL AND ICE CONTROL SERVICES CONTRACT.

(d) "SNOW REMOVAL AND ICE CONTROL SERVICES CONTRACT" MEANS A CONTRACT OR AGREEMENT FOR THE PERFORMANCE OF ANY OF THE FOLLOWING:

(I) PLOWING, SHOVELING, OR OTHER REMOVAL OF SNOW OR OTHER MIXED PRECIPITATION FROM A SURFACE;

(II) DEICING SERVICES; OR

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(III) A SERVICE INCIDENTAL TO AN ACTIVITY DESCRIBED IN SUBSECTION (2)(d)(I) OR (2)(d)(II) OF THIS SECTION, INCLUDING OPERATING OR OTHERWISE MOVING SNOW REMOVAL OR DEICING EQUIPMENT OR MATERIALS.

(3) A PROVISION, CLAUSE, COVENANT, OR AGREEMENT THAT IS PART OF OR IN CONNECTION WITH A SNOW REMOVAL AND ICE CONTROL SERVICES CONTRACT IS AGAINST PUBLIC POLICY AND VOID IF IT DOES ANY OF THE FOLLOWING IN THE INSTANCE WHERE THE SERVICE PROVIDER IS PROHIBITED, BY EXPRESS CONTRACT TERMS OR IN WRITING, FROM MITIGATING A SPECIFIC SNOW, ICE, OR OTHER MIXED PRECIPITATION EVENT OR RISK:

(a) REQUIRES, OR HAS THE EFFECT OF REQUIRING, A SERVICE PROVIDER TO INDEMNIFY A SERVICE RECEIVER FOR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS OF THE SERVICE RECEIVER OR THE SERVICE RECEIVER'S AGENTS OR EMPLOYEES;

(b) REQUIRES, OR HAS THE EFFECT OF REQUIRING, A SERVICE RECEIVER TO INDEMNIFY A SERVICE PROVIDER FOR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS OF THE SERVICE PROVIDER OR THE SERVICE PROVIDER'S AGENTS OR EMPLOYEES;

(c) REQUIRES, OR HAS THE EFFECT OF REQUIRING, A SERVICE PROVIDER TO HOLD A SERVICE RECEIVER HARMLESS FROM ANY TORT LIABILITY FOR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS OF THE SERVICE RECEIVER OR THE SERVICE RECEIVER'S AGENTS OR EMPLOYEES;

(d) REQUIRES, OR HAS THE EFFECT OF REQUIRING, A SERVICE RECEIVER TO HOLD A SERVICE PROVIDER HARMLESS FROM ANY TORT LIABILITY FOR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS OF THE SERVICE PROVIDER OR THE SERVICE PROVIDER'S AGENTS OR EMPLOYEES;

(e) REQUIRES, OR HAS THE EFFECT OF REQUIRING, A SERVICE PROVIDER TO DEFEND A SERVICE RECEIVER AGAINST ANY TORT LIABILITY FOR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS OF THE SERVICE RECEIVER OR THE SERVICE RECEIVER'S AGENTS OR EMPLOYEES; OR

(f) REQUIRES, OR HAS THE EFFECT OF REQUIRING, A SERVICE RECEIVER TO DEFEND A SERVICE PROVIDER AGAINST ANY TORT LIABILITY FOR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS OF THE SERVICE PROVIDER OR THE SERVICE PROVIDER'S AGENTS OR EMPLOYEES.

(4) THIS SECTION DOES NOT APPLY TO THE FOLLOWING:

(a) CONTRACTS FOR SNOW REMOVAL OR ICE CONTROL SERVICES ON PUBLIC ROADS OR WITH PUBLIC BODIES;

(b) CONTRACTS FOR SNOW REMOVAL OR ICE CONTROL SERVICES WITH A PUBLIC UTILITY;

(c) DEICING SERVICES OR ICE CONTROL SERVICES PROVIDED AT A MUNICIPAL OR COUNTY AIRPORT, AN AIRPORT UNDER THE JURISDICTION OF A PUBLIC AIRPORT

AUTHORITY CREATED UNDER THE PROVISIONS OF ARTICLE 3 OF TITLE 41, OR ANY OTHER PUBLIC AIRPORT, INCLUDING CONTRACTS FOR SERVICES PROVIDED TO COMMERCIAL PASSENGER AND CARGO AIRLINES AT SUCH AIRPORTS; OR

(d) AN INSURANCE POLICY, AS SURETY BOND, OR WORKERS' COMPENSATION.

(5) THIS SECTION DOES NOT AFFECT ANY LIABILITIES, IMMUNITIES, OR AFFIRMATIVE DEFENSES ARISING UNDER OTHER LAW.

SECTION 2. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to snow removal and ice control services contracts entered into on or after the applicable effective date of this act.

Approved: May 30, 2018