A BILL FOR AN ACT

Concerning liability limits in snow and ice removal contracts.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill enacts the "Snow Removal Service Liability Limitation Act", which makes void provisions of snow removal agreements that require one party to indemnify the other party for damages, hold the other party harmless for damages, and provide for the defense of the other party in a liability lawsuit.
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

(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.