

CHAPTER 206

AN ACT concerning limitations on a contractor's remedy for delayed performance caused by a contracting unit and amending P.L.1971, c.198 and N.J.S.18A:18A-41.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 19 of P.L.1971, c.198 (C.40A:11-19) is amended to read as follows:

C.40A:11-19 Liquidated damages; void provisions as to contractor's remedies.

19. Any contract made pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.) may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract in accordance with its terms and conditions, or the terms and conditions of P.L.1971, c.198 (C.40A:11-1 et seq.). Notwithstanding any other provision of law to the contrary, it shall be void, unenforceable and against public policy for a provision in a contract entered into under P.L.1971, c.198 (C.40A:11-1 et seq.) to limit a contractor's remedy for the contracting unit's negligence, bad faith, active interference, tortious conduct, or other reasons unanticipated by the parties that delay the contractor's performance, to giving the contractor an extension of time for performance under the contract. For the purposes of this section, "contractor" means a person, his assignees or legal representatives with whom a contract with a contracting unit is made.

2. N.J.S.18A:18A-41 is amended to read as follows:

Liquidated damages; void provisions as to contractor's remedies.

18A:18A-41. Liquidated damages. Any contract made pursuant to chapter 18A of Title 18A of the New Jersey Statutes may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract in accordance with its terms and conditions, or the terms and conditions of chapter 18A of Title 18A of the New Jersey Statutes. Notwithstanding any other provision of law to the contrary, it shall be void, unenforceable and against public policy for a provision in a contract entered into under Chapter 18A of Title 18A of the New Jersey Statutes to limit a contractor's remedy for the contracting unit's negligence, bad faith, active interference, tortious conduct, or other reasons unanticipated by the parties that delay the contractor's performance, to giving the contractor an extension of time for performance under the contract. For the purposes of this section, "contractor" means a person, his assignees or legal representatives with whom a contract with a contracting unit is made.

3. This act shall take effect immediately.

Approved August 8, 2001.