



New Louisiana Statute Prohibiting Insurance and Indemnity in Certain Construction and Trucking Contracts

Louisiana Revised Statute 9:2780.1 was created in the legislative session this summer. The new statute purports to prohibit indemnification and insurance by one party in favor of another under certain types of motor carrier transportation contracts and construction contracts. The Statute will have a significant impact on a large number of contracts in the State of Louisiana beginning January 1, 2011, the effective date of the statute.

This statute specifically exempts motor carrier transportation contracts related to agricultural products as defined by Louisiana Revised Statute 9:3306. With respect to construction contracts, the statute was designed to be limited to construction contracts related to improvements of real property. The statute includes a non-exclusive list of contracts specifically excluded from effect of the statute.

Another interesting and potential trap for the unwary is that the statute also has provisions which can render insurance provisions on certain motor carrier contracts and certain construction contracts unenforceable. Thus, the inclusion of indemnification provisions in a contract may have the unintended effect of negating insurance coverage for the parties to the contract.

Parties should carefully draft motor carrier transportation contracts and construction contracts after the effective date of the act January 1, 2011. It may be possible to draft appropriate language in contracts to avoid the loss of insurance, using savings clauses in conjunction with indemnity requirements.

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