

P.L. 1997, CHAPTER 371, *approved January 19, 1998*  
Senate, No. 913 (*Second Reprint*)

1 AN ACT concerning certain construction contracts and supplementing  
2 P.L.1971, c.198 (C.40A:11-1 et seq.).

3

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

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7 1. <sup>2</sup>[Every] All<sup>2</sup> construction contract documents<sup>2</sup> entered into in  
8 accordance with the provisions of P.L.1971, c.198 (C.40A:11-1 et  
9 seq.) after the effective date of P.L. , c. (C. )  
10 (pending before the Legislature as this bill) shall provide that disputes  
11 arising under <sup>2</sup>[or related to]<sup>2</sup> the contract shall <sup>2</sup>[first be submitted  
12 to mediation pursuant to the American Arbitration Association, or to  
13 another mediation procedure as agreed to by the contracting parties.  
14 If the dispute is not resolved by mediation, then the dispute shall  
15 either<sup>1</sup> be submitted to binding arbitration pursuant to the  
16 Construction Industry Arbitration Rules of the American Arbitration  
17 Association <sup>1</sup>; or to another binding alternate dispute resolution  
18 procedure as agreed to by the contracting parties.]be submitted to a  
19 process of resolution pursuant to alternative dispute resolution  
20 practices, such as mediation, binding arbitration or non-binding  
21 arbitration pursuant to industry standards, prior to being submitted to  
22 a court for adjudication. Nothing in this section shall prevent the  
23 contracting unit from seeking injunctive or declaratory relief in court  
24 at any time. The alternative dispute resolution practices required by  
25 this section shall not apply to disputes concerning the bid solicitation  
26 or award process, or to the formation of contracts or subcontracts to  
27 be entered into pursuant to P.L.1971, c.198 (C.40A:11-1 et seq.).<sup>2</sup>

28 Notwithstanding industry rules or any provision of law to the  
29 contrary, whenever a dispute concerns more than one contract, such  
30 as when a dispute in a contract involving construction relates to a  
31 contract involving design, architecture, engineering or management,  
32 upon the demand of a contracting party, other interested parties to the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate floor amendments adopted December 1, 1997.

<sup>2</sup> Senate floor amendments adopted December 15, 1997.

1 dispute shall be joined unless the arbitrator or person appointed to  
2 resolve the dispute determines that such joinder is inappropriate.  
3 Notwithstanding industry rules or any provision of law to the contrary,  
4 whenever more than one dispute of a similar nature arises under a  
5 construction contract, or related construction contracts, upon the  
6 demand of a contracting party, the disputes shall be joined unless the  
7 arbitrator or person appointed to resolve the dispute determines that  
8 the disputes are inappropriate for joinder.

9 <sup>2</sup>[Once a binding decision is rendered in connection to a dispute,  
10 either party may move to have the award vacated or modified by the  
11 court in accordance with N.J.S.2A:24-1 et seq.]<sup>2</sup>

12 For the purposes of this section, the term "construction contract"  
13 means a contract involving construction, or a contract related thereto  
14 concerning architecture, engineering or construction management<sup>1</sup>.  
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16 2. This act shall take effect immediately.  
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21 Requires that construction disputes under the "Local Public Contracts  
22 Law" be submitted to alternate dispute resolution procedure prior to  
23 court adjudication.