337.05 AGREEMENTS TO INSURE.

Subdivision 1. Agreements valid. Sections 337.01 to 337.05 do not affect the validity of agreements whereby a promisor agrees to provide specific insurance coverage for the benefit of others.

Subd. 2. Indemnification for breach of agreement. If:

(a) a promisor agrees to provide specific types and limits of insurance; and

(b) a claim arises within the scope of the specified insurance; and

(c) the promisor did not obtain and keep in force the specified insurance;

then, as to that claim and regardless of section 337.02, the promisee shall have indemnification from the promisor to the same extent as the specified insurance.

Subd. 3. When indemnification not available. The indemnification stated in subdivision 2 is not available if:

(a) the specified insurance was not reasonably available in the market; and

(b) the promisor so informed the other party to the agreement to insure before signing the agreement, or signed the agreement subject to a written exception as to the nonavailable insurance.

Subd. 4. Indemnification regarding deductible amounts. If:

(1) a promisor agrees to provide specific types and limits of insurance; and

(2) a claim arises within the scope of the specified insurance; and

(3) the insurance provided by the promisor includes a self-insured retention or a deductible amount;

then, as to that claim and regardless of section 337.02, the promisee shall have indemnification from the promisor to the full extent of the deductible amount or self-insured retention.

Subd. 5. **No waiver by certificates.** A promisor's obligation to provide specified insurance is not waived by either or both of the following:

(1) a promisee's failure to require or insist upon certificates or other evidence of insurance;

(2) a promisee's acceptance of a certificate or other evidence of insurance that shows a variance from the specified coverage.

History: 1983 c 333 s 5; 1984 c 598 s 6-8