



HB 0093A

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1 A bill to be entitled
 2 An act relating to owner-controlled insurance programs
 3 for public construction projects; creating s. 255.0517,
 4 F.S.; defining terms; limiting the authority of certain
 5 public agencies to purchase owner-controlled insurance
 6 programs for public construction projects; establishing
 7 purchase requirements; providing exemptions; creating s.
 8 627.441, F.S.; requiring insurers issuing commercial
 9 general liability policies to offer coverage for
 10 completed operations liability for certain contractors to
 11 the extent that coverage is not provided under an owner-
 12 controlled insurance program; providing for construction
 13 of the act in pari materia with laws enacted during the
 14 2003 Regular Session of the Legislature; providing an
 15 effective date.

17 Be It Enacted by the Legislature of the State of Florida:

19 Section 1. Section 255.0517, Florida Statutes, is created
 20 to read:

21 255.0517 Owner-controlled insurance programs for public
 22 construction projects.--

23 (1) DEFINITIONS.--As used in this section, the term:

24 (a) "Owner-controlled insurance program" means a
 25 consolidated insurance program or series of insurance policies
 26 issued to a public agency that may provide one or more of the
 27 following types of insurance coverage for all of the
 28 contractors, subcontractors, architects, and engineers working
 29 at specified or multiple contracted work sites of a public
 30 construction project: general liability, property damage,



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31 workers' compensation, employer's liability, builder's risk, or
32 pollution liability coverage.

33 (b) "Specified contracted work site" means construction
34 being performed during one or more fiscal years at one site or a
35 series of contiguous sites separated only by a street, roadway,
36 waterway, or railroad right-of-way or along a continuous system
37 for the provision for water and power.

38 (c) "Multiple contracted work site" means construction
39 being performed at multiple sites during one or more fiscal
40 years that is part of an ongoing capital infrastructure
41 improvement program or involves the construction of one or more
42 public schools.

43 (2) PURCHASE REQUIREMENTS.--A state agency, political
44 subdivision, state university, community college, airport
45 authority, or other public agency in this state, or any
46 instrumentality thereof, may only purchase an owner-controlled
47 insurance program in connection with a public construction
48 project if it is determined necessary and in the best interest
49 of the public agency and if each of the following conditions is
50 met:

51 (a) The estimated total cost of the project is:

52 1. Seventy-five million dollars or more;

53 2. Thirty million dollars or more, if the project is for
54 the construction or renovation of two or more public schools
55 during a fiscal year; or

56 3. Ten million dollars or more, if the project is for the
57 construction or renovation of one public school, regardless of
58 whether the project's duration extends beyond a fiscal year.

59 (b) The program maintains completed operations insurance
60 coverage for a term during which the coverage is reasonably



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61 commercially available, as determined by the public agency, but
62 for no less than 5 years.

63 (c) The bid or proposal specifications for the project
64 clearly specify, for all bidders or proposers, the insurance
65 coverage provided under the program and the minimum safety
66 requirements that must be met.

67 (d) The program does not prohibit a contractor or
68 subcontractor from purchasing any additional insurance coverage
69 that the contractor or subcontractor believes is necessary for
70 protection against any liability arising out of the contract.
71 The cost of the additional insurance must be disclosed to the
72 public agency.

73 (e) The program does not include surety insurance.

74 (f) The public agency may only purchase an owner-
75 controlled insurance policy that has a deductible or self-
76 insured retention if the deductible or self-insured retention
77 does not exceed \$1 million per occurrence.

78 (g) The public agency is responsible for payment of the
79 applicable deductibles of all claims.

80 (3) EXEMPTIONS.--This section does not apply to the
81 following projects:

82 (a) Any project of the Department of Transportation that
83 is authorized under s. 337.11;

84 (b) Any existing project or projects of a public agency
85 that are the subject of an ongoing, owner-controlled insurance
86 program issued before October 1, 2003; or

87 (c) Any project of a public agency that is advertised by
88 the public agency before October 1, 2003, for the purpose of
89 receiving bids or proposals for the project.

90 Section 2. Section 627.441, Florida Statutes, is created



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91 to read:

92 627.441 Commercial general liability policies; coverage to
93 contractors for completed operations.--94 (1) As used in this section, the term:95 (a) "Contractor" means a contractor, subcontractor,
96 architect, or engineer performing work on a public construction
97 project under contract with a public agency, as described in s.
98 255.0517(2).99 (b) "Liability insurer" means an insurer issuing a
100 commercial general liability insurance policy in this state to a
101 contractor that provides coverage for liability arising out of
102 completed operations performed by the contractor or on the
103 contractor's behalf.104 (2) A liability insurer must offer coverage at an
105 appropriate additional premium for liability arising out of
106 current or completed operations under an owner-controlled
107 insurance program for any period beyond the period for which the
108 program provides liability coverage, as specified in s.
109 255.0517(2)(b). The period of such coverage must be sufficient
110 to protect against liability arising out of an action brought
111 within the time limits provided in s. 95.11(3)(c).112 Section 3. If any law amended by this act was also amended
113 by a law enacted at the 2003 Regular Session of the Legislature,
114 such laws shall be construed as if they had been enacted at the
115 same session of the Legislature, and full effect shall be given
116 to each if possible.117 Section 4. This act shall take effect October 1, 2003.
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