

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1 Representative(s) Ross offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause, and insert:

5 Section 1. Section 627.442, Florida Statutes, is created
6 to read:

7 627.442 Construction contract insurance provisions;
8 acceptance, rejection, or application.--

9 (1) If a written construction contract requires a
10 subcontractor, sub-subcontractor, or materialman to provide an
11 insurance policy or certificate of insurance to the general
12 contractor or another subcontractor for work performed or
13 materials provided, which extends coverage rights to an
14 additional insured, the general contractor or subcontractor is
15 deemed to have accepted the insurance policy or certificate of
16 insurance as conforming to the written construction contract
17 unless the general contractor or subcontractor rejects the

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18 insurance policy or certificate of insurance in writing within
19 30 business days for commercial construction projects and 7
20 business days for residential construction projects after
21 receipt of the insurance policy or certificate of insurance. The
22 written rejection must specify the reason for rejection.

23 However, the general contractor or subcontractor may not be
24 deemed to have accepted an insurance policy or certificate of
25 insurance that does not comply with the insurance coverage
26 limits specified in the construction contract, that was
27 knowingly and fraudulently altered, or does not accurately
28 reflect the coverages contained in the policy in force.

29 (2) After a general contractor or subcontractor accepts an
30 insurance policy or certificate of insurance or is deemed to
31 have accepted the insurance policy or certificate of insurance,
32 an owner, general contractor, or subcontractor may not use the
33 lack of conforming insurance as a reason to reject work
34 previously completed by a subcontractor or sub-subcontractor,
35 reject materials previously supplied by a materialman, or
36 withhold payment for work previously completed or materials
37 previously supplied. However, the general contractor or
38 subcontractor may reject work previously completed or materials
39 previously supplied or withhold payment for such work or
40 materials if the policy or certificate provided by the
41 subcontractor, sub-subcontractor, or materialman:

42 (a) Does not comply with the insurance coverage limits
43 specified in the construction contract;

44 (b) Was knowingly and fraudulently altered or does not
45 accurately reflect the coverages contained in the policy in
46 force; or

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47 (c) Is canceled, nonrenewed, or materially and adversely
48 altered such that the policy or certificate no longer satisfies
49 contract requirements.

50 (3) Subsection (1) does not preclude a general contractor
51 or subcontractor from rejecting as nonconforming an insurance
52 policy or certificate of insurance previously accepted or deemed
53 to have been accepted; however, such a rejection shall be in
54 writing and shall specify the reason for rejection. A general
55 contractor or subcontractor who rejects in writing an insurance
56 policy or certificate of insurance as nonconforming and states
57 the specific reason for such rejection may withhold payment for
58 the work performed or materials supplied after the date of the
59 rejection of the policy or certificate.

60 (4) This section shall not apply if at the time of the
61 request for proposals or bids, or prior to the subcontractor,
62 sub-subcontractor, or materialman commencing work or supplying
63 materials under the construction contract, the general
64 contractor or subcontractor provides a sample of an acceptable
65 certificate of insurance or a one-page schedule accurately
66 reflecting all insurance requirements which extend coverage
67 rights to an additional insured for that contract to the
68 subcontractor, sub-subcontractor, or materialman and the
69 insurance provided by the subcontractor, sub-subcontractor, or
70 materialman does not comply with the construction contract. A
71 schedule or sample certificate of insurance issued under this
72 subsection shall not be deemed to amend or modify the contract
73 between the parties in any way or to waive any requirement of
74 the contract unless the schedule or certificate expressly states
75 that such an amendment, modification, or waiver is intended.

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76 (5) For purposes of this section, term:

77 (a) "Residential construction project" means the
78 construction, remodeling, repair, or improvement of a one-
79 family, two-family, or three-family residence not exceeding two
80 habitable stories above no more than one uninhabitable story,
81 and accessory-use structures in connection therewith.

82 (b) "Commercial construction project" means any
83 construction, remodeling, repair, or improvement that does not
84 constitute a residential construction project.

85 (6) This section shall apply to contracts entered into on
86 or after October 1, 2006.

87 Section 2. Effective July 1, 2006, section 627.443,
88 Florida Statutes, is created to read:

89 627.443 Workers' compensation policy
90 limitations.--Notwithstanding any other provision in this
91 chapter, any person requiring a workers' compensation policy
92 pursuant to a construction contract shall not require such
93 policy to be issued by an insurer or self-insurance fund that is
94 rated by a nationally recognized insurance rating service,
95 provided the issuing insurer or self-insurance fund is subject
96 to part V of chapter 631.

97 Section 3. Except as otherwise expressly provided in this
98 act, this act shall take effect October 1, 2006.

99

100 ===== T I T L E A M E N D M E N T =====

101 Remove the entire title, and insert:

102 A bill to be entitled

103 An act relating to construction contracts; creating s.

104 627.442, F.S.; specifying acceptance of certain insurance

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105 provisions of a construction contract under certain
106 circumstances; providing exceptions; prohibiting certain
107 actions after acceptance of such provisions; providing an
108 exception authorizing such actions under certain
109 circumstances; authorizing contractors or subcontractors
110 to reject certain accepted construction contract insurance
111 provisions as nonconforming under certain circumstances;
112 authorizing such contractors and subcontractors to
113 withhold payment for work performed or materials supplied
114 under certain circumstances; prohibiting rejecting certain
115 policies of insurance on certain grounds; specifying
116 nonapplication of construction contract insurance
117 provisions under certain circumstances; providing
118 construction; providing definitions; providing for
119 application to certain contracts; creating s. 627.443,
120 F.S.; prohibiting certain persons from requiring workers'
121 compensation policies to be issued by certain entities
122 under certain circumstances; providing effective dates.

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