

CHAMBER ACTION

1 The Insurance Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to construction contracts; creating s.
7 627.442, F.S.; specifying acceptance of certain insurance
8 provisions of a construction contract under certain
9 circumstances; providing exceptions; prohibiting certain
10 actions after acceptance of such provisions; providing an
11 exception authorizing such actions under certain
12 circumstances; authorizing contractors or subcontractors
13 to reject certain accepted construction contract insurance
14 provisions as nonconforming under certain circumstances;
15 authorizing such contractors and subcontractors to
16 withhold payment for work performed or materials supplied
17 under certain circumstances; providing an effective date.

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

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21 Section 1. Section 627.442, Florida Statutes, is created
22 to read:

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23 627.442 Construction contract insurance provisions;
24 acceptance, rejection, or application.--

25 (1) If a written construction contract requires a
26 subcontractor, sub-subcontractor, or materialman to provide an
27 insurance policy or certificate of insurance to the general
28 contractor or another subcontractor for work performed or
29 materials provided, which extends coverage rights to an
30 additional insured, the general contractor or subcontractor is
31 deemed to have accepted the insurance policy or certificate of
32 insurance as conforming to the written construction contract
33 unless the general contractor or subcontractor rejects the
34 insurance policy or certificate of insurance in writing within 3
35 business days after receipt of the insurance policy or
36 certificate of insurance. The written rejection must specify the
37 reason for rejection. However, the general contractor or
38 subcontractor may not be deemed to have accepted an insurance
39 policy or certificate of insurance that does not comply with the
40 insurance coverage limits specified in the construction
41 contract, that was knowingly and fraudulently altered, or that
42 reflects coverages or conditions that are not contained in the
43 underlying policy.

44 (2) After a general contractor or subcontractor accepts an
45 insurance policy or certificate of insurance or is deemed to
46 have accepted the insurance policy or certificate of insurance,
47 a general contractor or subcontractor may not use the lack of
48 conforming insurance as a reason to reject work previously
49 completed by a subcontractor or sub-subcontractor, reject
50 materials previously supplied by a materialman, or withhold

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51 payment for work previously completed or materials previously
52 supplied. However, the general contractor or subcontractor may
53 reject work previously completed or materials previously
54 supplied or withhold payment for such work or materials if the
55 policy or certificate provided by the subcontractor, sub-
56 subcontractor, or materialman:

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

59 (b) Was knowingly and fraudulently altered or reflects
60 coverages or conditions that are not contained in the underlying
61 policy; or

62 (c) Is cancelled, nonrenewed, or materially and adversely
63 altered during the term of the construction contract.

64 (3) Subsection (1) does not preclude a general contractor
65 or subcontractor from rejecting as nonconforming an insurance
66 policy or certificate of insurance previously accepted or deemed
67 to have been accepted; however, such a rejection shall be in
68 writing and shall specify the reason for rejection. A general
69 contractor or subcontractor who rejects in writing an insurance
70 policy or certificate of insurance as nonconforming and states
71 the specific reason for such rejection may withhold payment for
72 the work performed or materials supplied after the date of the
73 rejection of the policy or certificate.

74 Section 2. This act shall take effect July 1, 2006.