

CHAMBER ACTION

1 The Business Regulation 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; prohibiting rejecting certain
18 policies of insurance on certain grounds; providing an
19 effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

HB 173 CS

2006
CS

23 Section 1. Section 627.442, Florida Statutes, is created
24 to read:

25 627.442 Construction contract insurance provisions;
26 acceptance, rejection, or application.--

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

46 (2) After a general contractor or subcontractor accepts an
47 insurance policy or certificate of insurance or is deemed to
48 have accepted the insurance policy or certificate of insurance,
49 a general contractor or subcontractor may not use the lack of
50 conforming insurance as a reason to reject work previously

HB 173 CS

2006
CS

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

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

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

64 (c) Is canceled, nonrenewed, or materially and adversely
65 altered during the term of the construction contract.

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

76 (4) A policy of insurance issued by an authorized insurer
77 or self-insurance fund that is subject to ss. 631.901-631.932
78 may not be rejected as nonconforming by a general contractor on

HB 173 CS

2006
CS

79 | the grounds that such authorized insurer or self-insurance fund
80 | is rated or not rated by a nationally recognized insurance
81 | rating service.

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