

CHAMBER ACTION

1 The Civil Justice Committee recommends the following:

2
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; specifying
19 nonapplication of construction contract insurance
20 provisions under certain circumstances; providing
21 construction; providing for application to certain
22 contracts; providing an effective date.

HB 173 CS

2006
CS

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

25

26 Section 1. Section 627.442, Florida Statutes, is created
27 to read:

28 627.442 Construction contract insurance provisions;
29 acceptance, rejection, or application.--

30 (1) If a written construction contract requires a
31 subcontractor, sub-subcontractor, or materialman to provide an
32 insurance policy or certificate of insurance to the general
33 contractor or another subcontractor for work performed or
34 materials provided, which extends coverage rights to an
35 additional insured, the general contractor or subcontractor is
36 deemed to have accepted the insurance policy or certificate of
37 insurance as conforming to the written construction contract
38 unless the general contractor or subcontractor rejects the
39 insurance policy or certificate of insurance in writing within
40 30 business days for commercial construction projects and 7
41 business days for residential construction projects after
42 receipt of the insurance policy or certificate of insurance. The
43 written rejection must specify the reason for rejection.
44 However, the general contractor or subcontractor may not be
45 deemed to have accepted an insurance policy or certificate of
46 insurance that does not comply with the insurance coverage
47 limits specified in the construction contract, that was
48 knowingly and fraudulently altered, or that reflects coverages
49 or conditions that are not contained in the underlying policy.
50 (2) After a general contractor or subcontractor accepts an
51 insurance policy or certificate of insurance or is deemed to

52 | have accepted the insurance policy or certificate of insurance,
53 | a general contractor or subcontractor may not use the lack of
54 | conforming insurance as a reason to reject work previously
55 | completed by a subcontractor or sub-subcontractor, reject
56 | materials previously supplied by a materialman, or withhold
57 | payment for work previously completed or materials previously
58 | supplied. However, the general contractor or subcontractor may
59 | reject work previously completed or materials previously
60 | supplied or withhold payment for such work or materials if the
61 | policy or certificate provided by the subcontractor, sub-
62 | subcontractor, or materialman:

63 | (a) Does not comply with the insurance coverage limits
64 | specified in the construction contract;

65 | (b) Was knowingly and fraudulently altered or reflects
66 | coverages or conditions that are not contained in the underlying
67 | policy; or

68 | (c) Is canceled, nonrenewed, or materially and adversely
69 | altered during the term of the construction contract.

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

HB 173 CS

2006
CS

80 (4) A policy of insurance issued by an authorized insurer
81 or self-insurance fund that is subject to ss. 631.901-631.932
82 may not be rejected as nonconforming by a general contractor on
83 the grounds that such authorized insurer or self-insurance fund
84 is rated or not rated by a nationally recognized insurance
85 rating service.

86 (5) This section shall not apply if at the time of the
87 request for proposals or bids, or prior to the subcontractor,
88 sub-subcontractor, or materialman commencing work or supplying
89 materials under the construction contract, the general
90 contractor or subcontractor provides a sample of an acceptable
91 certificate of insurance or a one-page schedule accurately
92 reflecting all insurance requirements which extend coverage
93 rights to an additional insured for that contract to the
94 subcontractor, sub-subcontractor, or materialman and the
95 insurance provided by the subcontractor, sub-subcontractor, or
96 materialman does not comply with the construction contract. A
97 schedule or sample certificate of insurance issued under this
98 subsection shall not be deemed to amend or modify the contract
99 between the parties in any way or to waive any requirement of
100 the contract unless the schedule or certificate expressly states
101 that such an amendment, modification, or waiver is intended.

102 (6) This section shall apply to contracts entered into on
103 or after July 1, 2006.

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