

CHAMBER ACTION

1 The Commerce Council 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.; authorizing a prime contractor or
8 subcontractor to reject certain insurance policies or
9 certificates of insurance required by a construction
10 contract as not evidencing insurance conforming with
11 contract requirements; providing requirements, procedures,
12 and limitations on such rejection; providing definitions;
13 providing limitations on payments for labor, services, or
14 materials supplied and lien or payment bond claims for
15 labor, services, or materials supplied under certain
16 circumstances; specifying additional circumstances for
17 rejection of certain insurance policies or certificates of
18 insurance required by a construction contract as not
19 evidencing insurance conforming with contract
20 requirements; providing construction relating to tolling
21 certain time periods for filing certain claims; specifying
22 nonapplication of construction contract insurance
23 provisions under certain circumstances; providing

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24 construction; providing for application to certain
25 contracts; creating s. 627.443, F.S.; prohibiting certain
26 persons from requiring workers' compensation policies to
27 be issued by certain entities under certain circumstances;
28 providing an effective date.

29

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

31

32 Section 1. Section 627.442, Florida Statutes, is created
33 to read:

34 627.442 Construction contract insurance provisions;
35 acceptance, rejection, or application.--

36 (1) If a written construction contract requires a
37 subcontractor, sub-subcontractor, or materialman to provide an
38 insurance policy or certificate of insurance to the prime
39 contractor or another subcontractor evidencing the extension of
40 coverage rights to an additional insured, the prime contractor
41 or subcontractor may reject the policy or certificate as not
42 sufficiently evidencing insurance conforming to the contract
43 requirements within 30 business days after receipt for
44 commercial construction projects or within 7 business days after
45 receipt for residential construction projects. Any such
46 rejection must be in writing and must specify the reasons that
47 the policy or certificate does not sufficiently evidence
48 insurance conforming to the contract requirements. If a policy
49 or certificate is rejected as provided in this subsection, no
50 payment to the subcontractor, sub-subcontractor, or materialman
51 shall be due for any labor, services, or materials supplied, and

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 | no valid lien or payment bond claim pertaining to such labor,
53 | services, or materials supplied shall exist until the
54 | subcontractor, sub-subcontractor, or materialman obtains and
55 | evidences insurance conforming to the contract requirements. If
56 | the policy or certificate is not rejected as provided in this
57 | subsection, payment may not be withheld by the owner, lender,
58 | prime contractor, or subcontractor based upon the failure of the
59 | subcontractor, sub-subcontractor, or materialman to evidence
60 | insurance conforming to the contract requirements. For purposes
61 | of this section, the term "residential construction project"
62 | means the construction, remodeling, repair, or improvement of a
63 | one-family, two-family, or three-family residence not exceeding
64 | two habitable stories above no more than one uninhabitable story
65 | and accessory use structures in connection with such residences.
66 | For purposes of this section, the term "commercial construction
67 | project" means any construction, remodeling, repair, or
68 | improvement that does not constitute a residential construction
69 | project.

70 | (2) Notwithstanding subsection (1) or subsection (3), no
71 | payment to the subcontractor, sub-subcontractor, or materialman
72 | shall be due for any labor, services, or materials supplied, and
73 | no valid lien or payment bond claim pertaining to such labor,
74 | services, or materials supplied shall exist, until that
75 | subcontractor, sub-subcontractor, or materialman obtains and
76 | evidences insurance conforming to the contract requirements, if:

77 | (a) The policy or certificate does not accurately reflect
78 | the coverages contained in the policy in force; or

79 (b) The policy is canceled, nonrenewed, or its terms are
80 materially and adversely altered such that the policy no longer
81 satisfies the contract requirements.

82 (3) Nothing in this section prohibits a prime contractor
83 or subcontractor from rejecting a policy or certificate as not
84 sufficiently evidencing insurance conforming to the contract
85 requirements at any point beyond the time periods specified in
86 subsection (1) if such rejection is in writing and specifies the
87 reasons for rejection. If a policy or certificate is rejected as
88 described in this subsection, no payment to the subcontractor,
89 sub-subcontractor, or materialman shall be due, and no valid
90 lien or payment bond claim shall exist, for labor, services, or
91 materials supplied after the rejection is received until that
92 subcontractor, sub-subcontractor, or materialman obtains and
93 evidences insurance conforming to the contract requirements.

94 (4) Nothing in this section shall be construed to toll the
95 required time period within which a claim of lien or a claim
96 against a payment bond must be filed.

97 (5) This section shall not apply if at the time of the
98 request for proposals or bids, or prior to the subcontractor,
99 sub-subcontractor, or materialman commencing work or supplying
100 materials under the construction contract, the prime contractor
101 or subcontractor provides a sample of an acceptable certificate
102 of insurance or a one-page schedule accurately reflecting all
103 insurance requirements which extend coverage rights to an
104 additional insured for that contract to the subcontractor, sub-
105 subcontractor, or materialman and the insurance provided by the
106 subcontractor, sub-subcontractor, or materialman does not comply

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107 with the construction contract. A schedule or sample certificate
108 of insurance issued under this subsection shall not be deemed to
109 amend or modify the contract between the parties in any way or
110 to waive any requirement of the contract unless the schedule or
111 certificate expressly states that such an amendment,
112 modification, or waiver is intended.

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

115 Section 2. Section 627.443, Florida Statutes, is created
116 to read:

117 627.443 Workers' compensation policy
118 limitations.--Notwithstanding any other provision in this
119 chapter, any person requiring a workers' compensation policy
120 pursuant to a construction contract shall not require such
121 policy to be issued by an insurer or self-insurance fund that is
122 rated by a nationally recognized insurance rating service,
123 provided the issuing insurer or self-insurance fund is subject
124 to part V of chapter 631.

125 Section 3. This act shall take effect October 1, 2006.