

Bill No. SB 682

Barcode 051240

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Baker) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

(1) If a written construction contract requires a subcontractor, sub-subcontractor, or materialman to provide an insurance policy or certificate of insurance to the general contractor or another subcontractor for work performed or materials provided, which extends coverage rights to an additional insured, the general contractor or subcontractor is deemed to have accepted the insurance policy or certificate of insurance as conforming to the written construction contract unless the general contractor or subcontractor rejects the insurance policy or certificate of insurance in writing within

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1 30 business days for commercial construction projects and 7
 2 business days for residential construction projects after
 3 receipt of the insurance policy or certificate of insurance.
 4 The written rejection must specify the reason for rejection.
 5 However, the general contractor or subcontractor may not be
 6 deemed to have accepted an insurance policy or certificate of
 7 insurance that does not comply with the insurance coverage
 8 limits specified in the construction contract, that was
 9 knowingly and fraudulently altered, or that reflects coverages
 10 or conditions that are not contained in the underlying policy.

11 (2) After a general contractor or subcontractor
 12 accepts an insurance policy or certificate of insurance or is
 13 deemed to have accepted the insurance policy or certificate of
 14 insurance, a general contractor or subcontractor may not use
 15 the lack of conforming insurance as a reason to reject work
 16 previously completed by a subcontractor or sub-subcontractor,
 17 reject materials previously supplied by a materialman, or
 18 withhold payment for work previously completed or materials
 19 previously supplied. However, the general contractor or
 20 subcontractor may reject work previously completed or
 21 materials previously supplied or withhold payment for such
 22 work or materials if the policy or certificate provided by the
 23 subcontractor, sub-subcontractor, or materialman:

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

26 (b) Was knowingly and fraudulently altered or reflects
 27 coverages or conditions that are not contained in the
 28 underlying policy; or

29 (c) Is canceled, nonrenewed, or materially and
 30 adversely altered during the term of the construction
 31 contract.

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1 (3) Subsection (1) does not preclude a general
2 contractor or subcontractor from rejecting as nonconforming an
3 insurance policy or certificate of insurance previously
4 accepted or deemed to have been accepted; however, such a
5 rejection shall be in writing and shall specify the reason for
6 rejection. A general contractor or subcontractor who rejects
7 in writing an insurance policy or certificate of insurance as
8 nonconforming and states the specific reason for such
9 rejection may withhold payment for the work performed or
10 materials supplied after the date of the rejection of the
11 policy or certificate.

12 (4) Notwithstanding any other provision in this
13 chapter, any person requiring a workers' compensation policy
14 pursuant to a construction contract may not require that the
15 policy be issued by an insurer or self-insurance fund that is
16 rated by a nationally recognized insurance rating service if
17 the issuing insurer or self-insurance fund is subject to part
18 V of chapter 631.

19 (5) This section shall not apply if at the time of the
20 request for proposals or bids, or prior to the subcontractor,
21 sub-subcontractor, or materialman commencing work or supplying
22 materials under the construction contract, the general
23 contractor or subcontractor provides a sample of an acceptable
24 certificate of insurance or a one-page schedule accurately
25 reflecting all insurance requirements which extend coverage
26 rights to an additional insured for that contract to the
27 subcontractor, sub-subcontractor, or materialman and the
28 insurance provided by the subcontractor, sub-subcontractor, or
29 materialman does not comply with the construction contract. A
30 schedule or sample certificate of insurance issued under this
31 subsection shall not be deemed to amend or modify the contract

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1 between the parties in any way or to waive any requirement of
2 the contract unless the schedule or certificate expressly
3 states that such an amendment, modification, or waiver is
4 intended.

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

6 (a) "Residential construction project" means the
7 construction, remodeling, repair, or improvement of a
8 one-family, two-family, or three-family residence not
9 exceeding two habitable stories above no more than one
10 uninhabitable story, and accessory-use structures in
11 connection therewith.

12 (b) "Commercial construction project" means any
13 construction, remodeling, repair, or improvement that does not
14 constitute a residential construction project.

15 (7) This section shall apply to contracts entered into
16 on or after July 1, 2006.

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

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

21 And the title is amended as follows:

22 Delete everything before the enacting clause

23

24 and insert:

25 A bill to be entitled
26 An act relating to construction contracts;
27 creating s. 627.442, F.S.; specifying
28 acceptance of certain insurance provisions of a
29 construction contract under certain
30 circumstances; providing exceptions;
31 prohibiting certain actions after acceptance of

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1 such provisions; providing an exception
2 authorizing such actions under certain
3 circumstances; authorizing contractors or
4 subcontractors to reject certain accepted
5 construction contract insurance provisions as
6 nonconforming under certain circumstances;
7 authorizing such contractors and subcontractors
8 to withhold payment for work performed or
9 materials supplied under certain circumstances;
10 prohibiting rejecting certain policies of
11 insurance on certain grounds; specifying
12 nonapplication of construction contract
13 insurance provisions under certain
14 circumstances; providing construction;
15 providing definitions; providing for
16 application to certain contracts; providing an
17 effective date.

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