

Bill No. SB 682

Barcode 415840

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) A policy of insurance issued by an authorized  
13 insurer or self-insurance fund that is subject to ss. 631.901  
14 631.932 may not be rejected as nonconforming by a general  
15 contractor on the grounds that such authorized insurer or  
16 self-insurance fund is rated or not rated by a nationally  
17 recognized insurance rating service.

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

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1 the contract unless the schedule or certificate expressly  
2 states that such an amendment, modification, or waiver is  
3 intended.

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

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

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

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

16 Section 2. Section 627.443, Florida Statutes, is  
17 created to read:

18 627.443 Insurance rating service.--Notwithstanding any  
19 other provision in this chapter, any person requiring a  
20 workers' compensation policy pursuant to a construction  
21 contract may not require that the policy be issued by an  
22 insurer or self-insurance fund that is rated by a nationally  
23 recognized insurance rating service if the issuing insurer or  
24 self-insurance fund is subject to part V of chapter 631.

25 Section 3. This act shall take effect July 1, 2006.

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

29 And the title is amended as follows:

30 Delete everything before the enacting clause

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1 and insert:

2                                   A bill to be entitled

3           An act relating to construction contracts;

4           creating s. 627.442, F.S.; specifying

5           acceptance of certain insurance provisions of a

6           construction contract under certain

7           circumstances; providing exceptions;

8           prohibiting certain actions after acceptance of

9           such provisions; providing an exception

10          authorizing such actions under certain

11          circumstances; authorizing contractors or

12          subcontractors to reject certain accepted

13          construction contract insurance provisions as

14          nonconforming under certain circumstances;

15          authorizing such contractors and subcontractors

16          to withhold payment for work performed or

17          materials supplied under certain circumstances;

18          prohibiting rejecting certain policies of

19          insurance on certain grounds; specifying

20          nonapplication of construction contract

21          insurance provisions under certain

22          circumstances; providing construction;

23          providing definitions; providing for

24          application to certain contracts; creating s.

25          627.443, F.S.; prohibiting a person who

26          requires a workers' compensation policy under a

27          construction contract from requiring that the

28          workers' compensation policy be issued by an

29          insurer or self-insurance fund that is rated by

30          a nationally recognized insurance rating

31          service if the issuing insurer or

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1 self-insurance fund is subject to specified  
2 laws; providing an effective date.  
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