



576406

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2019	.	
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The Committee on Banking and Insurance (Broxson) recommended the following:

1           **Senate Substitute for Amendment (730644) (with title**  
2 **amendment)**

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4           Delete line 722  
5 and insert:

6           Section 12. Effective July 1, 2020, paragraph (d) of  
7 subsection (1) of section 440.10, Florida Statutes, is amended  
8 to read:

9           440.10 Liability for compensation.—  
10           (1)



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11 (d)1. If a contractor becomes liable for the payment of  
12 compensation to the employees of a subcontractor who has failed  
13 to secure such payment in violation of s. 440.38, the contractor  
14 or other third-party payor shall be entitled to recover from the  
15 subcontractor all benefits paid or payable plus interest unless  
16 the contractor and subcontractor have agreed in writing that the  
17 contractor will provide coverage.

18 2. If a contractor or third-party payor becomes liable for  
19 the payment of compensation to the corporate officer of a  
20 subcontractor who is engaged in the construction industry and  
21 has elected to be exempt from ~~the provisions of~~ this chapter,  
22 but whose election is invalid, the contractor or third-party  
23 payor may recover from the claimant or corporation all benefits  
24 paid or payable plus interest, unless the contractor and the  
25 subcontractor have agreed in writing that the contractor will  
26 provide coverage.

27 3. If a contractor and an employee leasing company are  
28 operating pursuant to an arrangement for employee leasing as  
29 defined in s. 468.520(4) and workers' compensation insurance is  
30 provided by the employee leasing company to the leased  
31 employees, a person is deemed an employee of the employee  
32 leasing company for purposes of workers' compensation insurance,  
33 unless the contractor has secured additional workers'  
34 compensation coverage applicable to the employee, upon the  
35 earliest of the following:

36 a. The hiring of the person by the contractor.

37 b. The commencement of work by the person for the  
38 contractor.

39 c. The hiring of the person directly by the employee



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40 leasing company.

41 Section 13. Effective July 1, 2020, subsection (5) is added  
42 to section 468.525, Florida Statutes, to read:

43 468.525 License requirements.—

44 (5) If the client company is a contractor, the requirements  
45 of s. 440.10(1)(a) are not satisfied by the employee leasing  
46 arrangement unless the contractor has secured additional  
47 workers' compensation insurance for nonleased employees or  
48 unless the contractual arrangement provides that a person is  
49 deemed an employee of the employee leasing company for purposes  
50 of workers' compensation coverage, upon the earliest of the  
51 following:

52 (a) The hiring of the person by the client company.

53 (b) The commencement of work by the person for the client  
54 company.

55 (c) The hiring of the person directly by the employee  
56 leasing company.

57 Section 14. Effective July 1, 2020, present subsections (4)  
58 and (5) of section 468.529, Florida Statutes, are redesignated  
59 as subsections (5) and (6), respectively, a new subsection (4)  
60 is added to that section, and subsection (1) of that section is  
61 amended, to read:

62 468.529 Licensee's insurance; employment tax; benefit  
63 plans.—

64 (1) A licensed employee leasing company is the employer of  
65 the leased employees, except that this provision is not intended  
66 to affect the determination of any issue arising under Pub. L.  
67 No. 93-406, the Employee Retirement Income Security Act, as  
68 amended from time to time. An employee leasing company shall be



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69 responsible for timely payment of reemployment assistance taxes  
70 pursuant to chapter 443, and shall be responsible for providing  
71 workers' compensation coverage pursuant to chapter 440.

72 (a) However, a ~~ne~~ licensed employee leasing company may not  
73 shall sponsor a plan of self-insurance for health benefits,  
74 except as may be permitted by ~~the provisions of~~ the Florida  
75 Insurance Code or, if applicable, by Pub. L. No. 93-406, the  
76 Employee Retirement Income Security Act, as amended from time to  
77 time. For purposes of this section, the term a "plan of self-  
78 insurance" excludes ~~shall exclude~~ any arrangement where an  
79 admitted insurance carrier has issued a policy of insurance  
80 primarily responsible for the obligations of the health plan.

81 (b) This section does not modify the statutory obligation  
82 of a client company to secure workers' compensation coverage as  
83 required under s. 440.10 for employees whom the client company  
84 does not lease pursuant to an employee leasing arrangement. A  
85 client company that is engaged in the construction industry and  
86 that is in an employee leasing arrangement shall secure and  
87 maintain separate workers' compensation insurance coverage as  
88 required under this section and s. 440.10 unless the employee  
89 leasing company and its carrier agree to provide such coverage  
90 directly to the client company, covering all persons performing  
91 work for the client company at all times, in full compliance  
92 with s. 440.10.

93 (4) During the term of an employee leasing arrangement with  
94 a contractor, if a contractor does not secure workers'  
95 compensation insurance for nonleased employees, a person is  
96 deemed an employee of the employee leasing company for purposes  
97 of workers' compensation insurance upon the earliest of the



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98 following:

99 (a) The hiring of such person by the client company.

100 (b) The commencement of work by such person for the client  
101 company.

102 (c) The hiring of the person directly by the employee  
103 leasing company.

104 Section 15. For the purpose of incorporating the amendment  
105 made by this act to section 468.529, Florida Statutes, in a  
106 reference thereto, paragraph (g) of subsection (1) of section  
107 468.532, Florida Statutes, is reenacted to read:

108 468.532 Discipline.—

109 (1) The following constitute grounds for which disciplinary  
110 action against a licensee may be taken by the board:

111 (g) Failing to maintain workers' compensation insurance as  
112 required in s. 468.529.

113 Section 16. Except as otherwise expressly provided in this  
114 act, this act shall take effect July 1, 2019.

115  
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Delete line 824

119 and insert:

120 the act; amending s. 440.10, F.S.; specifying when a  
121 person is deemed an employee of an employee leasing  
122 company for workers' compensation insurance purposes  
123 under circumstances relating to the company's employee  
124 leasing arrangement with a contractor; amending s.  
125 468.525, F.S.; providing that if an employee leasing  
126 company's client company is a contractor, workers'



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127 compensation insurance requirements are not satisfied  
128 by the employee leasing arrangement unless certain  
129 conditions are met; amending s. 468.529, F.S.;  
130 requiring certain client companies to maintain  
131 separate workers' compensation insurance coverage  
132 unless certain conditions are met; specifying when a  
133 person is deemed an employee of an employee leasing  
134 company for workers' compensation insurance proposes  
135 under certain circumstances; providing construction;  
136 reenacting s. 468.532(1)(g), F.S., relating to  
137 discipline, to incorporate the amendment made to s.  
138 468.529, F.S., in a reference thereto; providing  
139 effective dates.