

1 A bill to be entitled

2 An act relating to construction contracts; creating s.
3 627.442, F.S.; specifying acceptance of certain insurance
4 provisions of a construction contract under certain
5 circumstances; providing exceptions; prohibiting certain
6 actions after acceptance of such provisions; providing an
7 exception authorizing such actions under certain
8 circumstances; authorizing contractors or subcontractors
9 to reject certain accepted construction contract insurance
10 provisions as nonconforming under certain circumstances;
11 authorizing such contractors and subcontractors to
12 withhold payment for work performed or materials supplied
13 under certain circumstances; prohibiting rejecting certain
14 policies of insurance on certain grounds; specifying
15 nonapplication of construction contract insurance
16 provisions under certain circumstances; providing
17 construction; providing definitions; providing for
18 application to certain contracts; creating s. 627.443,
19 F.S.; prohibiting certain persons from requiring workers'
20 compensation policies to be issued by certain entities
21 under certain circumstances; providing effective dates.

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

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

27 | 627.442 Construction contract insurance provisions;
28 | acceptance, rejection, or application.--

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

49 | (2) After a general contractor or subcontractor accepts an
50 | insurance policy or certificate of insurance or is deemed to
51 | have accepted the insurance policy or certificate of insurance,
52 | an owner, general contractor, or subcontractor may not use the
53 | lack of conforming insurance as a reason to reject work

54 previously completed by a subcontractor or sub-subcontractor,
55 reject materials previously supplied by a materialman, or
56 withhold payment for work previously completed or materials
57 previously supplied. However, the general contractor or
58 subcontractor may reject work previously completed or materials
59 previously supplied or withhold payment for such work or
60 materials if the policy or certificate provided by the
61 subcontractor, sub-subcontractor, or materialman:

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

64 (b) Was knowingly and fraudulently altered or does not
65 accurately reflect the coverages contained in the policy in
66 force; or

67 (c) Is canceled, nonrenewed, or materially and adversely
68 altered such that the policy or certificate no longer satisfies
69 contract requirements.

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.

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

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

97 (a) "Residential construction project" means the
98 construction, remodeling, repair, or improvement of a one-
99 family, two-family, or three-family residence not exceeding two
100 habitable stories above no more than one uninhabitable story,
101 and accessory-use structures in connection therewith.

102 (b) "Commercial construction project" means any
103 construction, remodeling, repair, or improvement that does not
104 constitute a residential construction project.

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

107 Section 2. Effective July 1, 2006, section 627.443,
108 Florida Statutes, is created to read:
109 627.443 Workers' compensation policy
110 limitations.--Notwithstanding any other provision in this
111 chapter, any person requiring a workers' compensation policy
112 pursuant to a construction contract shall not require such
113 policy to be issued by an insurer or self-insurance fund that is
114 rated by a nationally recognized insurance rating service,
115 provided the issuing insurer or self-insurance fund is subject
116 to part V of chapter 631.
117 Section 3. Except as otherwise expressly provided in this
118 act, this act shall take effect October 1, 2006.