

Bill No. SB 682

Barcode 763060

CHAMBER ACTION

Senate

House

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Comm: WD
04/20/2006 11:00 AM

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

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

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

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

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

31 (3) Subsection (1) does not preclude a general

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1 contractor or subcontractor from rejecting as nonconforming an
 2 insurance policy or certificate of insurance previously
 3 accepted or deemed to have been accepted. However, such a
 4 rejection must be in writing and must specify the reason for
 5 rejection. A general contractor or subcontractor who rejects
 6 in writing an insurance policy or certificate of insurance as
 7 nonconforming and states the specific reason for the rejection
 8 may withhold payment for the work performed or materials
 9 supplied after the date of the rejection of the policy or
 10 certificate.

11 (4) Notwithstanding any other provision in this
 12 section, a policy of insurance issued by an authorized insurer
 13 or self-insurance fund that is subject to part V of chapter
 14 631 may not be rejected as nonconforming by a general
 15 contractor on the grounds that the authorized insurer or
 16 self-insurance fund is rated or not rated by a nationally
 17 recognized insurance rating service.

18 Section 2. This act shall take effect July 1, 2006.
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 20

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

22 And the title is amended as follows:

23 Delete everything before the enacting clause

24

25 and insert:

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

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1 prohibiting certain actions after acceptance of
2 such provisions; providing an exception
3 authorizing such actions under certain
4 circumstances; authorizing contractors or
5 subcontractors to reject certain accepted
6 provisions of construction contract insurance
7 as nonconforming under certain circumstances;
8 authorizing such contractors and subcontractors
9 to withhold payment for work performed or
10 materials supplied under certain circumstances;
11 providing that a policy of insurance issued by
12 an authorized insurer or self-insurance fund
13 subject to part V of ch. 631, F.S., may not be
14 rejected as nonconforming by a general
15 contractor on the grounds that the authorized
16 insurer or self-insurance fund is rated or not
17 rated by a nationally recognized insurance
18 rating service; providing an effective date.

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