

By: Nixon

H.B. No. 2982

A BILL TO BE ENTITLED

AN ACT

1
2 relating to workers' compensation insurance coverage for certain
3 persons engaged in building or construction.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 408.001(a) and (b), Labor Code, are
6 amended to read as follows:

7 (a) Recovery of workers' compensation benefits is the
8 exclusive remedy of an employee covered by workers' compensation
9 insurance coverage or a legal beneficiary against:

10 (1) the employer or an agent or employee of the
11 employer for the death of or a work-related injury sustained by the
12 employee; or

13 (2) a person engaged in building or construction under
14 Section 417.0011.

15 (b) This section does not prohibit the recovery of exemplary
16 damages by the surviving spouse or heirs of the body of a deceased
17 employee whose death was caused by an intentional act or omission of
18 the employer or other person described by Subsection (a)(2) or by
19 the employer's or other person's gross negligence.

20 SECTION 2. Section 417.001(a), Labor Code, is amended to
21 read as follows:

22 (a) Except as provided by Section 417.0011, an [An] employee
23 or legal beneficiary may seek damages from a third party who is or
24 becomes liable to pay damages for an injury or death that is

1 compensable under this subtitle and may also pursue a claim for
2 workers' compensation benefits under this subtitle.

3 SECTION 3. Chapter 417, Labor Code, is amended by adding
4 Section 417.0011 to read as follows:

5 Sec. 417.0011. THIRD-PARTY LIABILITY FOR BUILDING OR
6 CONSTRUCTION. (a) In this section, "building or construction"
7 has the meaning assigned that term by Section 406.096, except that
8 the term does not include preparing to construct, constructing,
9 altering, repairing, extending, or demolishing a residential
10 structure or an appurtenance to a residential structure.

11 (b) An employee of a subcontractor or independent
12 contractor, or a legal beneficiary of the employee, may not seek
13 damages from a third party who is a premises owner or general
14 contractor engaged in building or construction for an injury or
15 death that is compensable under this subtitle if:

16 (1) workers' compensation insurance coverage is
17 provided as required by Section 406.096; or

18 (2) the premises owner or general contractor elects to
19 provide or require workers' compensation insurance coverage.

20 (c) A premises owner or general contractor subject to
21 Subsection (b) is secondarily liable for the workers' compensation
22 insurance coverage obligation of a subcontractor or independent
23 contractor if the subcontractor or independent contractor fails to
24 maintain the coverage. The premises owner or general contractor is
25 not liable for the injury or death of a partner or an executive
26 officer of the subcontractor or independent contractor or for the
27 injury or death of a subcontractor or independent contractor who is

1 a sole proprietor with no employees.

2 SECTION 4. (a) This Act takes effect September 1, 2003.

3 (b) The change in law made by this Act applies only to a
4 claim for workers' compensation benefits based on a compensable
5 injury that occurs on or after the effective date of this Act. A
6 claim based on a compensable injury that occurs before the
7 effective date of this Act is governed by the law in effect on the
8 date the injury occurred, and the former law is continued in effect
9 for that purpose.