

By: Smithee

H.B. No. 2014

A BILL TO BE ENTITLED

AN ACT

relating to the operation and regulation of certain consolidated insurance programs.

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

SECTION 1. Title 2, Insurance Code, is amended by adding Subtitle C to read as follows:

SUBTITLE C. PROGRAMS AFFECTING MULTIPLE LINES OF INSURANCE

CHAPTER 151. CONSOLIDATED INSURANCE PROGRAMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. DEFINITIONS. In this chapter:

(1) "Administrator" means a person who operates and manages a consolidated insurance program on behalf of a principal. The term includes a person who, in the regular course of business, operates and manages a consolidated insurance program as an agent of a principal.

(2) "Consolidated insurance program" means a program under which a principal, for a contractor or contractors on a construction project, provides insurance coverages that are bundled into one insurance program for a single construction project or multiple construction projects. A consolidated insurance program may include only one type of insurance.

(3) "Construction project" means construction, remodeling, maintenance, or repair of improvements to real property.

1           (4) "Construction project site" means the immediate  
2 construction location and areas emanating from that location, such  
3 as adjacent sidewalks, streets, storage areas, temporary  
4 construction yards, and staging areas.

5           (5) "Contractor" includes:

6                   (A) a prime contractor;

7                   (B) a general contractor;

8                   (C) a subcontractor; and

9                   (D) any other person who receives insurance  
10 coverage under an insurance policy or contract subject to this  
11 chapter.

12           (6) "Insurance credit" means a discount on a contract  
13 price offered to a principal by a contractor bidding on a  
14 construction project contract in consideration of the principal  
15 providing insurance coverage for the construction project that  
16 covers the contractor.

17           (7) "Residential construction project" means a  
18 construction project involving a single-family house, a duplex, a  
19 triplex, a quadruplex, or a unit in a multi-unit structure used for  
20 residential purposes:

21                   (A) that is:

22                           (i) owned by one or more adult persons; and

23                           (ii) used or intended to be used as a  
24 dwelling by one of the owners; or

25                   (B) being constructed or intended to be newly  
26 constructed with the intention of sale to a person and for a purpose  
27 described by Paragraph (A).

1       Sec. 151.002. PRINCIPAL. (a) For purposes of this chapter,  
2 "principal" means the person who procures the insurance contract or  
3 policy.

4       (b) The principal under a consolidated insurance program is  
5 the person responsible for the payment of the premium on the  
6 insurance coverage. The principal is typically the first named  
7 insured on the insurance contract or policy.

8       Sec. 151.003. RULES. The commissioner shall adopt rules in  
9 the manner provided by Subchapter A, Chapter 36, as necessary to  
10 implement and enforce the purpose and intent of this chapter and to  
11 provide for the protection of policyholders, insureds, and workers  
12 under a consolidated insurance program.

13       [Sections 151.004-151.050 reserved for expansion]

14               SUBCHAPTER B. GENERAL REQUIREMENTS FOR  
15                       CONSOLIDATED INSURANCE PROGRAM

16       Sec. 151.051. GENERAL REQUIREMENTS. An insurance contract  
17 or policy issued under a consolidated insurance program must:

18               (1) provide coverages in the manner required by the  
19 department under this code; and

20               (2) comply with the requirements adopted under this  
21 chapter.

22       Sec. 151.052. REQUIRED COVERAGES. (a) An insurance policy  
23 or contract issued under a consolidated insurance program must  
24 provide coverages for all operations on the construction project  
25 site that are necessary and incidental to the construction project  
26 to the extent of the general type of insurance that is provided  
27 under the policy or contract.

1       (b) This chapter may not be interpreted to prevent a  
2 contractor from obtaining, and charging the cost of to the  
3 principal, any insurance coverage not provided by the consolidated  
4 insurance program to protect the contractor and the construction  
5 project.

6       Sec. 151.053. NOTICE OF CERTAIN CHANGES. (a) Except as  
7 provided by Subsection (b), after the execution of a construction  
8 contract by the principal, the operations or coverages under the  
9 consolidated insurance program may not be materially changed,  
10 nonrenewed, or canceled without written notice provided to the  
11 principal and all contractors. The notice required under this  
12 subsection must be provided not later than the 60th day before the  
13 effective date of the material change, nonrenewal, or cancellation.

14       (b) A notice to cancel coverage due to nonpayment of premium  
15 is effective only after written notice provided to the principal at  
16 least 10 days before the scheduled effective date of the  
17 cancellation due to nonpayment of premium.

18       (c) If any coverage is canceled, the insurer or  
19 administrator shall notify each contractor in writing that coverage  
20 has been canceled. The notice under this subsection must be sent  
21 not later than the effective date of the cancellation of coverage.

22       Sec. 151.054. RIGHTS OF CONTRACTOR. (a) If the operations  
23 or coverages under a consolidated insurance program are materially  
24 changed, nonrenewed, or canceled, and are not replaced by the  
25 principal with equivalent operations or coverages, a contractor is  
26 entitled to:

27       (1) an increase in the contractor's construction

1 project contract price to cover:

2 (A) the contractor's cost of insurance and  
3 overhead costs for procurement of insurance to replace the coverage  
4 provided by the consolidated insurance program; or

5 (B) the contractor's typical standard insurance  
6 coverage for the same general type of coverages provided under the  
7 consolidated insurance program; or

8 (2) suspend the contractor's construction project  
9 contract without recourse or liability for damage to any person if:

10 (A) the contractor has made a reasonable effort  
11 to obtain replacement insurance coverage; and

12 (B) the principal or another contractor does not  
13 agree to a reasonable change in coverage, as provided by this  
14 subsection.

15 (b) For purposes of Subsection (a), equivalent operations  
16 or coverages includes coverages provided by, as applicable, an  
17 insurer:

18 (1) that meets the requirements under Section 151.060;  
19 or

20 (2) notwithstanding Section 151.060, with a financial  
21 strength rating of at least A- and a financial size rating of at  
22 least Class XI, as currently reported by the A. M. Best Company, if  
23 replacement coverage is not available from an insurer that meets  
24 the requirements adopted under Section 151.060.

25 (c) Subsection (a)(2) does not apply to construction work  
26 that is not covered by the consolidated insurance program.

27 (d) A contractor who elects to suspend the contractor's

1 construction project contract under Subsection (a)(2):

2 (1) shall provide written notice of the suspension to  
3 the principal and any other contractor covered under the  
4 consolidated insurance program with whom the contractor has a  
5 direct contractual relationship; and

6 (2) is entitled to payment for all properly performed  
7 labor or properly furnished materials and equipment, including  
8 overhead cost and profit for that labor, material, and equipment,  
9 that is supplied by the contractor to the construction project  
10 before the effective date of suspension of the contractor's  
11 construction project contract.

12 (e) A contractor who suspends the contractor's construction  
13 project contract under Subsection (a)(2) and is paid under  
14 Subsection (d) is responsible for the labor, materials, and  
15 equipment for which the contractor is paid as if the contract were  
16 not suspended.

17 Sec. 151.055. COVERAGE OF CONTRACTORS; EFFECT OF SEPARATE  
18 COVERAGE. (a) Each contractor on a construction project covered by  
19 a consolidated insurance program must:

20 (1) be listed as an additional named insured on each  
21 insurance policy and contract under the program; and

22 (2) have equal rights under the policy or contract  
23 with the principal and other contractors, subject to industry  
24 standard differences between a first-named insured and a named  
25 insured.

26 (b) Subsection (a) does not apply to a policy or contract  
27 that is issued individually in the name of the contractor as the

1 first-named insured under a consolidated insurance program.

2 (c) The principal or a contractor may not require a  
3 contractor to obtain an additional insured endorsement on the  
4 contractor's separately maintained insurance contract or policy  
5 that is of the same general type as the insurance coverage provided  
6 by the consolidated insurance program other than an insurance  
7 policy or contract covering offsite work for ongoing operations  
8 that is related to the project and that is not covered by the  
9 consolidated insurance program.

10 (d) The coverages under the consolidated insurance program  
11 must be primary and noncontributory to any insurance policy or  
12 contract separately maintained by a contractor covered by the  
13 consolidated insurance program that is of the same general type as  
14 the insurance coverages provided by the consolidated insurance  
15 program.

16 Sec. 151.056. COMPLIANCE BY PRINCIPAL AND OTHER  
17 CONTRACTORS. (a) A principal under a consolidated insurance  
18 program who does not comply with the requirements of this chapter  
19 may not, directly or indirectly, including by deduction from a  
20 payment or by requesting an insurance credit, charge a contractor  
21 for any insurance coverage provided to the contractor by the  
22 program.

23 (b) A contractor who contracts with a lower-tier contractor  
24 may not charge the lower-tier contractor for any insurance coverage  
25 if the principal has failed to comply with the requirements of this  
26 chapter.

27 (c) For purposes of this section, noncompliance by a

1 principal includes material or significant matters and does not  
2 include inadvertent errors that are not repeated in a way that would  
3 cause a reasonable person to believe they are habitual or  
4 premeditated. Dates set as deadlines in this chapter shall be  
5 construed as material matters.

6 Sec. 151.057. SUBROGATION. (a) The principal and a  
7 contractor do not have subrogation rights against each other for a  
8 claim covered by the consolidated insurance program.

9 (b) A contractor and another contractor do not have  
10 subrogation rights against each other for a claim covered by the  
11 consolidated insurance program.

12 Sec. 151.058. APPLICATION TO GENERAL LIABILITY COVERAGE.  
13 If a consolidated insurance program includes general liability  
14 coverage, coverage for the construction project must be provided  
15 for:

16 (1) a negligent act of a contractor, whether caused by  
17 a direct act of the contractor or assumed under contract; and

18 (2) the contractor's ongoing operations and the  
19 contractor's completed operations.

20 Sec. 151.059. DURATION OF GENERAL LIABILITY COVERAGE. (a)  
21 A consolidated insurance program that provides general liability  
22 coverage must continue completed operations insurance coverage  
23 until the expiration of the limitations period for bringing an  
24 action for damages as provided by Chapter 16, Civil Practice and  
25 Remedies Code.

26 (b) A contractor's separately maintained insurance may not  
27 exclude coverage for ongoing operations of the contractor for



1 warranty or punch-out work on a construction project covered by a  
2 consolidated insurance program that occurs after the contractor has  
3 received written notice from the principal, insurer, or  
4 administrator that the consolidated insurance program has ended.

5 Sec. 151.060. INSURER REQUIREMENTS; INSURER RATINGS. (a)

6 All insurance coverages under a consolidated insurance program for  
7 a residential or nonresidential construction project must be  
8 provided by an insurer that has:

9 (1) a financial strength rating of at least A- and a  
10 financial size rating of at least Class XIII, as currently reported  
11 by the A. M. Best Company; or

12 (2) an equivalent rating made by a similar rating  
13 organization recognized by the commissioner.

14 (b) Insurance policies or contracts providing coverage  
15 under the consolidated insurance program shall be issued to the  
16 first-named insured not later than the 30th day after the date on  
17 which coverage has been bound or otherwise agreed to by the insurer.

18 (c) The requirements of this section must be maintained for  
19 the duration of the construction project.

20 Sec. 151.061. INDEMNIFICATION. (a) On a construction  
21 project covered by a consolidated insurance program, the  
22 consolidated insurance program must provide liability insurance to  
23 cover the obligation of a contractor insured under the consolidated  
24 insurance program to indemnify, hold harmless, or defend another  
25 person for any action that results in bodily injury or property  
26 damage.

27 (b) The minimum liability insurance coverage required under

1 Subsection (a) must be equivalent to the coverage that would be  
2 available under the general liability coverage provided by the  
3 standard form promulgated by the Insurance Services Office and in  
4 effect on January 1, 2008, or a more recent form adopted by the  
5 commissioner by rule to replace that form.

6 (c) A contractor on a construction project on which a  
7 consolidated insurance program is used and under which the  
8 contractor is a participant in the program may not be required to  
9 indemnify, hold harmless, or defend any claim for any action that  
10 would be covered under the general liability coverage described by  
11 Subsection (b) unless the general liability coverage provided by  
12 the consolidated insurance program provides complete coverage for  
13 such an obligation. A requirement that violates this subsection  
14 that is included in a construction project contract is void.

15 Sec. 151.062. DEFENSE COVERAGE FOR CLAIM OR SUIT. (a) In  
16 the event of a lawsuit or arbitration proceeding that is covered by  
17 the consolidated insurance program, an insurance policy or contract  
18 under the program must provide coverage for the defense of each  
19 contractor.

20 (b) A contractor covered by a consolidated insurance  
21 program has standing in any hearing or proceeding involving a  
22 workers' compensation or liability claim, including any claim  
23 adjustment and settlement negotiations, if that coverage is part of  
24 the consolidated insurance program. The contractor is entitled to  
25 representation at the hearing or proceeding by:

- 26 (1) an employee or agent of the contractor; and  
27 (2) on the contractor's request, legal counsel covered

1 by the consolidated insurance program.

2 Sec. 151.063. PAYMENT OF CERTAIN DEDUCTIBLES, LOSSES, OR  
3 PENALTIES. (a) Except as provided by Subsection (b), a principal  
4 shall pay:

5 (1) any coverage deductibles or losses in a  
6 retrospective rating plan or other loss-sensitive rating plan under  
7 a consolidated insurance program;

8 (2) any penalties incurred under the program; and

9 (3) all deductibles applicable to any policy provided  
10 under the consolidated insurance program.

11 (b) A principal may charge a contractor a small, reasonable  
12 deductible for a property damage loss that is caused by the  
13 contractor's direct negligence and is covered by the general  
14 liability contract or policy of the consolidated insurance program  
15 if the deductible amount and purpose are included in the disclosure  
16 made at bid solicitation. The purpose of the deductible is to  
17 encourage safe operations by the contractor. The deductible must  
18 be in proportion to the size and severity of the loss, not to exceed  
19 \$5,000.

20 Sec. 151.064. PREMIUMS ASSESSED TO CONTRACTOR. If any  
21 premiums for coverage under a consolidated insurance program on a  
22 single or multiple construction project are assessed to a  
23 contractor, the contractor's most recent experience modifier, as of  
24 the date on which the construction project begins, must be used in  
25 the computation of the premium to be assessed to the contractor.  
26 The premium shall be adjusted annually to reflect any change in the  
27 contractor's experience modifier.

1       Sec. 151.065. AUDIT REQUIREMENTS. (a) Except as provided  
2 by Subsection (b), any required audit of a contractor covered by a  
3 consolidated insurance program who is subject to a premium charge  
4 for the coverage must be completed not later than the 60th day after  
5 the date on which the contractor completes the work performed by the  
6 contractor on the construction project.

7       (b) The audit completion date under Subsection (a) must be  
8 extended by one day for each day the contractor subject to the audit  
9 delays completion of the audit by failing to provide the auditor  
10 with access to the contractor's records after the contractor has  
11 received written notice from the administrator, insurer, or auditor  
12 stating the date on which the audit is to be conducted.

13       Sec. 151.066. DATA REPORTS FOR WORKERS' COMPENSATION. (a)  
14 The administrator shall report at least quarterly the loss and  
15 payroll data that relates to a contractor in detail to the  
16 contractor who is the subject of the report.

17       (b) The initial report under Subsection (a) must be sent not  
18 later than the 30th day after the last day of the calendar quarter  
19 on which work begins on the construction project, with subsequent  
20 quarterly reports sent not later than the 15th day of the month  
21 following the quarter covered by the report.

22       (c) The insurer shall report to the appropriate rating  
23 bureau annually, not later than the 60th day after the ending date  
24 of the experience rating period of a contractor who is the subject  
25 of the report, the loss and payroll data that relates to the  
26 contractor, with a final report not later than the 60th day after  
27 the completion date of the construction project.

1       (d) A report under Subsection (c) must include data that has  
2 been corrected after the investigation of any discrepancies  
3 reported by a contractor.

4       (e) On receipt of written notice of any erroneous  
5 information submitted to a rating bureau, the insurer shall notify  
6 the rating bureau of the correct information not later than the 30th  
7 day after the date on which the written notice is received by the  
8 insurer.

9       (f) The completion date under Subsection (b), (c), or (e)  
10 must be extended by one day for each day the contractor who is the  
11 subject of the report delays completion of any necessary audit by  
12 failing to provide the auditor with access to the contractor's  
13 records after the contractor has received written notice from the  
14 administrator, insurer, or auditor stating the date the audit is to  
15 be conducted.

16       [Sections 151.067-151.100 reserved for expansion]

17                   SUBCHAPTER C. COVERAGE LIMITS

18       Sec. 151.101. GENERAL REQUIREMENTS. Subject to Section  
19 151.059, aggregate and per-occurrence limits of all insurance  
20 coverages under a consolidated insurance program apply to all  
21 contractors under the program for the term of each construction  
22 project covered by the program.

23       Sec. 151.102. PER-OCCURANCE LIMITS. (a) For a residential  
24 construction project, the per-occurrence limit must be not less  
25 than the greater of:

26               (1) 20 percent of the overall construction project  
27 value; or

1           (2) \$5 million.

2           (b) For a nonresidential construction project that has an  
3 overall construction project value that does not exceed \$400  
4 million, the per-occurrence limit must be not less than the greater  
5 of:

6           (1) 25 percent of the overall construction project  
7 value; or

8           (2) \$50 million.

9           (c) For a nonresidential construction project that has an  
10 overall construction project value that exceeds \$400 million, the  
11 per-occurrence limit must be not less than \$100 million.

12           Sec. 151.103. ANNUAL REINSTATEMENT OF LIABILITY LIMITS. The  
13 consolidated insurance program must reinstate annually the  
14 liability limits for each policy or contract subject to the program  
15 or be replaced by other policies or contracts that provide  
16 equivalent coverage and limits. This section does not apply to  
17 completed operations coverage on completion of the construction  
18 project.

19           Sec. 151.104. NOTICE REGARDING REDUCTION IN MONETARY LIMIT.

20           (a) The insurer shall notify all contractors in writing not later  
21 than the 10th day after the date the total monetary limit of  
22 liability coverage for any type of coverage issued under the  
23 consolidated insurance program is reduced by:

24           (1) 50 percent; and

25           (2) each additional 10 percentage point reduction  
26 after the initial 50 percent reduction.

27           (b) The reduction in monetary limit under Subsection (a)

1 shall be computed based on incurred losses and expenses.

2 (c) The notice under Subsection (a) must describe:

3 (1) the initial monetary limit of liability coverage;

4 and

5 (2) the monetary limit of liability coverage that  
6 remains as of the notice date.

7 (d) For limits on coverages that have been extended by other  
8 policies, the notice under Subsection (a) is required only if the  
9 combined monetary limit of all policies providing the coverage has  
10 been reached.

11 (e) The monetary limit of liability may not be reduced if  
12 the insurer fails to comply with Subsection (a).

13 [Sections 151.105-151.150 reserved for expansion]

14 SUBCHAPTER D. DISCLOSURE REQUIREMENTS FOR ADMINISTRATION

15 OF CONSOLIDATED INSURANCE PROGRAM

16 Sec. 151.151. REQUIRED DISCLOSURE AT BID SOLICITATION. At  
17 the time a principal or contractor is soliciting bids for a  
18 construction project, the principal or contractor must disclose  
19 prominently in the project plans, specifications, and any request  
20 for bids or proposals that the project may be covered by a  
21 consolidated insurance program subject to this chapter.

22 Sec. 151.152. GENERAL ELEMENTS OF BID SOLICITATION  
23 DISCLOSURE. Each disclosure made under Section 151.151 must  
24 include:

25 (1) the scope of coverage and limits for each  
26 insurance policy or contract under the consolidated insurance  
27 program, including an accurate specimen copy of full and complete

1 declarations, policy conditions, limitations, coverages, and  
2 endorsements;

3 (2) the scope of coverage and limits for each policy or  
4 contract of excess insurance covering the consolidated insurance  
5 program, including a statement that the excess policy or contract  
6 will follow form as to the primary policy or contract with any  
7 material exceptions listed; and

8 (3) a complete description of the safety program  
9 required by Subchapter E.

10 Sec. 151.153. REQUIRED DISCLOSURE PRIOR TO CONTRACT  
11 EXECUTION. (a) A principal may establish for a construction  
12 project a minimum construction contract amount for a contractor to  
13 be included in a consolidated insurance program.

14 (b) A contractor who submits a price proposal for work on a  
15 construction project under a consolidated insurance program is  
16 entitled to written notification from the principal or contractor  
17 of any material change in the consolidated insurance program not  
18 later than the 10th day before the date on which the contractor  
19 executes the contract for work on the construction project.

20 (c) After receipt of notice of any adverse material change  
21 under Subsection (b), a contractor may, without recourse or  
22 liability for damage to any person:

23 (1) withdraw the contractor's price proposal for work  
24 on the construction project; or

25 (2) modify the price for the insurance component of  
26 the proposal for work on the construction project.

27 (d) Not later than the seventh day before the date on which a



1 principal or contractor executes a contract for a construction  
2 project covered by a consolidated insurance program, the principal  
3 or contractor must make a written disclosure to the contractor that  
4 contains detailed information concerning the consolidated  
5 insurance program.

6 Sec. 151.154. GENERAL ELEMENTS OF PRECONTRACT DISCLOSURE.

7 Each disclosure made under Section 151.153 must include:

8 (1) the name and address of each insurer providing an  
9 insurance policy or contract under the consolidated insurance  
10 program and identification of the coverage each insurer will  
11 provide;

12 (2) the name, address, and telephone number of the  
13 insurance producer, if any, acting as agent for the insurer;

14 (3) the name of the primary contact person of the  
15 insurance producer for the consolidated insurance program;

16 (4) the name, primary contact name, street address,  
17 city, state, and zip code of the administrator of the consolidated  
18 insurance program;

19 (5) a copy of each form, including enrollment forms,  
20 claim forms, and payroll forms, that a contractor may be required to  
21 submit to the principal, administrator, or insurer;

22 (6) the number, frequency, and subject matter of any  
23 audits of the contractor required by the insurer, administrator, or  
24 principal; and

25 (7) a detailed description of any differences in the  
26 items disclosed under Section 151.152 and the actual scope and  
27 limits of coverage for the consolidated insurance program,

1 including any deviations from the specimen copy provided.

2 Sec. 151.155. FORMULA FOR INSURANCE CREDITS. (a) The  
3 disclosure required under Section 151.151 must include the formula  
4 to be used by a contractor in computing any insurance credits.

5 (b) The formula must include:

6 (1) the discounts, credits, and rate variances used by  
7 the contractor;

8 (2) examples of credit computations; and

9 (3) a method to incorporate any scheduled credits,  
10 premium discounts, or other items of credit or discount that apply  
11 specifically to the contractor.

12 (c) A principal may not require an insurance credit of a  
13 contractor for coverage provided under the consolidated insurance  
14 program that is of the same type as flat rate coverages maintained  
15 by the contractor.

16 Sec. 151.156. CONTRACT AWARD; BASIS. (a) The disclosure  
17 required under Section 151.151 must include a specific explanation  
18 of how any premium overruns or underruns will be applied and whether  
19 the contract award will be made on the basis that:

20 (1) excludes the cost of insurance coverage; or

21 (2) includes the cost of insurance coverage.

22 (b) A contractor awarding a contract to another contractor  
23 must use the basis described under Subsection (a) for any  
24 contractor insured under the consolidated insurance program.

25 [Sections 151.157-151.200 reserved for expansion]

26 SUBCHAPTER E. SAFETY PROGRAM AND INJURED WORKERS

27 Sec. 151.201. APPLICABILITY. This subchapter applies only

1 if workers' compensation insurance coverage is a coverage provided  
2 by the consolidated insurance program.

3 Sec. 151.202. SAFETY PROGRAM REQUIRED. (a) A principal  
4 shall adopt a comprehensive safety program designed to reduce the  
5 frequency and severity of worker injuries. The principal shall  
6 require participation in the safety program by all persons working  
7 on the construction project.

8 (b) The safety program must include a program for detection  
9 of drug use and other substance abuse.

10 (c) A qualified third-party safety company may administer  
11 and operate a safety program required under this section.

12 Sec. 151.203. SAFETY PROFESSIONALS. (a) The principal,  
13 directly or through the principal's contract with a contractor,  
14 shall maintain a level of safety staffing and safety policies  
15 commensurate with the expected and actual hazards of the  
16 construction project.

17 (b) A safety program conducted under this subchapter must  
18 have at least one qualified safety professional assigned to the  
19 construction project for primary safety responsibility. If the  
20 construction project value exceeds \$25 million:

21 (1) a safety professional must work not less than 40  
22 hours weekly at the work site of the construction project; and

23 (2) work may not take place at the work site without at  
24 least one qualified safety professional at the work site.

25 (c) Except as provided by Subsection (d), to be qualified to  
26 serve as a safety professional under Subsection (b), a person must  
27 have demonstrable knowledge of 29 U.S.C. Chapter 15, and related

1 regulations adopted by the federal Occupational Safety and Health  
2 Administration, and at least:

3 (1) 10 years of primary safety responsibility  
4 experience in the construction industry; or

5 (2) five years of primary safety responsibility  
6 experience in the construction industry and:

7 (A) hold a bachelor of science degree conferred  
8 by an accredited institution of higher education, with a major in  
9 safety engineering, industrial hygiene, or a related field;

10 (B) hold an associate's degree conferred by an  
11 accredited institution of higher education, with a major in safety  
12 engineering, industrial hygiene, or a related field; or

13 (C) hold a current certification as a certified  
14 safety professional issued by an entity recognized by the  
15 commissioner.

16 (d) To be qualified to serve as a safety professional under  
17 Subsection (b) for a nonresidential construction project that is  
18 solely for the maintenance or remodeling of an existing industrial  
19 plant facility that maintains an ongoing consolidated insurance  
20 program in its regular course of business for that maintenance or  
21 remodeling work at the industrial plant facility, a person must  
22 have demonstrable knowledge of 29 U.S.C. Chapter 15, and related  
23 regulations adopted by the federal Occupational Safety and Health  
24 Administration, and at least:

25 (1) 10 years of primary safety responsibility  
26 experience in an industrial plant facility; or

27 (2) five years of primary safety responsibility

1 experience in an industrial plant facility and:

2 (A) hold a bachelor of science degree conferred  
3 by an accredited institution of higher education, with a major in  
4 safety engineering, industrial hygiene, or a related field; or

5 (B) hold an associate's degree conferred by an  
6 accredited institution of higher education, with a major in safety  
7 engineering, industrial hygiene, or a related field; or

8 (C) hold a current certification as a certified  
9 safety professional issued by an entity recognized by the  
10 commissioner.

11 Sec. 151.204. LIGHT DUTY FOR CERTAIN INJURED EMPLOYEES. The  
12 disclosure required under Section 151.151 must fully describe any  
13 light duty return-to-work program required for a contractor's  
14 injured employees. A return-to-work program must set forth a  
15 reasonable length of time any required light-duty program would be  
16 in place for any injured employee. The reasonable time period for  
17 light-duty work may vary due to the type of injury.

18 Sec. 151.205. LIGHT DUTY STANDARDS. The consolidated  
19 insurance program may require the employer of an injured employee  
20 to provide alternative duty for an injured employee if:

21 (1) the work status report, or similar report, of the  
22 department's division of workers' compensation completed by the  
23 injured employee's examining doctor specifies the injured  
24 employee's physical restrictions or limitations;

25 (2) the examining doctor recommends that the injured  
26 employee return to work on a limited basis in compliance with the  
27 doctor's restrictions or limitations;

1           (3) the alternate duty position is reasonably  
2 available and the activity provides a benefit for the employer; and

3           (4) the cost to the contractor for any modifications  
4 to the workplace necessary in facilitating the injured employee's  
5 return to work based on restrictions or limitations identified by  
6 the examining doctor is reasonable.

7           [Sections 151.206-151.250 reserved for expansion]

8           SUBCHAPTER F. PROGRAM ADMINISTRATION

9           Sec. 151.251. ADMINISTRATOR. (a) Each principal shall  
10 appoint a qualified administrator for the consolidated insurance  
11 program whose only duty is administration of the program.

12           (b) To be eligible to serve as the administrator, a person  
13 must:

14           (1) hold a risk manager license under Chapter 4153, a  
15 general property and casualty agent license under Chapter 4051, or  
16 another license as an insurance professional that is:

17                   (A) recognized as appropriate by the  
18 commissioner; and

19                   (B) issued under Title 13; and

20           (2) have been licensed under this code for at least the  
21 five years preceding the date of the appointment as administrator.

22           (c) Subsection (b) does not apply to a person that provides  
23 assistance to the administrator for support duties such as clerical  
24 or bookkeeping services.

25           Sec. 151.252. POWERS AND DUTIES OF ADMINISTRATOR. (a) For  
26 purposes of this chapter, each contractor covered under the  
27 consolidated insurance program is considered a client of the

1 administrator. An administrator shall comply in a timely manner  
2 with the requirements of this section.

3 (b) The administrator shall administer the enrollment of  
4 all contractors covered by the consolidated insurance program as  
5 necessary to ensure immediate coverage.

6 (c) The administrator shall:

7 (1) maintain a current consolidated insurance program  
8 manual that contains a detailed description of the consolidated  
9 insurance program; and

10 (2) provide all contractors with a current copy of the  
11 manual:

12 (A) on the date of the contractor's enrollment in  
13 the program; and

14 (B) not later than the seventh day after any  
15 updates are made to the manual.

16 (d) The administrator shall issue a certificate of  
17 insurance on behalf of a contractor to represent the coverages and  
18 limits provided by the consolidated insurance program not later  
19 than the fifth day after receipt of a request from a contractor.

20 (e) If the insurer has issued insurance policies or  
21 contracts, the administrator shall ensure that each contractor  
22 receives insurance policies or contracts, or renewal certificates  
23 for previously issued policies or contracts, for all coverages  
24 provided by the consolidated insurance program not later than the  
25 earlier of:

26 (1) the 30th day after the date the contractor is  
27 enrolled in the program; or

1           (2) the date the contractor begins work on the  
2 project.

3           (f) The administrator shall coordinate:

4           (1) any regular reporting required of the contractors  
5 and any audits required of the contractors;

6           (2) all meetings with the insurer, whether with the  
7 principal, the contractors, or other parties; and

8           (3) availability and communication between  
9 contractors and any on-site medical facilities.

10          (g) The administrator shall maintain an organized paper and  
11 electronic file system that is available for immediate access.

12          (h) The administrator shall establish and disseminate to  
13 contractors:

14           (1) clear procedures for proper filing of claims; and

15           (2) required loss-control procedures.

16          (i) The administrator shall ensure that:

17           (1) all insurance coverages provided by the  
18 consolidated insurance program are maintained; and

19           (2) all contractors are notified in writing promptly  
20 of any changes or cancellation in coverages provided by the  
21 consolidated insurance program.

22          (j) The administrator shall monitor the financial standing  
23 of the insurer as provided by Section 151.060 and shall provide  
24 written notice to the principal and all contractors of any  
25 significant negative change not later than the 10th day after the  
26 date of the negative change.

27          (k) The administrator shall prepare and present to the



1 principal on at least a monthly basis any required payroll reports,  
2 claim reviews, and loss-control reviews.

3 (1) The administrator shall provide oversight and  
4 management of claims for the principal and any affected contractor  
5 until all claims are closed.

6 Sec. 151.253. CONTRACTOR AS BENEFICIARY. For purposes of  
7 this chapter and insurance benefits under the consolidated  
8 insurance program, each contractor is considered a beneficiary of  
9 the administrator, and the administrator owes a fiduciary duty to  
10 each contractor that participates in the program.

11 SECTION 2. Chapter 151, Insurance Code, as added by this  
12 Act, applies only to a consolidated insurance program for a  
13 construction project that begins on or after January 1, 2008. A  
14 consolidated insurance program for a construction project that  
15 begins before January 1, 2008, is governed by the law as it existed  
16 immediately before the effective date of this Act, and that law is  
17 continued in effect for that purpose.

18 SECTION 3. This Act takes effect September 1, 2007.