

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 administrator can be a person that, 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. The 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) "Contractor" includes:

2                   (A) a prime contractor;

3                   (B) a general contractor;

4                   (C) a subcontractor; and

5                   (D) any other person who receives insurance  
6 coverage under an insurance policy or contract subject to this  
7 chapter.

8           (5) "Insurance credit" means a discount on a contract  
9 price offered to a principal by a contractor bidding on a  
10 construction project contract in consideration of the principal's  
11 providing insurance coverage for the construction project that  
12 covers the contractor.

13           (6) "Principal" means the person who procures an  
14 insurance contract or policy and is responsible for the payment of  
15 the premium on the insurance coverage. The principal is typically  
16 the first-named insured on the insurance contract or policy.

17           (7) "Residential" means a single-family house, a  
18 duplex, a triplex, a quadruplex, or a unit in a multiunit structure  
19 used for residential purposes that is:

20                   (A) owned by one or more adult persons; and

21                   (B) used or intended to be used as a dwelling by  
22 one of the owners; or

23                   (C) being or intended to be newly constructed  
24 with the purpose and intention of selling such to a person described  
25 by Paragraph (A).

1 [Sections 151.002-151.050 reserved for expansion]

2 SUBCHAPTER B. GENERAL REQUIREMENTS FOR A

3 CONSOLIDATED INSURANCE PROGRAM

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

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

8 (2) comply with the requirements adopted under this  
9 chapter.

10 Sec. 151.052. REQUIRED COVERAGES. (a) An insurance policy  
11 or contract issued under a consolidated insurance program must  
12 provide coverages for all operations on the construction project  
13 site that are necessary and incidental to the construction project  
14 to the extent of the general type of insurance that is being  
15 provided under the policy or contract. For purposes of this  
16 subsection, the construction project site is the immediate area of  
17 construction and adjacent areas such as sidewalks, streets, storage  
18 areas, temporary construction yards, and staging areas.

19 (b) This chapter may not be interpreted to prevent a  
20 contractor from obtaining, and charging to the principal the cost  
21 of, any insurance coverage not provided by the consolidated  
22 insurance program in order to protect the contractor and the  
23 construction project.

24 (c) Except as provided by Subsection (d), after the  
25 execution of a construction contract by the principal, the  
26 operations or coverages under the consolidated insurance program  
27 may not be materially changed, nonrenewed, or canceled without

1 written notice provided to the principal and all contractors not  
2 later than the 60th day before the effective date of the material  
3 change, nonrenewal, or cancellation.

4 (d) A notice to cancel coverage due to nonpayment of premium  
5 shall be effective only after written notice is provided to the  
6 principal not later than the 10th day before the effective date of  
7 the cancellation due to nonpayment of premium.

8 (e) If any coverage is canceled, the insurer or  
9 administrator shall notify each contractor in writing that coverage  
10 has been canceled. Such notice shall be sent not later than the  
11 date of cancellation of coverage.

12 (f) If the operations or coverages under a consolidated  
13 insurance program are materially changed, nonrenewed, or canceled  
14 and not replaced by the principal with equivalent operations or  
15 coverages, a contractor shall be:

16 (1) entitled to an increase in its construction  
17 project contract price to cover:

18 (A) the contractor's cost of insurance and the  
19 overhead cost of procuring coverage to replace the coverage  
20 provided by the consolidated insurance program; or

21 (B) the contractor's typical standard insurance  
22 coverage for the same general type of coverages provided under the  
23 consolidated insurance program; or

24 (2) entitled to suspend its construction project  
25 contract without recourse or liability for damages to any person  
26 provided that:

27 (A) the contractor has made a reasonable effort

1 to obtain replacement coverage under this subsection; and

2 (B) the principal or contractor will not agree to  
3 a reasonable change as provided by this subsection.

4 (g) For purposes of Subsection (f), equivalent operations  
5 or coverages includes, where applicable:

6 (1) an insurer that meets the requirements of Section  
7 151.059; or

8 (2) if no insurer that meets the requirements of  
9 Section 151.059 will provide replacement coverage, an insurer with  
10 a financial strength of at least A- and a financial size rating of  
11 not less than XI.

12 (h) Subsection (f)(2) does not apply to work not covered by  
13 the consolidated insurance program.

14 (i) A contractor that elects to suspend its construction  
15 project contract under Subsection (f)(2) shall:

16 (1) provide written notification of the suspension to  
17 the principal or other contractor covered under the consolidated  
18 insurance program with whom it has a direct contractual  
19 relationship; and

20 (2) be entitled to payment for all properly performed  
21 labor or properly furnished materials and equipment, including  
22 overhead cost and profit for such labor, material, and equipment,  
23 supplied by the contractor to the construction project before the  
24 effective date of suspension of its construction project contract.

25 (j) A contractor that suspends a construction project  
26 contract under Subsection (f)(2) and is paid under Subsection (i)  
27 shall be responsible for the labor, materials, and equipment for

1 which the contractor is paid as if the contract were not suspended.

2 Sec. 151.053. COVERAGE OF CONTRACTORS; EFFECT OF SEPARATE  
3 COVERAGE. (a) Each contractor on a construction project covered  
4 by a consolidated insurance program must be a named insured on each  
5 insurance policy and contract under this program and have equal  
6 rights under the policy or contract with the principal and other  
7 contractors, subject to the industry standard differences between a  
8 first-named insured and a named insured. This subsection does not  
9 apply to a policy or contract that is issued individually in the  
10 name of the contractor as the first-named insured under a  
11 consolidated insurance program.

12 (b) The principal or a contractor may not require a  
13 contractor to obtain an additional insured endorsement on the  
14 contractor's separately maintained insurance contract or policy  
15 that is of the same general type as the insurance coverage provided  
16 by the consolidated insurance program except for off-site work for  
17 ongoing operations related to the project that is not covered by the  
18 consolidated insurance program.

19 (c) The coverages under the consolidated insurance program  
20 must be primary and noncontributory to any insurance policy or  
21 contract separately maintained by a contractor covered by the  
22 consolidated insurance program that is of the same general type as  
23 the insurance coverages provided by the consolidated insurance  
24 program.

25 Sec. 151.054. COMPLIANCE BY PRINCIPAL. (a) A principal  
26 under a consolidated insurance program who does not comply with the  
27 requirements of this chapter may not, directly or indirectly,

1 including by deduction from a payment or by requesting an insurance  
2 credit, charge a contractor for any insurance coverage provided to  
3 the contractor by the program. Similarly, a contractor who  
4 contracts with a lower-tier contractor may not charge the  
5 lower-tier contractor for any insurance coverage when the principal  
6 has failed to comply with the requirements of this chapter.

7 (b) For purposes of this section, noncompliance by a  
8 principal includes material or significant matters but does not  
9 include inadvertent errors that are not repeated in a way that would  
10 cause a reasonable person to believe they are habitual or  
11 premeditated. Dates set as deadlines in this chapter shall be  
12 interpreted to be material matters.

13 Sec. 151.055. SUBROGATION. (a) The principal and a  
14 contractor do not have subrogation rights against each other for a  
15 claim covered by the consolidated insurance program.

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

19 Sec. 151.056. LIMITS OF COVERAGE. (a) Subject to Section  
20 151.058, aggregate and per-occurrence limits of all insurance  
21 coverages under a consolidated insurance program apply to all  
22 contractors under the program for the term of each construction  
23 project covered by the program.

24 (b) For a residential construction project, the  
25 per-occurrence limit shall be not less than the greater of:

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

1           (2) \$5 million.

2           (c) For a nonresidential construction project that has an  
3 overall construction project value that does not exceed \$400  
4 million the per-occurrence limit shall 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           (d) For a nonresidential construction project that has an  
10 overall construction project value that exceeds \$400 million the  
11 per-occurrence limit shall be not less than \$100 million.

12           (e) A consolidated insurance program must reinstate  
13 annually the liability limits for each policy or contract subject  
14 to the program or be replaced by other policies or contracts that  
15 provide equivalent coverage and limits. This subsection does not  
16 apply to completed operations coverage upon completion of the  
17 construction project.

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

22           (1) 50 percent; and

23           (2) after the initial 50 percent reduction, each  
24 additional 10 percentage point reduction.

25           (g) The reduction in monetary limit in Subsection (f) shall  
26 be calculated based on incurred losses and expenses.

27           (h) The notice under Subsection (f) shall describe the



1 initial monetary limit of liability coverage and the monetary limit  
2 of liability coverage that remains as of the notice date.

3 (i) For limits on coverages that have been extended by other  
4 policies, the notice under Subsection (f) is required only if the  
5 combined monetary limit of all policies providing such coverage has  
6 been reached.

7 (j) The monetary limit of liability shall not be reduced if  
8 the insurer fails to comply properly with Subsection (f).

9 Sec. 151.057. APPLICATION TO GENERAL LIABILITY COVERAGE.

10 If a consolidated insurance program includes general liability  
11 coverage, coverage for the construction project must be provided  
12 for:

13 (1) a negligent act of a contractor, regardless of  
14 whether the negligent act is caused by a direct act of the  
15 contractor or assumed under a contract; and

16 (2) the contractor's ongoing operations and its  
17 completed operations.

18 Sec. 151.058. DURATION OF COVERAGE. (a) A consolidated  
19 insurance program that provides general liability coverage must  
20 continue completed operations insurance coverage until the last  
21 date for bringing a suit for damages as defined in Chapter 16, Civil  
22 Practice and Remedies Code.

23 (b) A contractor's separately maintained insurance may not  
24 exclude coverage for ongoing operations of the contractor for  
25 warranty or punch-out work on a construction project covered by a  
26 consolidated insurance program that occurs after the contractor has  
27 received written notice from the principal, insurer, or

1 administrator that the consolidated insurance program has ended.

2 Sec. 151.059. INSURER REQUIREMENTS; INSURER RATINGS.

3 (a) Insurance coverages under a consolidated insurance program  
4 for a nonresidential construction project must be provided by an  
5 insurer that has:

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

9 (2) an equivalent rating made by a similar rating  
10 organization recognized by the commissioner.

11 (b) Insurance coverages under a consolidated insurance  
12 program for a residential construction project must be provided by  
13 an insurer that has:

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

17 (2) an equivalent rating made by a similar rating  
18 organization recognized by the commissioner.

19 (c) Insurance policies or contracts providing coverage  
20 under the consolidated insurance program must be issued to the  
21 first-named insured not later than the 30th day after coverage has  
22 been bound or otherwise agreed to by the insurer.

23 (d) The requirements of this subsection must be maintained  
24 for the duration of the construction project.

25 Sec. 151.060. INDEMNIFICATION. (a) On a construction  
26 project covered by a consolidated insurance program, the  
27 consolidated insurance program must provide liability insurance to

1 cover the obligation of a contractor insured under the consolidated  
2 insurance program to indemnify, hold harmless, or defend another  
3 person for any action that results in bodily injury or property  
4 damage.

5 (b) The minimum liability insurance coverage required under  
6 Subsection (a) must be at least equal to the general liability  
7 coverage provided by the current standard form promulgated by the  
8 Insurance Service Office.

9 (c) A contractor on a construction project on which a  
10 consolidated insurance program is used in which the contractor  
11 participates may not be required to indemnify, hold harmless, or  
12 defend any claim for any action that would be covered under the  
13 general liability coverage provided by the current standard form  
14 promulgated by the Insurance Service Office unless the general  
15 liability coverage provided by the consolidated insurance program  
16 provides complete coverage for such obligation, and any such  
17 requirement in a construction project contract pertaining to a  
18 construction project covered by a consolidated insurance program in  
19 which the contractor participates is void.

20 Sec. 151.061. DEFENSE COVERAGE FOR CLAIM OR SUIT. (a) In  
21 the event of a lawsuit or arbitration proceeding that is covered by  
22 a consolidated insurance program, the insurance policy or contract  
23 must provide coverage for the defense of each contractor.

24 (b) A contractor covered by a consolidated insurance  
25 program has standing in any hearing or proceeding involving  
26 workers' compensation or liability claims, including any claim  
27 adjustment and settlement negotiations, provided that such

1 coverage is part of the consolidated insurance program, and the  
2 contractor is entitled to representation at any such hearing or  
3 proceeding by:

4 (1) an employee or agent of the contractor; and

5 (2) on request of the contractor, legal counsel  
6 covered by the consolidated insurance program.

7 Sec. 151.062. PAYMENT OF CERTAIN DEDUCTIBLES, LOSSES, OR  
8 PENALTIES. (a) Subject to Subsection (b), a principal shall pay:

9 (1) any coverage deductibles or losses in a  
10 retrospective rating plan or other loss-sensitive rating plan under  
11 a consolidated insurance program;

12 (2) any penalties incurred under the consolidated  
13 insurance program; and

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

16 (b) A principal may charge a contractor a small, reasonable  
17 deductible for a property damage loss that is caused by the  
18 contractor's direct negligence and is covered by the general  
19 liability contract or policy of the consolidated insurance program  
20 if the deductible amount and purpose is included in the disclosure  
21 made at bid solicitation. The purpose of the deductible is to  
22 encourage safe operations by the contractor. The deductible shall  
23 be in proportion to the size and severity of the loss, not to exceed  
24 \$5,000.

25 Sec. 151.063. PREMIUMS ASSESSED TO CONTRACTOR. If any  
26 premiums for coverage under a consolidated insurance program on a  
27 single or multiple construction project are assessed to a

1 contractor, the contractor's most recent experience modifier, as of  
2 the date on which the construction project begins, must be used in  
3 the computation of the premium to be assessed to the contractor and  
4 the premium shall be adjusted annually to reflect any change in the  
5 contractor's experience modifier.

6 Sec. 151.064. AUDIT REQUIREMENTS. (a) Any required audit  
7 of a contractor covered by a consolidated insurance program who is  
8 subject to a premium charge for the coverage must be completed not  
9 later than the 60th day after the date on which the contractor  
10 completes its work on the construction project.

11 (b) The audit completion date provided by Subsection (a)  
12 shall be extended by one day for each day the contractor subject to  
13 the audit delays completion of the audit by failing to provide the  
14 auditor with access to the contractor's records after the  
15 contractor has received written notice from the administrator,  
16 insurer, or auditor stating the date the audit is to be conducted.

17 Sec. 151.065. DATA REPORTS FOR WORKERS' COMPENSATION.

18 (a) At least quarterly, the program administrator shall report to  
19 a contractor in detail the loss and payroll data that pertains to  
20 that contractor.

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

26 (c) The insurer shall report to the appropriate rating  
27 bureau annually, not later than the 60th day after the ending date

1 of the experience rating period of a contractor that is the subject  
2 of the report, the loss and payroll data that pertains to the  
3 contractor, with a final report not later than the 60th day after  
4 the completion date of the construction project.

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

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

13 (f) The reporting and notification deadlines provided by  
14 Subsections (b), (c), and (e) shall be extended by one day for each  
15 day the contractor that is the subject of the report delays  
16 completion of any necessary audit by failing to provide the auditor  
17 with access to the contractor's records after the contractor has  
18 received written notice from the administrator, insurer, or auditor  
19 stating the date the audit is to be conducted.

20 [Sections 151.066-151.100 reserved for expansion]

21 SUBCHAPTER C. DISCLOSURE REQUIREMENTS FOR ADMINISTRATION OF A  
22 CONSOLIDATED INSURANCE PROGRAM

23 Sec. 151.101. REQUIRED DISCLOSURE AT BID SOLICITATION. At  
24 the time a principal or contractor is soliciting bids for a  
25 construction project, the principal or contractor must disclose  
26 prominently in the project plans, specifications, and any request  
27 for bids or proposals that the project may be covered by a

1 consolidated insurance program subject to this chapter.

2 Sec. 151.102. GENERAL ELEMENTS OF BID SOLICITATION  
3 DISCLOSURE. A disclosure made under Section 151.101 must include:

4 (1) the scope of coverage and limits for each  
5 insurance policy or contract under the consolidated insurance  
6 program, including an accurate specimen copy of full and complete  
7 declarations, policy conditions, limitations, coverages, and  
8 endorsements;

9 (2) the scope of coverage and limits for each policy or  
10 contract of excess insurance covering the consolidated insurance  
11 program, including a statement that the excess policy or contract  
12 will follow form as to the primary policy or contract, with any  
13 material exceptions listed; and

14 (3) a complete description of the safety program  
15 required by Subchapter D.

16 Sec. 151.103. REQUIRED DISCLOSURE PRIOR TO CONTRACT  
17 EXECUTION. (a) A principal may establish for a construction  
18 project a minimum construction contract amount in order for a  
19 contractor to be included in a consolidated insurance program.

20 (b) A contractor who submits a price proposal for work on a  
21 construction project under a consolidated insurance program is  
22 entitled to written notification from the principal or other  
23 contractor of any material change in the consolidated insurance  
24 program not later than the 10th day before the date the contractor  
25 executes the contract for work on the construction project.

26 (c) After receipt of notice of any adverse material change  
27 under Subsection (b), a contractor may without recourse or

1 liability for damages to any person:

2 (1) withdraw its price proposal for work on the  
3 construction project; or

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

6 (d) Not later than the seventh day before the date a  
7 principal or contractor executes a contract for a construction  
8 project covered by a consolidated insurance program, the principal  
9 or contractor must make a written disclosure to the contractor  
10 submitting the price proposal that contains detailed information  
11 concerning the consolidated insurance program.

12 Sec. 151.104. GENERAL ELEMENTS OF PRE-CONTRACT DISCLOSURE.  
13 Each disclosure made under Section 151.103 must include:

14 (1) the name and address of each insurer providing an  
15 insurance policy or contract under the consolidated insurance  
16 program and identification of the coverage each insurer will  
17 provide;

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

20 (3) the name of the primary contact person of the  
21 insurance producer for the consolidated insurance program;

22 (4) the name, primary contact name, street address,  
23 city, state, and zip code of the administrator of the consolidated  
24 insurance program;

25 (5) a specimen copy of each form, including enrollment  
26 forms, claim forms, and payroll forms, that a contractor may be  
27 required to submit to the principal, program administrator, or



1 insurer;

2 (6) the number, frequency, and subject matter of any  
3 audits of the contractor required by the insurer, administrator, or  
4 principal; and

5 (7) a detailed description of any differences in the  
6 items disclosed under Section 151.102 and the actual scope and  
7 limits of coverage for the consolidated insurance program,  
8 including any deviations from the specimen copy provided.

9 Sec. 151.105. FORMULA FOR INSURANCE CREDITS. (a) The  
10 disclosure required under Section 151.101 must include the formula  
11 to be used by a contractor in computing any insurance credits.

12 (b) The formula must include:

13 (1) the discounts, credits, and rate variances used by  
14 the contractor;

15 (2) examples of credit computations; and

16 (3) a method for incorporating any scheduled credits,  
17 premium discounts, or other items of credit or discount that apply  
18 specifically to the contractor.

19 (c) A principal may not require an insurance credit from a  
20 contractor for coverage provided under the consolidated insurance  
21 program that is of the same type as flat-rate coverages maintained  
22 by the contractor.

23 Sec. 151.106. CONTRACT AWARD; BASIS. (a) The disclosure  
24 required under Section 151.101 must state a specific explanation of  
25 how any premium overruns or underruns will be applied and whether  
26 the contract award will be made on a basis that:

27 (1) excludes the cost of insurance coverages; or

1           (2) includes the cost of insurance coverage.

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

5           [Sections 151.107-151.150 reserved for expansion]

6           SUBCHAPTER D. SAFETY PROGRAM AND INJURED WORKERS

7           Sec. 151.151. APPLICATION. This subchapter applies only if  
8 workers' compensation is a coverage provided by the consolidated  
9 insurance program.

10          Sec. 151.152. SAFETY PROGRAM REQUIRED. (a) A principal  
11 shall adopt a comprehensive safety program designed to reduce the  
12 frequency and severity of worker injuries. The principal shall  
13 require participation in the safety program by all persons working  
14 on the construction project.

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

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

19          Sec. 151.153. SAFETY PROFESSIONALS. (a) This section sets  
20 forth minimum safety staffing requirements for a consolidated  
21 insurance program. The principal, directly or through its contract  
22 with a contractor, shall maintain safety policies and a level of  
23 safety staffing commensurate with the expected and actual hazards  
24 of the construction project.

25          (b) A safety program conducted under this subchapter must  
26 have at least one qualified safety professional assigned to the  
27 construction project for primary safety responsibility. If the

1 construction project value exceeds \$25 million, a safety  
2 professional must work not less than 40 hours per week at the work  
3 site of the construction project and no work may take place at the  
4 work site unless at least one qualified safety professional is  
5 present at the work site.

6 (c) Except as provided by Subsection (d), to be qualified to  
7 serve as a safety professional under Subsection (b), a person must  
8 have demonstrable knowledge of Title 29, Code of Federal  
9 Regulations, and related regulations adopted by the federal  
10 Occupational Safety and Health Administration and not less than:

11 (1) 10 years of primary safety responsibility  
12 experience in the construction industry; or

13 (2) five years of primary safety responsibility  
14 experience in the construction industry; and

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

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

21 (C) hold a current certification as a certified  
22 safety professional issued by an entity recognized by the  
23 commissioner.

24 (d) To be qualified to serve as a safety professional under  
25 Subsection (b) for a nonresidential construction project that is  
26 solely for the maintenance or remodeling of an existing industrial  
27 plant facility that maintains an ongoing consolidated insurance

1 program in its regular course of business for such maintenance or  
2 remodeling work at the industrial plant facility, a person must  
3 have demonstrable knowledge of Title 29, Code of Federal  
4 Regulations, and related regulations adopted by the federal  
5 Occupational Safety and Health Administration and not less than:

6 (1) 10 years of primary safety responsibility  
7 experience in an industrial plant facility; or

8 (2) five years of primary safety responsibility  
9 experience in an industrial plant facility; and

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

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

16 (C) hold a current certification as a certified  
17 safety professional issued by an entity recognized by the  
18 commissioner.

19 Sec. 151.154. INJURED EMPLOYEES. The disclosure required  
20 under Section 151.101 must fully describe any light duty  
21 return-to-work program required for a contractor's injured  
22 employees. A return-to-work program must provide a reasonable  
23 length of time during which any required light-duty program would  
24 be in place for an injured employee. The period that is considered  
25 a reasonable length of time for light-duty work may vary depending  
26 on the type of injury.

27 Sec. 151.155. LIGHT DUTY STANDARDS. The consolidated

1 insurance program may require the employer of an injured employee  
2 to provide alternative duty for an injured employee when:

3 (1) the work status report, or similar report, of the  
4 division of workers' compensation of the department completed by  
5 the injured employee's examining doctor specifies the injured  
6 employee's physical restrictions or limitations;

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

10 (3) the alternate duty position is reasonably  
11 available and such activity provides a benefit for the employer;  
12 and

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

17 [Sections 151.156-151.200 reserved for expansion]

18 SUBCHAPTER E. PROGRAM ADMINISTRATION

19 Sec. 151.201. PROGRAM ADMINISTRATOR. (a) Each principal  
20 shall appoint a qualified administrator for the consolidated  
21 insurance program whose only duty is administration of the program.

22 (b) To be eligible to serve as the program administrator, a  
23 person must:

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

27 (A) recognized as appropriate by the

1 commissioner; and

2 (B) issued under Title 13; and

3 (2) have been licensed under this code for at least the  
4 five years preceding the date of the appointment as program  
5 administrator.

6 (c) Subsection (b) does not apply to a person that provides  
7 assistance to the program administrator for support duties such as  
8 clerical or bookkeeping services.

9 Sec. 151.202. POWERS AND DUTIES OF PROGRAM ADMINISTRATOR;  
10 RELATIONSHIP WITH CONTRACTORS. For purposes of this chapter, each  
11 contractor covered under the consolidated insurance program is  
12 considered a client of the program administrator. A program  
13 administrator shall in a timely manner:

14 (1) enroll all contractors covered by the consolidated  
15 insurance program to assure immediate coverage;

16 (2) maintain a current consolidated insurance program  
17 manual that contains a detailed description of the consolidated  
18 insurance program and provide all contractors with a current copy  
19 of the manual on the contractor's enrollment in the program and not  
20 later than the seventh day after any updates are made;

21 (3) issue a certificate of insurance on behalf of a  
22 contractor to represent the coverages and limits provided by the  
23 consolidated insurance program not later than the fifth day after  
24 receipt of a request from the contractor;

25 (4) provided that the insurer has issued insurance  
26 policies or contracts, ensure that all contractors receive  
27 insurance policies or contracts, or renewal certificates for

1 previously issued policies or contracts, for all coverages provided  
2 by the consolidated insurance program by the date that is the  
3 earlier of the 30th day after the date of enrollment in the program  
4 or the date the contractor begins work on the project;

5 (5) coordinate any regular reporting required of the  
6 contractors and any audits required of the contractors;

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

9 (7) maintain an organized paper and electronic file  
10 system that is available for immediate access;

11 (8) establish and disseminate to contractors clear  
12 procedures for contractors on how to file claims properly and what  
13 loss control procedures need to be implemented;

14 (9) coordinate availability and communication between  
15 contractors and any on-site medical facilities;

16 (10) ensure that all insurance coverages provided by  
17 the consolidated insurance program are maintained;

18 (11) ensure that all contractors are notified in  
19 writing promptly of any changes or cancellation in coverages  
20 provided by the consolidated insurance program;

21 (12) monitor the financial standing of the insurer as  
22 provided by Section 151.059 and provide written notice to the  
23 principal and all contractors of any significant negative change  
24 not later than the 10th day after the date of the negative change;

25 (13) prepare and present to the principal, on at least  
26 a monthly basis, any required payroll reports, claim reviews, and  
27 loss control reviews; and

1           (14) provide oversight and management of claims for  
2 the principal and any affected contractor until all claims are  
3 closed.

4           Sec. 151.203. CONTRACTOR AS BENEFICIARY. For purposes of  
5 this chapter and insurance benefits under the consolidated  
6 insurance program, each contractor is considered a beneficiary of  
7 the administrator, and the administrator owes a fiduciary duty to  
8 each contractor that participates in the program.

9           [Sections 151.204-151.250 reserved for expansion]

10           SUBCHAPTER F. RULE MAKING AUTHORITY

11           Sec. 151.251. RULES. The commissioner shall adopt rules as  
12 necessary to implement and enforce this chapter and its purpose and  
13 intent and to provide for the protection of policyholders,  
14 insureds, and workers under a consolidated insurance program.

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

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