

## **BILL ANALYSIS**

C.S.H.B. 2093  
By: Thompson  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many observers describe consolidated insurance programs as insurance programs in which a principal, usually an owner or general contractor, provides multiple insurance coverages that are bundled into one insurance program for a single construction project or multiple construction projects. According to these observers, the policy typically provides coverage for each entity on the project, from the general contractor to the subcontractors and their employees, for general liability, workers' compensation, and builder's risk.

However, interested parties have noted that there are no requirements regarding the duration of coverage provided by a consolidated insurance program, and many observers contend that a consolidated insurance program should provide coverage for the entire statute of repose, while a contractor can be held liable for their work, although some acknowledge that because of fluctuating market conditions, this is a difficult objective to meet.

C.S.H.B. 2093 addresses this issue by requiring a consolidated insurance program to provide completed operations coverage for a period of at least three years.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

### **ANALYSIS**

C.S.H.B. 2093 amends the Insurance Code to require a consolidated insurance program that provides general liability insurance coverage to provide completed operations insurance coverage for a policy period of not less than three years. The bill prohibits a provision of the bill from being waived by contract or otherwise.

C.S.H.B. 2093 requires the commissioner of insurance to adopt rules as necessary to implement and enforce the bill's provisions, makes its provisions applicable to a new or renewed consolidated insurance program for a construction project that begins on or after January 1, 2012, and defines "consolidated insurance program," "construction project," "contractor," "insurer," and "principal."

### **EFFECTIVE DATE**

September 1, 2011.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2093 differs from the original by requiring the commissioner of insurance to adopt rules as necessary to implement and enforce the substitute's provisions, whereas the original requires the commissioner of insurance to adopt rules as necessary to implement and enforce the

purpose and intent of the original's provisions and in the manner provided by Insurance Code provisions granting the commissioner rulemaking authority.

C.S.H.B. 2093 differs from the original by requiring a consolidated insurance program that provides general liability insurance coverage to provide completed operations insurance coverage for a policy period of not less than three years, whereas the original requires a consolidated insurance program that provides completed operations insurance coverage separate from or together with general liability coverage to continue the completed operations insurance coverage until the expiration of the 10-year period of limitation on bringing a suit for damages against a person who constructs or repairs an improvement to real property.

C.S.H.B. 2093 omits provisions included in the original relating to coverage of each construction project contractor by a consolidated insurance program; notification of each contractor regarding reduction in limit of liability; the duty of a principal under a consolidated insurance program to each contractor to comply with statutory provisions governing such a program; a contractor's right to obtain insurance coverage not provided by the consolidated insurance program; limited exceptions to rating standards; payment of certain deductibles or losses; general applicability of certain coverage limits under a consolidated insurance program; required disclosure at the solicitation of bids for a construction project that may be covered by a consolidated insurance program; appointment by each principal of a qualified administrator for the consolidated insurance program; and general enforcement and administrative penalties.