

By: Creighton

S.B. No. 1081

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of certain information under a consolidated insurance program.

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

SECTION 1. Section 151.002, Insurance Code, is amended to read as follows:

Sec. 151.002. RULES. The commissioner shall adopt rules as necessary to implement and enforce Subchapters A and [Subchapter] B.

SECTION 2. Subchapter A, Chapter 151, Insurance Code, is amended by adding Sections 151.003 through 151.008 to read as follows:

Sec. 151.003. INFORMATION REQUIRED TO BE PROVIDED BY A PRINCIPAL PRIOR TO ENTERING INTO A CONSTRUCTION CONTRACT. Not less than 10 days before the date a principal enters into a construction contract with a person, and the contract contains a requirement for the person to enroll in a consolidated insurance program, the principal shall provide to the person the following information about the consolidated insurance program:

(1) contact information, including phone and email addresses for the program administrator, the principal's risk manager, and the insurance company's contact person for filing a claim for each type of insurance coverage provided in the program;

(2) criteria for eligibility of enrollment into the

1 program;

2 (3) a description of the project site to which the
3 program coverages apply;

4 (4) a summary of insurance coverages to be provided to
5 the contractor under the program, including:

6 (A) the policy form number and issuing
7 organization name for a standardized insurance policy or a sample
8 policy form if not a standardized form;

9 (B) per occurrence and aggregate limits of
10 insurance coverage and any sublimits that may apply;

11 (C) term of coverage for each limit and sublimit;
12 and

13 (D) material endorsements to the policy
14 described in Paragraph (A);

15 (5) a summary of insurance coverages to be provided by
16 the contractor;

17 (6) instructions to a person on how to include or
18 exclude costs of insurance provided by the program in the person's
19 proposal for work on the construction project;

20 (7) a description of the audit or claims procedures
21 related to the program that could result in a contractor's
22 responsibility for any additional costs, including the calculation
23 for any assessment to a contractor related to the principal's
24 payment of a policy deductible, and including specific monetary
25 amounts related to those costs; and

26 (8) a description of a contractor's duties related to:

27 (A) reporting of payroll and retention of

1 documentation; and

2 (B) reporting of claims and participation in
3 safety inspections and incident reporting.

4 Sec. 151.004. INFORMATION REQUIRED TO BE PROVIDED BY A
5 CONTRACTOR PRIOR TO ENTERING INTO A CONSTRUCTION CONTRACT WITH A
6 PERSON. Not less than 10 days before the date a contractor enters
7 into a construction contract with a person, and the contract
8 contains a requirement for the person to enroll in a consolidated
9 insurance program, the contractor shall provide to the person the
10 information about the consolidated insurance program listed in
11 Section 151.003.

12 Sec. 151.005. RELIANCE ON INFORMATION PROVIDED PRIOR TO
13 ENTERING INTO CONTRACT; FAILURE TO FURNISH. (a) The information
14 that is required to be provided under Section 151.003 shall
15 accurately reflect those terms of the consolidated insurance
16 program. A contractor providing information to a person under
17 Section 151.004 shall accurately provide the information that the
18 contractor received regarding the terms of the consolidated
19 insurance program. A person receiving the information under
20 Section 151.003 or 151.004 may justifiably rely on the information
21 to guide its decision on whether to enter into a contract that
22 requires the person to enroll in the consolidated insurance
23 program.

24 (b) If a person is not timely provided the information
25 required to be provided under Section 151.003 or 151.004, the
26 person may elect not to enroll in the consolidated insurance
27 program.

1 (c) If a person elects not to enroll under Subsection (b), a
2 principal or contractor may provide to that person the information
3 about the consolidated insurance program listed in Section 151.003
4 and the person will then have 10 days after the date the information
5 is provided to elect to enter into the construction contract.

6 (d) If the person elects not to enroll in the consolidated
7 insurance program under Subsection (b) or (c) and the person enters
8 into a construction contract for the construction project, the
9 person shall furnish insurance coverage for its work on the
10 construction project in substantial compliance with what is
11 required for a person that is not covered by an insurance policy
12 under the consolidated insurance program.

13 (e) A person that provides insurance coverage under
14 Subsection (d) shall be compensated by the party with which the
15 person has entered into the construction contract for the person's
16 actual cost of its insurance coverage.

17 (f) A person may not be required to enter into a
18 construction contract that contains a requirement for the person to
19 enroll in the consolidated insurance program unless the person has
20 been provided the information about the consolidated insurance
21 program listed in Section 151.003 at least 10 days prior to the date
22 the agreement is entered into.

23 Sec. 151.006. REQUEST FOR INSURANCE POLICY; DEADLINE TO
24 PROVIDE. A contractor may request in writing from the principal, or
25 from the party with which it has a direct contractual relationship,
26 a complete copy of the insurance policy that provides coverage for
27 the contractor under the consolidated insurance program. A

1 complete copy of the insurance policy must be provided to the
2 requesting contractor by the later of the:

- 3 (1) 30th day after the date the request was sent; or
4 (2) 60th day after the date work covered by the
5 consolidated insurance program commences on the construction
6 project.

7 Sec. 151.007. FAILURE TO PROVIDE INSURANCE POLICY. If the
8 requesting contractor has made a request under Section 151.006 of
9 the party with which it has a direct contractual relationship, it
10 shall be a material breach of the requesting contractor's
11 construction contract under this chapter if the requesting
12 contractor is not provided the information under Section 151.006 by
13 the later of the:

- 14 (1) 75th day after the date of the request; or
15 (2) 60th day after the date work covered by the
16 consolidated insurance program commences on the construction
17 project.

18 Sec. 151.008. ELECTRONIC DELIVERY. (a) If the contractor
19 requesting information under this subchapter expressly requests
20 that the information be provided in written form, the principal or
21 contractor shall provide the items in written form to the
22 requesting contractor.

23 (b) If the contractor requesting information has not made an
24 express request for the information under this subchapter to be
25 provided in written form and a principal or contractor chooses to
26 provide the information required under this subchapter by
27 electronic delivery, the principal or contractor may comply with

1 the information delivery requirements in this subchapter by:

2 (1) electronic transmission by facsimile or email; or

3 (2) providing access to the required information on
4 the principal's, or its agent's, Internet website.

5 SECTION 3. Sections 151.003 through 151.008, Insurance
6 Code, as added by this Act, apply only to a construction contract
7 that is entered into on or after January 1, 2016. A construction
8 contract that is entered into before January 1, 2016, is governed by
9 the law as it existed immediately before the effective date of this
10 Act, and that law is continued in effect for that purpose.

11 SECTION 4. This Act takes effect January 1, 2016.