

By: Creighton
(Huberty)

S.B. No. 1081

Substitute the following for S.B. No. 1081:

By: Workman

C.S.S.B. No. 1081

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 Sec. 151.002. RULES. The commissioner shall adopt rules as
8 necessary to implement and enforce this subchapter and Subchapter
9 B.

10 SECTION 2. Subchapter A, Chapter 151, Insurance Code, is
11 amended by adding Sections 151.003 through 151.009 to read as
12 follows:

13 Sec. 151.003. INFORMATION REQUIRED TO BE PROVIDED BY
14 PRINCIPAL BEFORE ENTERING CONSTRUCTION CONTRACT. If a construction
15 contract requires a person to enroll in a consolidated insurance
16 program, not later than the 10th day before the date a principal
17 enters into the contract with the person, the principal shall
18 provide the following information about the consolidated insurance
19 program to the person:

20 (1) contact information, including phone number and
21 e-mail address, for:

22 (A) the program administrator;

23 (B) the principal's risk manager; and

24 (C) the insurer's contact person for filing a

- 1 claim for each type of insurance coverage provided in the program;
2 (2) the criteria for eligibility of enrollment into
3 the program;
4 (3) a description of the project site covered by the
5 program coverages;
6 (4) a summary of insurance coverages to be provided to
7 the contractor under the program, including:
8 (A) the policy form number and issuing
9 organization if the policy is a standardized insurance policy or,
10 if the policy is not standardized, a sample policy form;
11 (B) per occurrence and aggregate limits of
12 insurance coverages and any sublimits that may apply;
13 (C) term of coverages for each limit and
14 sublimit, if any; and
15 (D) any material endorsements to the policy
16 described under Paragraph (A);
17 (5) a summary of insurance coverages to be provided by
18 the contractor;
19 (6) instructions on how to include or exclude costs of
20 insurance provided by the program in the person's proposal for work
21 on the construction project;
22 (7) a description of the audit or claims procedures
23 related to the program that may result in additional cost to a
24 contractor, including the method of calculation for any assessment
25 charged to a contractor related to the principal's payment of a
26 policy deductible and any other specific cost amounts; and
27 (8) a description of a contractor's duties related to

1 reporting:

2 (A) payroll and retention of documentation; and

3 (B) claims and participation in safety

4 inspections and incident reporting.

5 Sec. 151.004. INFORMATION REQUIRED TO BE PROVIDED BY
6 CONTRACTOR BEFORE ENTERING CONSTRUCTION CONTRACT. If a
7 construction contract requires a person to enroll in a consolidated
8 insurance program, not later than the 10th day before the date a
9 contractor enters into the contract with the person, the contractor
10 must provide to the person, in an accurate form, the information
11 listed in Section 151.003 that the contractor received under that
12 section.

13 Sec. 151.005. RELIANCE ON INFORMATION PROVIDED. The
14 information required under Section 151.003 must be accurate, and a
15 person who receives the information under Section 151.003 or
16 151.004 may justifiably rely on the information to decide whether
17 to enter into the construction contract.

18 Sec. 151.006. FAILURE TO FURNISH. (a) A person may not be
19 required to enter into a construction contract that requires
20 enrollment in a consolidated insurance program unless the person is
21 provided the information in compliance with Section 151.003 or
22 151.004, as applicable. If the information required under Section
23 151.003 is not provided to a person within the 10-day period under
24 Section 151.003 or 151.004, as applicable, the person may elect not
25 to enroll in the consolidated insurance program.

26 (b) If a person elects not to enroll in the consolidated
27 insurance program under Subsection (a), a principal or contractor

1 may provide the person with the information required under Section
2 151.003 after the 10-day period under Section 151.003 or 151.004,
3 as applicable. The person must elect whether to enroll in the
4 consolidated insurance program not later than the 10th day after
5 the date that the information is provided under this subsection.

6 (c) If a person elects not to enroll in the consolidated
7 insurance program under Subsection (a) or (b) and enters into a
8 construction contract for the construction project, the person must
9 obtain insurance coverage for the person's work on the project that
10 substantially complies with the coverage terms and liability limits
11 imposed for other persons who work on the construction project but
12 who are not insured under the consolidated insurance program.

13 (d) The principal or contractor, as applicable, shall
14 compensate a person with whom the principal or contractor contracts
15 and who obtains insurance coverage under Subsection (c) for the
16 actual cost of that insurance coverage.

17 Sec. 151.007. REQUEST FOR INSURANCE POLICY; DEADLINE TO
18 PROVIDE. (a) A contractor may request in writing from the
19 principal, or from the party with which the contractor has a direct
20 contractual relationship, a complete copy of the insurance policy
21 that provides coverage for the contractor under the consolidated
22 insurance program.

23 (b) The copy described by Subsection (a) must be provided to
24 the requesting contractor not later than the later of:

25 (1) the 30th day after the date the request was sent;

26 or

27 (2) the 60th day after the date the contractor's work

1 covered by the consolidated insurance program begins on the
2 construction project.

3 Sec. 151.008. FAILURE TO PROVIDE INSURANCE POLICY. It is a
4 material breach of a contractor's construction contract if a
5 complete copy of the insurance policy requested by the contractor
6 under Section 151.007 is not provided before the later of:

7 (1) the 75th day after the date the request was sent;
8 or

9 (2) the 90th day after the date the contractor's work
10 covered by the consolidated insurance program begins on the
11 construction project.

12 Sec. 151.009. ELECTRONIC DELIVERY. (a) On a person's
13 express request, a principal or contractor shall provide
14 information under this subchapter in hard copy written form.

15 (b) If a person does not expressly request information be
16 provided in hard copy written form, the principal or contractor may
17 comply with the requirements of this chapter by:

18 (1) transmitting the information by facsimile or
19 e-mail; or

20 (2) allowing access to the information on the
21 principal's, or the principal's agent's, Internet website.

22 SECTION 3. The changes in law made by this Act apply only to
23 an original construction contract with an owner of an improvement
24 or contemplated improvement that is entered into on or after
25 January 1, 2016. If a construction contract with an owner of an
26 improvement or contemplated improvement is entered into on or after
27 January 1, 2016, the changes in law made by this Act apply to a

1 related subcontract, purchase order contract, personal property
2 lease agreement, consolidated insurance program, and insurance
3 policy. If a construction contract with an owner of an improvement
4 or contemplated improvement is entered into before January 1, 2016,
5 that original construction contract and a related subcontract,
6 purchase order contract, personal property lease agreement,
7 consolidated insurance program, and insurance policy are governed
8 by the law in effect immediately before the effective date of this
9 Act, and that law is continued in effect for that purpose.

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