

1-1 By: Creighton S.B. No. 1081
 1-2 (In the Senate - Filed March 9, 2015; March 16, 2015, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 April 20, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 1; April 20, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12		X		
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1081 By: Creighton

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the disclosure of certain information under a
 1-22 consolidated insurance program.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 151.002, Insurance Code, is amended to
 1-25 read as follows:

1-26 Sec. 151.002. RULES. The commissioner shall adopt rules as
 1-27 necessary to implement and enforce Subchapters A and [Subchapter]
 1-28 B.

1-29 SECTION 2. Subchapter A, Chapter 151, Insurance Code, is
 1-30 amended by adding Sections 151.003 through 151.008 to read as
 1-31 follows:

1-32 Sec. 151.003. INFORMATION REQUIRED TO BE PROVIDED BY A
 1-33 PRINCIPAL PRIOR TO ENTERING INTO A CONSTRUCTION CONTRACT. Not less
 1-34 than 10 days before the date a principal enters into a construction
 1-35 contract with a person, and the contract contains a requirement for
 1-36 the person to enroll in a consolidated insurance program, the
 1-37 principal shall provide to the person the following information
 1-38 about the consolidated insurance program:

1-39 (1) contact information, including phone and email
 1-40 addresses for the program administrator, the principal's risk
 1-41 manager, and the insurance company's contact person for filing a
 1-42 claim for each type of insurance coverage provided in the program;

1-43 (2) criteria for eligibility of enrollment into the
 1-44 program;

1-45 (3) a description of the project site to which the
 1-46 program coverages apply;

1-47 (4) a summary of insurance coverages to be provided to
 1-48 the contractor under the program, including:

1-49 (A) the policy form number and issuing
 1-50 organization name for a standardized insurance policy or a sample
 1-51 policy form if not a standardized form;

1-52 (B) per occurrence and aggregate limits of
 1-53 insurance coverage and any sublimits that may apply;

1-54 (C) term of coverage for each limit and sublimit;
 1-55 and

1-56 (D) material endorsements to the policy
 1-57 described in Paragraph (A);

1-58 (5) a summary of insurance coverages to be provided by
 1-59 the contractor;

1-60 (6) instructions to a person on how to include or

2-1 exclude costs of insurance provided by the program in the person's
2-2 proposal for work on the construction project;
2-3 (7) a description of the audit or claims procedures
2-4 related to the program that could result in a contractor's
2-5 responsibility for any additional costs, including the calculation
2-6 for any assessment to a contractor related to the principal's
2-7 payment of a policy deductible, and including specific monetary
2-8 amounts related to those costs; and
2-9 (8) a description of a contractor's duties related to:
2-10 (A) reporting of payroll and retention of
2-11 documentation; and
2-12 (B) reporting of claims and participation in
2-13 safety inspections and incident reporting.
2-14 Sec. 151.004. INFORMATION REQUIRED TO BE PROVIDED BY A
2-15 CONTRACTOR PRIOR TO ENTERING INTO A CONSTRUCTION CONTRACT WITH A
2-16 PERSON. Not less than 10 days before the date a contractor enters
2-17 into a construction contract with a person, and the contract
2-18 contains a requirement for the person to enroll in a consolidated
2-19 insurance program, the contractor shall provide to the person the
2-20 information about the consolidated insurance program listed in
2-21 Section 151.003.
2-22 Sec. 151.005. RELIANCE ON INFORMATION PROVIDED PRIOR TO
2-23 ENTERING INTO CONTRACT; FAILURE TO FURNISH. (a) The information
2-24 that is required to be provided under Section 151.003 shall
2-25 accurately reflect those terms of the consolidated insurance
2-26 program. A contractor providing information to a person under
2-27 Section 151.004 shall accurately provide the information that the
2-28 contractor received regarding the terms of the consolidated
2-29 insurance program. A person receiving the information under
2-30 Section 151.003 or 151.004 may justifiably rely on the information
2-31 to guide its decision on whether to enter into a contract that
2-32 requires the person to enroll in the consolidated insurance
2-33 program.
2-34 (b) If a person is not timely provided the information
2-35 required to be provided under Section 151.003 or 151.004, the
2-36 person may elect not to enroll in the consolidated insurance
2-37 program.
2-38 (c) If a person elects not to enroll under Subsection (b), a
2-39 principal or contractor may provide to that person the information
2-40 about the consolidated insurance program listed in Section 151.003
2-41 and the person will then have 10 days after the date the information
2-42 is provided to elect to enter into the construction contract.
2-43 (d) If the person elects not to enroll in the consolidated
2-44 insurance program under Subsection (b) or (c) and the person enters
2-45 into a construction contract for the construction project, the
2-46 person shall furnish insurance coverage for its work on the
2-47 construction project in substantial compliance with what is
2-48 required for a person that is not covered by an insurance policy
2-49 under the consolidated insurance program.
2-50 (e) A person that provides insurance coverage under
2-51 Subsection (d) shall be compensated by the party with which the
2-52 person has entered into the construction contract for the person's
2-53 actual cost of its insurance coverage.
2-54 (f) A person may not be required to enter into a
2-55 construction contract that contains a requirement for the person to
2-56 enroll in the consolidated insurance program unless the person has
2-57 been provided the information about the consolidated insurance
2-58 program listed in Section 151.003 at least 10 days prior to the date
2-59 the agreement is entered into.
2-60 Sec. 151.006. REQUEST FOR INSURANCE POLICY; DEADLINE TO
2-61 PROVIDE. A contractor may request in writing from the principal, or
2-62 from the party with which it has a direct contractual relationship,
2-63 a complete copy of the insurance policy that provides coverage for
2-64 the contractor under the consolidated insurance program. A
2-65 complete copy of the insurance policy must be provided to the
2-66 requesting contractor by the later of the:
2-67 (1) 30th day after the date the request was sent; or
2-68 (2) 60th day after the date work covered by the
2-69 consolidated insurance program commences on the construction

3-1 project.

3-2 Sec. 151.007. FAILURE TO PROVIDE INSURANCE POLICY. If the
3-3 requesting contractor has made a request under Section 151.006 of
3-4 the party with which it has a direct contractual relationship, it
3-5 shall be a material breach of the requesting contractor's
3-6 construction contract under this chapter if the requesting
3-7 contractor is not provided the information under Section 151.006 by
3-8 the later of the:

3-9 (1) 75th day after the date of the request; or

3-10 (2) 60th day after the date work covered by the
3-11 consolidated insurance program commences on the construction
3-12 project.

3-13 Sec. 151.008. ELECTRONIC DELIVERY. (a) If the contractor
3-14 requesting information under this subchapter expressly requests
3-15 that the information be provided in written form, the principal or
3-16 contractor shall provide the items in written form to the
3-17 requesting contractor.

3-18 (b) If the contractor requesting information has not made an
3-19 express request for the information under this subchapter to be
3-20 provided in written form and a principal or contractor chooses to
3-21 provide the information required under this subchapter by
3-22 electronic delivery, the principal or contractor may comply with
3-23 the information delivery requirements in this subchapter by:

3-24 (1) electronic transmission by facsimile or email; or

3-25 (2) providing access to the required information on
3-26 the principal's, or its agent's, Internet website.

3-27 SECTION 3. Sections 151.003 through 151.008, Insurance
3-28 Code, as added by this Act, apply only to a construction contract
3-29 that is entered into on or after January 1, 2016. A construction
3-30 contract that is entered into before January 1, 2016, is governed by
3-31 the law as it existed immediately before the effective date of this
3-32 Act, and that law is continued in effect for that purpose.

3-33 SECTION 4. This Act takes effect January 1, 2016.

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