

INSURANCE CODE

TITLE 2. TEXAS DEPARTMENT OF INSURANCE

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) "Consolidated insurance program" means a program under which a principal provides general liability insurance coverage, workers' compensation insurance coverage, or both that are incorporated into an insurance program for a single construction project or multiple construction projects.

(2) "Construction project" means construction, remodeling, maintenance, or repair of improvements to real property. The term includes the immediate construction location and areas incidental and necessary to the work as defined in the construction contract documents. A construction project under this chapter does not include a single family house, townhouse, duplex, or land development directly related thereto.

(3) "Contractor" means any person who has entered into a construction contract or a professional services contract and is enrolled in the consolidated insurance program.

(4) "Claim" includes a loss or liability for a claim, damage, expense, or governmentally imposed fine, penalty, administrative action, or other action.

(5) "Construction contract" means a contract, subcontract, or agreement, or a performance bond assuring the performance of any of the foregoing, entered into or made by an owner, architect, engineer, contractor, construction manager, subcontractor, supplier, or material or equipment lessor for the design, construction, alteration, renovation, remodeling, repair, or maintenance of, or for the furnishing of material or equipment for, a building, structure, appurtenance, or other improvement to or on public or private real property, including moving, demolition, and excavation connected with the real property. The term includes an agreement to which an architect, engineer, or

contractor and an owner's lender are parties regarding an assignment of the construction contract or other modifications thereto.

(6) "Indemnitor" means a party to a construction contract that is required to provide indemnification or additional insured status to another party to the construction contract or to a third party.

(7) "Insurer" has the meaning assigned by Section [560.001](#).

(8) "Principal" means the person who procures the insurance policy under a consolidated insurance program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. [2093](#)), Sec. 1, eff. January 1, 2012.

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

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. [2093](#)), Sec. 1, eff. January 1, 2012.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. [1081](#)), Sec. 1, eff. January 1, 2016.

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

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

(A) the program administrator;

(B) the principal's risk manager; and

(C) the insurer's contact person for filing a claim for each type of insurance coverage provided in the program;

(2) the criteria for eligibility of enrollment into

the program;

(3) a description of the project site covered by the program coverages;

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

(A) the policy form number and issuing organization if the policy is a standardized insurance policy or, if the policy is not standardized, a sample policy form;

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

(C) term of coverages for each limit and sublimit, if any; and

(D) any material endorsements to the policy described under Paragraph (A);

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

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

(7) a description of the audit or claims procedures related to the program that may result in additional cost to a contractor, including the method of calculation for any assessment charged to a contractor related to the principal's payment of a policy deductible and any other specific cost amounts; and

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

(A) payroll and retention of documentation; and

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

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

Sec. 151.004. INFORMATION REQUIRED TO BE PROVIDED BY CONTRACTOR BEFORE ENTERING CONSTRUCTION CONTRACT. If a construction contract requires a person to enroll in a consolidated insurance program, not later than the 10th day before the date a contractor enters into the contract with the person, the contractor

must provide to the person, in an accurate form, the information listed in Section 151.003 that the contractor received under that section.

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

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

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

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

(b) If a person elects not to enroll in the consolidated insurance program under Subsection (a), a principal or contractor may provide the person with the information required under Section 151.003 after the 10-day period under Section 151.003 or 151.004, as applicable. The person must elect whether to enroll in the consolidated insurance program not later than the 10th day after the date that the information is provided under this subsection.

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

(d) The principal or contractor, as applicable, shall

compensate a person with whom the principal or contractor contracts and who obtains insurance coverage under Subsection (c) for the actual cost of that insurance coverage.

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

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

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

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

(2) the 60th day after the date the contractor's work covered by the consolidated insurance program begins on the construction project.

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

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

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

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

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

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

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

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

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

Added by Acts 2015, 84th Leg., R.S., Ch. 427 (S.B. 1081), Sec. 2, eff. January 1, 2016.

SUBCHAPTER B. GENERAL REQUIREMENTS

Sec. 151.051. DURATION OF GENERAL LIABILITY COVERAGE. A consolidated insurance program that provides general liability insurance coverage must provide completed operations insurance coverage for a policy period of not less than three years.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. 2093), Sec. 1, eff. January 1, 2012.

SUBCHAPTER C. REQUIREMENTS RELATED TO INDEMNIFICATION

Sec. 151.101. APPLICABILITY. (a) This subchapter applies to a construction contract for a construction project for which an indemnitor is provided or procures insurance subject to:

(1) this chapter; or

(2) Title 10.

(b) Subsection (a) applies regardless of whether the insurance is provided or procured before or after execution of the contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. 2093), Sec. 1, eff. January 1, 2012.

Sec. 151.102. AGREEMENT VOID AND UNENFORCEABLE. Except as provided by Section 151.103, a provision in a construction contract, or in an agreement collateral to or affecting a construction contract, is void and unenforceable as against public policy to the extent that it requires an indemnitor to indemnify,

hold harmless, or defend a party, including a third party, against a claim caused by the negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of contract of the indemnitee, its agent or employee, or any third party under the control or supervision of the indemnitee, other than the indemnitor or its agent, employee, or subcontractor of any tier.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. 2093), Sec. 1, eff. January 1, 2012.

Sec. 151.103. EXCEPTION FOR EMPLOYEE CLAIM. Section 151.102 does not apply to a provision in a construction contract that requires a person to indemnify, hold harmless, or defend another party to the construction contract or a third party against a claim for the bodily injury or death of an employee of the indemnitor, its agent, or its subcontractor of any tier.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. 2093), Sec. 1, eff. January 1, 2012.

Sec. 151.104. UNENFORCEABLE ADDITIONAL INSURANCE PROVISION. (a) Except as provided by Subsection (b), a provision in a construction contract that requires the purchase of additional insured coverage, or any coverage endorsement, or provision within an insurance policy providing additional insured coverage, is void and unenforceable to the extent that it requires or provides coverage the scope of which is prohibited under this subchapter for an agreement to indemnify, hold harmless, or defend.

(b) This section does not apply to a provision in an insurance policy, or an endorsement to an insurance policy, issued under a consolidated insurance program to the extent that the provision or endorsement lists, adds, or deletes named insureds to the policy.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. 2093), Sec. 1, eff. January 1, 2012.

Sec. 151.105. EXCLUSIONS. This subchapter does not affect:

- (1) an insurance policy, including a policy issued

under an owner-controlled or owner-sponsored consolidated insurance program or a contractor-controlled or contractor-sponsored consolidated insurance program, except as provided by Section [151.104](#);

(2) a cause of action for breach of contract or warranty that exists independently of an indemnity obligation, including an indemnity obligation in a construction contract under a construction project for which insurance is provided under a consolidated insurance program;

(3) indemnity provisions contained in loan and financing documents, other than construction contracts to which the contractor and owner's lender are parties as provided under Section [151.001](#)(5);

(4) general agreements of indemnity required by sureties as a condition of execution of bonds for construction contracts;

(5) the benefits and protections under the workers' compensation laws of this state;

(6) the benefits or protections under the governmental immunity laws of this state;

(7) agreements subject to Chapter [127](#), Civil Practice and Remedies Code;

(8) a license agreement between a railroad company and a person that permits the person to enter the railroad company's property as an accommodation to the person for work under a construction contract that does not primarily benefit the railroad company;

(9) an indemnity provision pertaining to a claim based upon copyright infringement;

(10) an indemnity provision in a construction contract, or in an agreement collateral to or affecting a construction contract, pertaining to:

(A) a single family house, townhouse, duplex, or land development directly related thereto; or

(B) a public works project of a municipality; or

(11) a joint defense agreement entered into after a claim is made.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. [2093](#)), Sec. 1, eff. January 1, 2012.

SUBCHAPTER D. NONWAIVER

Sec. 151.151. NONWAIVER. A provision of this chapter may not be waived by contract or otherwise.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1292 (H.B. [2093](#)), Sec. 1, eff. January 1, 2012.