

**First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0190.01 Karen Epps

**HOUSE BILL 07-1366**

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**HOUSE SPONSORSHIP**

**Soper**, Benefield, Carroll M., Casso, Cerbo, Gagliardi, Green, Kefalas, Levy, Primavera, and Solano

**SENATE SPONSORSHIP**

(None),

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**House Committees**

Business Affairs and Labor

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING WORKERS' COMPENSATION COVERAGE FOR WORKERS IN**  
102 **THE CONSTRUCTION INDUSTRY.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Requires every person who contracts for the performance of work at a construction site to either provide workers' compensation coverage or require proof of workers' compensation coverage for every person performing construction work at the site.

Punishes violations with a civil penalty of up to \$500 per day, payable to the workers' compensation cash fund.

Exempts certain employers that have rejected workers'

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

compensation coverage and an owner or occupant, or both, of residential real property who contracts out any work done on the property from providing workers' compensation coverage to the contractors.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Part 4 of article 41 of title 8, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

5 **8-41-404. Construction work - proof of coverage required -**  
6 **violation - penalty - definitions.** (1) (a) EXCEPT AS OTHERWISE  
7 PROVIDED IN SUBSECTION (4) OF THIS SECTION, EVERY PERSON  
8 PERFORMING CONSTRUCTION WORK ON A CONSTRUCTION SITE SHALL BE  
9 COVERED BY WORKERS' COMPENSATION INSURANCE, AND A PERSON WHO  
10 CONTRACTS FOR THE PERFORMANCE OF CONSTRUCTION WORK ON A  
11 CONSTRUCTION SITE SHALL EITHER PROVIDE, PURSUANT TO ARTICLES 40  
12 TO 47 OF THIS TITLE, WORKERS' COMPENSATION COVERAGE FOR, OR  
13 REQUIRE PROOF OF WORKERS' COMPENSATION COVERAGE FROM, EVERY  
14 PERSON WITH WHOM HE OR SHE HAS A DIRECT CONTRACT TO PERFORM  
15 CONSTRUCTION WORK ON THE CONSTRUCTION SITE.

16 (b) A SITE OWNER, GENERAL CONTRACTOR, OR OTHER PERSON WHO  
17 IS NOT A DIRECT PARTY TO A CONTRACT FOR CONSTRUCTION WORK SHALL  
18 NOT BE HELD LIABLE UNDER SUBSECTION (3) OF THIS SECTION SOLELY AS  
19 A RESULT OF THE PERSON'S OWNERSHIP INTEREST OR GENERAL  
20 SUPERVISORY ROLE IN A CONSTRUCTION PROJECT.

21 (c) ANY PERSON WHO CONTRACTS FOR THE PERFORMANCE OF  
22 CONSTRUCTION WORK ON A CONSTRUCTION SITE AND WHO EXERCISES DUE  
23 DILIGENCE BY EITHER PROVIDING WORKERS' COMPENSATION COVERAGE AS  
24 REQUIRED BY THIS SECTION OR REQUIRING PROOF OF WORKERS'

1 COMPENSATION COVERAGE AS REQUIRED BY THIS SECTION FROM EVERY  
2 PERSON WITH WHOM HE OR SHE HAS A DIRECT CONTRACT TO PERFORM  
3 CONSTRUCTION WORK ON THE CONSTRUCTION SITE SHALL NOT BE LIABLE  
4 UNDER SUBSECTION (3) OF THIS SECTION.

5 (2) IF THE PARTIES TO A CONTRACT THAT INCLUDES  
6 CONSTRUCTION WORK AGREE THAT PART OF THE CONTRACT PRICE SHALL  
7 BE WITHHELD TO COVER WORKERS' COMPENSATION PREMIUMS FOR  
8 COVERAGE REQUIRED UNDER THIS SECTION, THE PREMIUMS SHALL BE  
9 CALCULATED BASED ONLY ON THAT PORTION OF THE CONTRACT PRICE  
10 THAT REPRESENTS THE LABOR PORTION OF THE CONTRACT.

11 (3) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS  
12 PUNISHABLE BY AN ADMINISTRATIVE FINE IMPOSED PURSUANT TO SECTION  
13 8-43-409 (1) (b). ■■■ THE DIVISION SHALL TRANSMIT REVENUES  
14 COLLECTED THROUGH THE IMPOSITION OF FINES PURSUANT TO THIS  
15 SECTION TO THE STATE TREASURER, WHO SHALL CREDIT THEM TO THE  
16 WORKERS' COMPENSATION CASH FUND CREATED IN SECTION 8-44-112 (7).  
17 SUCH REVENUES SHALL BE APPROPRIATED TO THE DIVISION FOR THE  
18 PURPOSE OF ENFORCING THIS SECTION.

19 (4) THIS SECTION SHALL NOT APPLY TO:

20 (a) AN OWNER OR OCCUPANT, OR BOTH, OF RESIDENTIAL REAL  
21 PROPERTY THAT MEETS THE DEFINITION OF A "QUALIFIED RESIDENCE"  
22 UNDER SECTION 163 (h) (4) (A) OF THE FEDERAL "INTERNAL REVENUE  
23 CODE OF 1986", AS AMENDED, WHO CONTRACTS OUT ANY WORK DONE TO  
24 THE REAL PROPERTY, UNLESS THE PERSON PERFORMING THE WORK IS  
25 OTHERWISE AN EMPLOYEE OF THE OWNER OR OCCUPANT, OR BOTH, OF THE  
26 REAL PROPERTY;

27 (b) AN OWNER OR OCCUPANT OF REAL PROPERTY WHO HIRES A

1 PERSON OR PERSONS SPECIFICALLY TO DO ROUTINE REPAIR AND  
2 MAINTENANCE ON THE REAL PROPERTY OF SUCH OWNER OR OCCUPANT;

3 (c) AN INDEPENDENT CONTRACTOR WHO HAS FORMED A  
4 CORPORATION PURSUANT TO SECTION 7-102-103, C.R.S., OR A LIMITED  
5 LIABILITY COMPANY PURSUANT TO SECTION 7-80-203, C.R.S., AND WHO  
6 HAS REJECTED WORKERS' COMPENSATION COVERAGE PURSUANT TO  
7 SECTION 8-41-202; OR

8 (d) CORPORATE OFFICERS AND MEMBERS OF A LIMITED LIABILITY  
9 COMPANY WHO HAVE REJECTED WORKERS' COMPENSATION COVERAGE  
10 PURSUANT TO SECTION 8-41-202.

11 (5) AS USED IN THIS SECTION:

12 (a) "CONSTRUCTION SITE" MEANS A LOCATION WHERE A  
13 STRUCTURE THAT IS ATTACHED OR WILL BE ATTACHED TO REAL PROPERTY  
14 IS CONSTRUCTED, ALTERED, OR REMODELED.

15 (b) "CONSTRUCTION WORK" INCLUDES ALL OR ANY PART OF THE  
16 CONSTRUCTION, ALTERATION, OR REMODELING OF A STRUCTURE.  
17 "CONSTRUCTION WORK" DOES NOT INCLUDE SURVEYING, ENGINEERING,  
18 EXAMINATION, OR INSPECTION OF A CONSTRUCTION SITE OR THE DELIVERY  
19 OF MATERIALS TO A CONSTRUCTION SITE.

20 (c) "PROOF OF WORKERS' COMPENSATION COVERAGE" INCLUDES  
21 A CERTIFICATE OR OTHER WRITTEN CONFIRMATION, ISSUED BY THE  
22 INSURER OR AUTHORIZED AGENT OF THE INSURER, OF THE EXISTENCE OF  
23 WORKERS' COMPENSATION COVERAGE IN FORCE DURING THE PERIOD OF  
24 THE PERFORMANCE OF CONSTRUCTION WORK ON THE CONSTRUCTION SITE.

25 **SECTION 2. Effective date - applicability.** This act shall take  
26 effect upon passage and shall apply to acts occurring on or after October  
27 1, 2007.

1           **SECTION 3. Safety clause.** The general assembly hereby finds,  
2 determines, and declares that this act is necessary for the immediate  
3 preservation of the public peace, health, and safety.