

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

INTRODUCED

LLS NO. 07-0190.01 Karen Epps

HOUSE BILL 07-1366

HOUSE SPONSORSHIP

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

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

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

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.

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) A PERSON WHO COMPLIES WITH PARAGRAPH (a) OF THIS
22 SUBSECTION (1) SHALL NOT BE LIABLE UNDER SUBSECTION (3) OF THIS
23 SECTION.

24 (2) IF THE PARTIES TO A CONTRACT THAT INCLUDES

1 CONSTRUCTION WORK AGREE THAT PART OF THE CONTRACT PRICE SHALL
2 BE WITHHELD TO COVER WORKERS' COMPENSATION PREMIUMS FOR
3 COVERAGE REQUIRED UNDER THIS SECTION, THE PREMIUMS SHALL BE
4 CALCULATED BASED ONLY ON THAT PORTION OF THE CONTRACT PRICE
5 THAT REPRESENTS THE LABOR PORTION OF THE CONTRACT.

6 (3) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS
7 PUNISHABLE BY AN ADMINISTRATIVE FINE IMPOSED BY THE DIRECTOR OF
8 NOT MORE THAN FIVE HUNDRED DOLLARS PER DAY FOR EACH SUCH
9 OFFENSE. THE DIVISION SHALL TRANSMIT REVENUES COLLECTED
10 THROUGH THE IMPOSITION OF FINES PURSUANT TO THIS SECTION TO THE
11 STATE TREASURER, WHO SHALL CREDIT THEM TO THE WORKERS'
12 COMPENSATION CASH FUND CREATED IN SECTION 8-44-112 (7). SUCH
13 REVENUES SHALL BE APPROPRIATED TO THE DIVISION FOR THE PURPOSE OF
14 ENFORCING THIS SECTION.

15 (4) THIS SECTION SHALL NOT APPLY TO:

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

23 (b) AN OWNER OR OCCUPANT OF REAL PROPERTY WHO HIRES A
24 PERSON OR PERSONS SPECIFICALLY TO DO ROUTINE REPAIR AND
25 MAINTENANCE ON THE REAL PROPERTY OF SUCH OWNER OR OCCUPANT;

26 (c) AN INDEPENDENT CONTRACTOR WHO HAS FORMED A
27 CORPORATION PURSUANT TO SECTION 7-102-103, C.R.S., OR A LIMITED

1 LIABILITY COMPANY PURSUANT TO SECTION 7-80-203, C.R.S., AND WHO
2 HAS REJECTED WORKERS' COMPENSATION COVERAGE PURSUANT TO
3 SECTION 8-41-202; OR

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

7 (5) AS USED IN THIS SECTION:

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

11 (b) "CONSTRUCTION WORK" INCLUDES ALL OR ANY PART OF THE
12 CONSTRUCTION, ALTERATION, OR REMODELING OF A STRUCTURE.
13 "CONSTRUCTION WORK" DOES NOT INCLUDE SURVEYING, ENGINEERING,
14 EXAMINATION, OR INSPECTION OF A CONSTRUCTION SITE OR THE DELIVERY
15 OF MATERIALS TO A CONSTRUCTION SITE.

16 (c) "PROOF OF WORKERS' COMPENSATION COVERAGE" INCLUDES
17 A CERTIFICATE OR OTHER WRITTEN CONFIRMATION, ISSUED BY THE
18 INSURER, OF THE EXISTENCE OF WORKERS' COMPENSATION COVERAGE IN
19 FORCE DURING THE PERIOD OF THE PERFORMANCE OF CONSTRUCTION
20 WORK ON THE CONSTRUCTION SITE.

21 **SECTION 2. Effective date - applicability.** This act shall take
22 effect upon passage and shall apply to acts occurring on or after October
23 1, 2007.

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