

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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

Tochtrop,

House Committees

Business Affairs and Labor

Senate Committees

Business, Labor and Technology

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.

SENATE
3rd Reading Unamended
May 2, 2007

SENATE
Amended 2nd Reading
May 1, 2007

HOUSE
3rd Reading Unamended
April 23, 2007

HOUSE
Amended 2nd Reading
April 20, 2007

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) 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) (a) THIS SECTION SHALL NOT APPLY TO:

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

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

11 (V) A PARTNER IN A PARTNERSHIP WHO HAS FILED A CERTIFICATE
12 OF LIMITED PARTNERSHIP PURSUANT TO SECTION 7-62-201, C.R.S., A
13 PARTNERSHIP REGISTRATION STATEMENT PURSUANT TO SECTION 7-60-144
14 OR 7-64-1002, C.R.S., OR A STATEMENT OF TRADE NAME PURSUANT TO
15 SECTION 7-71-103, C.R.S., AND HAS FILED WITH THE DIVISION A FORM,
16 APPROVED BY THE DIRECTOR, REJECTING WORKERS' COMPENSATION; OR

17 (VI) A SOLE PROPRIETOR WHO HAS FILED A STATEMENT OF TRADE
18 NAME PURSUANT TO SECTION 7-71-103, C.R.S., AND HAS FILED WITH THE
19 DIVISION A FORM, APPROVED BY THE DIRECTOR, REJECTING WORKERS'
20 COMPENSATION.

21 (b) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE
22 RESPONSIBILITY OF CORPORATIONS, LIMITED LIABILITY COMPANIES,
23 PARTNERSHIPS, OR SOLE PROPRIETORSHIPS TO PROVIDE COVERAGE FOR
24 THEIR EMPLOYEES AS REQUIRED UNDER ARTICLES 40 TO 47 OF THIS TITLE.

25 (5) AS USED IN THIS SECTION:

26 (a) "CONSTRUCTION SITE" MEANS A LOCATION WHERE A
27 STRUCTURE THAT IS ATTACHED OR WILL BE ATTACHED TO REAL PROPERTY

1 IS CONSTRUCTED, ALTERED, OR REMODELED.

2 (b) "CONSTRUCTION WORK" INCLUDES ALL OR ANY PART OF THE
3 CONSTRUCTION, ALTERATION, OR REMODELING OF A STRUCTURE.
4 "CONSTRUCTION WORK" DOES NOT INCLUDE SURVEYING, ENGINEERING,
5 EXAMINATION, OR INSPECTION OF A CONSTRUCTION SITE OR THE DELIVERY
6 OF MATERIALS TO A CONSTRUCTION SITE.

7 (c) "PROOF OF WORKERS' COMPENSATION COVERAGE" INCLUDES
8 A CERTIFICATE OR OTHER WRITTEN CONFIRMATION, ISSUED BY THE
9 INSURER OR AUTHORIZED AGENT OF THE INSURER, OF THE EXISTENCE OF
10 WORKERS' COMPENSATION COVERAGE IN FORCE DURING THE PERIOD OF
11 THE PERFORMANCE OF CONSTRUCTION WORK ON THE CONSTRUCTION SITE.

12 **SECTION 2. Effective date - applicability.** This act shall take
13 effect upon passage and shall apply to acts occurring on or after October
14 1, 2007.

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