

HOUSE BILL No. 2900

By Committee on Judiciary

2-14

9 AN ACT concerning insurance; enacting the controlled insurance pro-
10 grams act.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. The provisions of section 1 through 6, and amendments
14 thereto, shall be known and may be cited as the controlled insurance
15 programs act.

16 Sec. 2. As used in the controlled insurance programs act:

17 (a) "Commissioner" means the commissioner of insurance.

18 (b) "Completed operations liability" has the meaning ascribed
19 thereto in K.S.A. 40-4101, and amendments thereto.

20 (c) The terms "construction," "contract," "contractor," "owner,"
21 "person" and "subcontractor" have the meanings ascribed thereto in
22 K.S.A. 16-1802, and amendments thereto.

23 (d) "Controlled insurance program" means a program of liability in-
24 surance coverage that is established by an owner or contractor who con-
25 tractually requires participation by contractors or subcontractors who are
26 engaged in work required by a construction contract. Controlled insur-
27 ance programs shall include, but not be limited to, coverage programs
28 that are for a fixed term of coverage on a single construction site, and a
29 consolidated or wrap-up insurance program as the term is used in sub-
30 section (b)(3) of K.S.A. 16-1803, and amendments thereto.

31 (e) "Participant" means any contractor or subcontractor whose par-
32 ticipation in a controlled insurance program is required by a construction
33 contract. Participant shall not include an owner or contractor who estab-
34 lishes a controlled insurance program.

35 (f) "Substantial completion of a construction project" means the time
36 when the work on a construction project is sufficiently complete as to
37 permit the project to be used for its intended purpose.

38 Sec. 3. Controlled insurance programs shall:

39 (a) Establish a method for timely reporting of claims details and loss
40 histories to all participants;

41 (b) provide that cancellation of any or all of the coverage provided to
42 a participant shall permit the participant to terminate the construction
43 contract requiring its participation, to receive payment for all work com-

1 pleted through the date of cancellation and for all proven costs of ter-
2 mination, including, but not limited to, cancellation of supply orders and
3 costs of demobilization;

4 (c) not charge participants a deductible for coverage;

5 (d) keep self-insured retentions fully funded by the owner or con-
6 tractor establishing the controlled insurance program;

7 (e) disclose specific requirements for safety or equipment prior to
8 accepting bids from contractors and subcontractors on a construction
9 project;

10 (f) allow fines for alleged safety violations to be assessed only by gov-
11 ernment agencies; and

12 (g) permit participants to be represented by such participants own
13 insurance agents with a minimum fee of 10% to be paid by the program
14 sponsor.

15 Sec. 4. If a controlled insurance program includes general liability
16 coverage for the participants, then:

17 (a) Coverage for completed operations liability shall not, after sub-
18 stantial completion of a construction project, be cancelled, lapse or expire
19 before the limitation on actions has expired as established by subsection
20 (b) of K.S.A. 60-513, and amendments thereto;

21 (b) general liability coverage shall not be required of project partic-
22 ipants except for liabilities not arising on the site of the construction
23 project. Any coverage maintained by the participants shall cover liabilities
24 not arising on the site of the construction project;

25 (c) the general liability coverage provided to participants shall provide
26 for severability of interest, so that participants shall be treated as if sep-
27 arately covered under the policy and are not charged with the knowledge
28 of other participants; and

29 (d) participants shall not be required to provide indemnity against
30 claims for bodily injury and property damage arising out of such partici-
31 pant's work except to the extent and to the limits of contractual liability
32 coverage provided by the controlled insurance program.

33 Sec. 5. If a controlled insurance program includes coverage for the
34 workers' compensation liabilities of the participants, then:

35 (a) The coverage shall include all workers' compensation liabilities
36 arising on the site of the construction project; and any coverage main-
37 tained by the participants shall cover all workers' compensation liabilities
38 not arising on the site of the construction project;

39 (b) participants shall not be required to waive rights of recovery for
40 claims covered by the controlled insurance program, even if those rights
41 of recovery accrue against another participant in the controlled insurance
42 program covered by general liability insurance provided by the controlled
43 insurance program; and

1 (c) participants shall not be required to provide employment to a
2 worker who has been injured on the job unless:
3 (1) The worker's treating health care provider certifies that the
4 worker is fit to carry out the pre-injury job or modified work similar to
5 the pre-injury job without significant risk of re-injury; and
6 (2) the employer has the pre-injury job or modified work available.
7 Sec. 6. The commissioner is hereby authorized to adopt such rules
8 and regulations relating to controlled insurance programs as may be nec-
9 essary to carry out the provisions of the controlled insurance programs
10 act.
11 Sec. 7. This act shall take effect and be in force from and after its
12 publication in the statute book.