



1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 7402 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 As used in the Controlled Insurance Programs Act:

5 1. "Commissioner" means the Insurance Commissioner;

6 2. "Completed operations liability" means liability arising out  
7 of the installation, maintenance or repair of any product at a site  
8 which is not owned or controlled by any person who:

9 a. performs that work, or

10 b. hires an independent contractor to perform that work.

11 Completed operations liability shall include liability  
12 for activities which are completed or abandoned before  
13 the date of the occurrence giving rise to the  
14 liability;

15 3. "Contract" means a contract or agreement concerning  
16 construction made and entered into by and between an owner and a  
17 contractor, a contractor and a subcontractor or a subcontractor and  
18 another subcontractor;

19 4. "Contractor" means a person performing construction and  
20 having a contract with an owner of the real property or with a  
21 trustee, agent or spouse of an owner;

22 5. "Controlled insurance program" means a program of liability  
23 or workers compensation insurance coverage, or both, that is

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1 established by an owner or contractor who contractually requires  
2 participation by contractors or subcontractors who are engaged in  
3 work required by a construction contract. Controlled insurance  
4 programs shall include, but not be limited to, coverage programs  
5 that are for a fixed term of coverage on a single construction site  
6 or project or multiple projects. A controlled insurance program  
7 subject to the Controlled Insurance Programs Act shall not include  
8 surety or builders risk;

9 6. "Construction" means furnishing labor, equipment, material  
10 or supplies used or consumed for the design, construction,  
11 alteration, renovation, repair or maintenance of a building, water  
12 or waste water treatment facility, oil line, gas line, appurtenance  
13 or other improvement to real property, including any moving,  
14 demolition or excavation;

15 7. "Owner" means a person who holds an ownership interest in  
16 real property;

17 8. "Participant" means any contractor or subcontractor whose  
18 participation in a controlled insurance program is required by a  
19 construction contract;

20 9. "Person" means an individual, corporation, estate, trust,  
21 partnership, limited liability company, association, joint venture  
22 or any other legal entity;

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1        10. "Sponsoring participant" means the owner or contractor who  
2 establishes the controlled insurance program;

3        11. "Subcontractor" means any person performing construction  
4 covered by a contract between an owner and a contractor, but not  
5 having a contract with the owner; and

6        12. "Substantial completion" means the stage of a construction  
7 project where the project, or a designated portion thereof, is  
8 sufficiently complete in accordance with the contract, so that the  
9 owner can occupy or utilize the constructed project for its intended  
10 use.

11        SECTION 3.        NEW LAW        A new section of law to be codified  
12 in the Oklahoma Statutes as Section 7403 of Title 36, unless there  
13 is created a duplication in numbering, reads as follows:

14        The Insurance Commissioner shall promulgate rules which shall  
15 require that:

16        1. Controlled insurance programs shall:

17            a.    establish a method for quarterly reporting of the  
18                participant's respective claims details and loss  
19                information to that participant,

20            b.    provide that cancellation of any or all of the  
21                coverage provided to a participant prior to completion  
22                of work on the applicable project shall require the  
23                owner or contractor who establishes a controlled

1 insurance program to either replace the insurance or  
2 pay the subcontractor's cost to do so,

3 c. not charge enrolled participants who are not the  
4 sponsoring participants a deductible in excess of Two  
5 Thousand Five Hundred Dollars (\$2,500.00), or the  
6 subcontractor's policy deductible, whichever is  
7 greater, per occurrence or a per-claim assessment by  
8 the sponsor,

9 d. keep self-insured retentions fully funded or  
10 collateralized by the owner or contractor establishing  
11 the controlled insurance program. This paragraph  
12 shall not apply to deductible programs,

13 e. disclose specific requirements for safety or equipment  
14 prior to accepting bids from contractors and  
15 subcontractors on a construction project, and

16 f. allow monetary fines for alleged safety violations to  
17 be assessed only by government agencies;

18 2. If a controlled insurance program includes general liability  
19 coverage for the participants, then:

20 a. coverage for completed operations liability shall not,  
21 after substantial completion of a construction  
22 project, be canceled, lapse or expire before the  
23 limitation on actions has expired as provided in

1 Section 93 of Title 12 of the Oklahoma Statutes, but  
2 in no case greater than ten (10) years, and if another  
3 insurer takes responsibility for completed operations  
4 liability coverage, any and all prior completed  
5 operation liability insurers shall be released from  
6 completed operations liability unless specified  
7 otherwise in subsequent policies,

8 b. general liability coverage shall not be required of  
9 project participants except for liabilities not  
10 arising on the site or sites of the construction  
11 project. Any coverage maintained by the participants  
12 shall cover liabilities not arising on the site or  
13 sites of the construction project,

14 c. the general liability coverage provided to  
15 participants shall provide for severability of  
16 interest, except with respect to limits of liability,  
17 so that participants shall be treated as if separately  
18 covered under the policy,

19 d. participants shall be given the same shared limits of  
20 liability coverage as applies to the sponsoring  
21 participant under the controlled insurance program,  
22 and

1 e. participants shall not be required to waive rights of  
2 recovery for claims covered by the controlled  
3 insurance program against another participant in the  
4 controlled insurance program covered by general  
5 liability insurance provided by the controlled  
6 insurance program;

7 3. If a controlled insurance program includes coverage for the  
8 workers' compensation liabilities of the participants, then:

9 a. workers' compensation coverage shall include all  
10 workers' compensation for which payroll attributable  
11 to the contractual agreement has been reported and the  
12 premiums collected covering all services performed  
13 incidental to, arising out of or emanating from the  
14 construction site or sites and the coming or going to  
15 or from the site or sites, and

16 b. participants shall not be required to provide  
17 employment to a worker who has been injured on the job  
18 unless:

19 (1) the worker's treating health care provider  
20 certifies that the worker is fit to perform the  
21 participant's work on the job site consistent  
22 with the treating physician's limitations, and  
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1 (2) the employer has the pre-injury job or modified  
2 work available.

3 Nothing in this section or any rules and regulations adopted  
4 pursuant to the Controlled Insurance Program Act shall affect any  
5 rights, remedies or duties under the Workers' Compensation Code or  
6 any other state or federal employment law;

7 4. Participants shall not be required to provide indemnity  
8 against claims for bodily injury and property damage arising out of  
9 their work except to the extent and to the limits of contractual  
10 liability coverage provided by the Controlled Insurance Programs  
11 Act; and

12 5. Participants may pay compensation for amounts excluded from  
13 contract deductions or credits to their designated agent/broker.

14 SECTION 4. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 7404 of Title 36, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. The Insurance Commissioner shall promulgate any rules  
18 necessary to carry out the provisions of the Controlled Insurance  
19 Programs Act.

20 B. The Commissioner shall promulgate all rules required by the  
21 Controlled Insurance Programs Act by January 1, 2013.

22 SECTION 5. This act shall become effective July 1, 2012.  
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1 SECTION 6. It being immediately necessary for the preservation  
2 of the public peace, health and safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

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6 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 04/16/2012 - DO  
7 PASS, As Amended.

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