



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5512

Introduced 2/9/2024, by Rep. Jehan Gordon-Booth

SYNOPSIS AS INTRODUCED:

215 ILCS 5/Art. XLVIII heading new
215 ILCS 5/1800 new
215 ILCS 5/1805 new
215 ILCS 5/1810 new
215 ILCS 5/1815 new

Amends the Illinois Insurance Code. Sets forth findings and definitions. Provides that the Department of Insurance is authorized to enter into a contract with a private insurance broker to establish an Owner-Controlled Insurance Program. Provides that the Owner-Controlled Insurance Program shall provide specified forms of insurance, if applicable, to construction contractors for the purpose of satisfying requirements to contract with a construction agency. Requires the Department to comply with the Illinois Procurement Code when procuring a contract for an Owner-Controlled Insurance Program. Provides that a contract between the Department and an insurance broker for the provision of an Owner-Controlled Insurance Program shall not exceed 5 years in duration. Provides that all tiers of construction contractors shall be eligible to obtain any form of insurance required to contract with a construction agency for the purposes of satisfying the insurance obligations necessary to execute a construction contract for a construction agency. Effective immediately.

LRB103 37793 RPS 67922 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 adding Article XLVIII as follows:

6 (215 ILCS 5/Art. XLVIII heading new)

7 ARTICLE XLVIII. OWNER-CONTROLLED INSURANCE PROGRAM

8 (215 ILCS 5/1800 new)

9 Sec. 1800. Findings. The General Assembly finds the
10 following:

11 (1) Small contractors, including many small businesses,
12 minority-owned businesses, women-owned businesses, and
13 businesses owned by persons with disabilities often struggle
14 to find competitive insurance options that meet the standards
15 required for public construction projects, and these
16 businesses particularly struggle to obtain insurance options
17 that are affordable. High insurance premiums make these
18 businesses less competitive as prime contractors and
19 subcontractors because the contractors and subcontractors pass
20 along increased costs to public owners in the form of higher
21 bid prices.

22 (2) Under an Owner-Controlled Insurance Program, a single

1 policy held by the owner covers the owner and contractors of
2 all levels for the entire construction project or group of
3 projects, which reduces barriers by allowing contractors that
4 historically struggle to obtain insurance at an affordable and
5 competitive price to not only bid but be awarded the contract.

6 (3) In a conventional project structure, in which many
7 contractors provide insurance to the public owner, disputes
8 between different carriers over liability and coverage consume
9 considerable time and resources, escalating costs. In
10 contrast, an Owner-Controlled Insurance Program can provide
11 more efficient coverage through a single policy. Further, when
12 a public owner implements an Owner-Controlled Insurance
13 Program, the owner is relieved of the burden of monitoring
14 that each contractor maintains coverage if the project
15 continues beyond the length of an applicable policy.

16 (4) Owners, in this case, the State of Illinois, can
17 attain economies of scale when using an Owner-Controlled
18 Insurance Program versus a traditional insurance approach.

19 (5) Owner-Controlled Insurance Programs also create safe
20 worksites. In contrast to a conventional project structure
21 wherein contractors and subcontractors hold multiple policies
22 with separate safety requirements, Owner-Controlled Insurance
23 Programs typically harmonize safety standards across
24 contractors. Additionally, Owner-Controlled Insurance
25 Programs can allow for an integrated data platform to
26 facilitate safety data collection and review.

1 (6) It is in the interest of the State of Illinois to
2 ensure efficient and uniform insurance coverage required
3 throughout the duration of construction agencies projects.

4 (7) It is in the interest of the State of Illinois to use
5 economies of scale to be good stewards of taxpayer dollars.

6 (8) It is necessary to reduce barriers of entry to assist
7 in the development of new and emerging construction
8 contractors.

9 (9) It is in the best interest of the State of Illinois to
10 promote safe worksites

11 (215 ILCS 5/1805 new)

12 Sec. 1805. Definitions. In this Article:

13 "Construction" means building, altering, repairing,
14 improving, or demolishing any public structure or building, or
15 making improvements of any kind to public real property.

16 "Construction" does not include the routine operation, routine
17 repair, or routine maintenance of existing structures,
18 buildings, or real property.

19 "Construction agency" means the Capital Development Board
20 for construction or remodeling of State-owned facilities; the
21 Illinois Department of Transportation for construction or
22 maintenance of roads, highways, bridges, and airports; the
23 Illinois Toll Highway Authority for construction or
24 maintenance of toll highways; Central Management Services;
25 public institutions of higher education as defined in

1 subsection (f) of Section 1-13 of the Illinois Procurement
2 Code; and any other State agency entering into construction
3 contracts as authorized by law or by delegation from the chief
4 procurement officer.

5 "Construction contractor" means any person having a
6 contract, as defined in Section 1-15.30 of the Illinois
7 Procurement Code, with a State agency.

8 "Department" means the Department of Insurance.

9 "Owner-Controlled Insurance Program" means a single
10 insurance policy that the State or any municipality may use
11 for construction projects that covers the owner and
12 contractors of all levels for the entire project or group of
13 projects.

14 (215 ILCS 5/1810 new)

15 Sec. 1810. Owner-Controlled Insurance Program.

16 (a) The Department is authorized to enter into a contract
17 with a private insurance broker to establish an
18 Owner-Controlled Insurance Program. The Owner-Controlled
19 Insurance Program shall provide the following forms of
20 insurance, if applicable, to construction contractors for the
21 purpose of satisfying requirements to contract with a
22 construction agency:

23 (1) general and excess liability;

24 (2) professional liability;

25 (3) builders' risk;

- 1 (4) contractors' pollution liability;
2 (5) workers' compensation; and
3 (6) cyber liability.

4 (b) The Department shall comply with all applicable
5 provisions of the Illinois Procurement Code when procuring a
6 contract for the provision of an Owner-Controlled Insurance
7 Program.

8 (c) A contract between the Department and an insurance
9 broker for the provision of an Owner-Controlled Insurance
10 Program shall not exceed 5 years in duration.

11 (215 ILCS 5/1815 new)

12 Sec. 1815. Eligibility. All tiers of construction
13 contractors shall be eligible to obtain any form of insurance
14 required to contract with a construction agency, as authorized
15 in Section 1810, for the purposes of satisfying the insurance
16 obligations necessary to execute a construction contract for a
17 construction agency.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.