

All Published Pre-filed Amendments for HB 3416

Darby

Amendment

870870

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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____ BY: DARBY

1 Amend C.S.H.B. No. 3416 by striking all below the enacting
2 clause and substituting the following:

3 SECTION 1. Title 6, Civil Practice and Remedies Code, is
4 amended by adding Chapter 127A to read as follows:

5 CHAPTER 127A. DISCLOSURES REGARDING INDEMNIFICATION OBLIGATIONS
6 AND INSURANCE COVERAGE REGARDING WELL OR MINE SERVICES PROVIDED BY
7 CERTAIN SUBCONTRACTORS

8 Sec. 127A.001. DEFINITIONS. In this chapter:

9 (1) "Temporary placement service" means an entity or
10 other person that employs individuals or contracts with another
11 entity or person to refer or assign personnel to the placement
12 service's clients to support or supplement the clients' workforce
13 in a special work situation, including:

- 14 (A) an employee absence;
- 15 (B) a temporary skill shortage;
- 16 (C) a seasonal or cyclical workload;
- 17 (D) work requiring uniquely skilled personnel;

18 or

19 (E) a special assignment or project.

20 (2) "Temporary subcontractor" means an independent
21 contractor who, in connection with performing well or mine
22 services:

- 23 (A) is referred to or placed by a temporary
24 placement service with the placement service's client; or
- 25 (B) has entered into an agreement with a
26 temporary placement service to provide those services to the
27 placement service's client.

28 (3) "Well or mine service" has the meaning assigned by
29 Section 127.001.

1 Sec. 127A.002. DISCLOSURE REGARDING TEMPORARY
2 SUBCONTRACTOR INDEMNIFICATION OBLIGATIONS AND INSURANCE COVERAGE

3 REQUIREMENTS. (a) Before a temporary placement service refers or
4 assigns a temporary subcontractor to the placement service's client
5 to perform well or mine services, the placement service shall
6 provide a written disclosure to the subcontractor that:

7 (1) describes the subcontractor's indemnification
8 obligations, if any, to the placement service and to the placement
9 service's client in connection with the services the subcontractor
10 will provide to the client;

11 (2) describes any insurance policy, including the
12 amount of coverage and any limits on coverage, that is provided for
13 the benefit of the subcontractor by the placement service or the
14 placement service's client, or both, in connection with the
15 services the subcontractor will provide to the client; and

16 (3) expressly states whether and to what extent any
17 insurance policy described by Subdivision (2) will cover the
18 subcontractor's tort liability and contractual indemnity
19 obligations arising out of the performance of the services by the
20 subcontractor for the placement service's client or clients.

21 (b) The disclosure required under Subsection (a) may state
22 that the disclosure does not alter, amend, or otherwise modify the
23 terms of any agreement governing services provided by the temporary
24 subcontractor or any insurance policy described by Subsection
25 (a)(2), provided that the temporary placement service is
26 responsible for the content of the disclosure.

27 (c) A temporary placement service shall:

28 (1) provide the disclosure required under Subsection
29 (a) to a temporary subcontractor as a separate document from any
30 agreement entered into with the subcontractor by the placement
31 service or the placement service's client; and

1 (2) ensure that the disclosure is written in plain
2 English and in a manner that is clear, concise, and designed to
3 enable the temporary subcontractor to understand the
4 subcontractor's contractual indemnity obligations, if any, and any
5 insurance policy provided for the benefit of the subcontractor in
6 connection with well or mine services to be performed by the
7 subcontractor.

8 (d) A temporary placement service may satisfy the
9 requirement to describe an insurance policy under Subsection (a)(2)
10 by providing to the temporary subcontractor a certificate of
11 insurance evidencing applicable coverage and limits.

12 Sec. 127A.003. DISCLOSURE REQUIREMENTS FOR ONGOING
13 INSURANCE POLICY. A temporary placement service that provides a
14 disclosure to a temporary subcontractor under Section 127A.002 that
15 states that an insurance policy described in that disclosure that
16 is provided for the benefit of the temporary subcontractor remains
17 in effect for a specified time period and with respect to a
18 specified client or clients is not required to provide that
19 subcontractor with an additional disclosure under Section 127A.002
20 for future services provided by the subcontractor to that client or
21 those clients until:

22 (1) the insurance policy is no longer in effect; or

23 (2) the placement service is required to provide the
24 subcontractor a new disclosure because of a change concerning the
25 insurance policy as provided under Section 127A.004.

26 Sec. 127A.004. NOTICE REQUIRED FOR CERTAIN CHANGES RELATED
27 TO INSURANCE POLICY. A temporary placement service shall provide a
28 temporary subcontractor who is provided a disclosure of a provided
29 insurance policy under Section 127A.002 a separate written notice
30 of a cancellation or nonrenewal of the policy or a material
31 reduction in coverage under the insurance policy not later than the

1 30th day before the date the cancellation or nonrenewal of the
2 policy or the material reduction in insurance coverage takes
3 effect.

4 SECTION 2. The change in law made by this Act applies only
5 to an agreement entered into on or after the effective date of this
6 Act.

7 SECTION 3. This Act takes effect September 1, 2021.