

HOUSE BILL REPORT

HB 2651

*As Reported By House Committee on:
Financial Institutions & Insurance*

Title: An act relating to insurance coverage.

Brief Description: Limiting surety liability.

Sponsor(s): Representatives Heavey and Fuhrman.

Brief History:

Reported by House Committee on:
Financial Institutions & Insurance, February 5, 1992,
DPS.

**HOUSE COMMITTEE ON
FINANCIAL INSTITUTIONS & INSURANCE**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Dellwo, Chair; Zellinsky, Vice Chair; Broback, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Anderson; Inslee; R. Johnson; R. Meyers; Paris; Schmidt; and Scott.

Staff: John Conniff (786-7119).

Background: Many state statutes require bonds to guarantee performance of either legal or contractual obligations. In addition, contracting parties often require posting of a bond to ensure contractual performance. Legal problems arise for sureties when the person covered by the bond fails to perform a contractual duty that results in bodily injury or property damage. For example, if a contract required a building contractor to maintain liability insurance and the contractor allows liability insurance to lapse resulting in no insurance for a subsequent third party injury, it could be argued that failure to obtain insurance resulted in non-performance of the contract, thus requiring the surety to pay for such non-performance.

Summary of Substitute Bill: A surety bond may not provide any insurance coverage other than surety coverage defined by the insurance code. Any statute, ordinance or contract requiring, or bond providing, coverage not permitted under the insurance code is void. A bond may not provide coverage for damages arising out of tortious injury or death to any

person or to real or personal property. A bond is not liable for the principal's failure to have adequate insurance coverage under a contract. These restrictions apply to all sureties whether the surety is compensated or not.

Substitute Bill Compared to Original Bill: A technical amendment is made.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Surety bonds are not designed to provide liability coverage. When no other source of funds to compensate for property damage or bodily injury can be found, attempts are made to force a surety to provide such compensation. Without clarification, surety bonds will be hard to get and hard to afford.

Testimony Against: None.

Witnesses: (Pro) Doug Bohlke, Contractors Bonding and Insurance Company; Don Sirkin, Contractors Bonding and Insurance Company; and (questions) Dennis Martin, Washington State Trial Lawyers Association.