

Mr Mike Board; Mr Rob Johnson; Acting Speaker; Dr Janet Woollard; Mr Terry Waldron; Mr Pental; Mr  
Jeremy Edwards; Mr John Kobelke; Ms Sue Walker; Mr Rod Sweetman; Mr Bernie Masters; Mr John D'Orazio;  
Mr Dan Barron-Sullivan

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## **HOME BUILDING CONTRACTS (INDEMNITY INSURANCE) BILL 2002**

### *Second Reading*

Resumed from 8 May.

**MR BOARD** (Murdoch) [4.04 pm]: I support the Bill introduced by the Deputy Leader of the Opposition. It gives the Opposition no joy to bring this legislation before the Parliament of Western Australia in a bid to protect Western Australian builders and businesses. In doing so, the Opposition hopes to provide certainty and direction to consumers, and to those building homes in the Western Australian community. It is important to understand why Western Australia has home indemnity insurance. There is no doubt that Australians are very fortunate when it comes to home ownership. It has always been an Australian dream - and a dream of people in the Western Australian community - to own or build a home. Australia has one of the highest, if not the highest, percentages of home ownership per head of population in the world. That is something of which we can be exceptionally proud, and it reflects well on our community. Forty or 50 years ago people dreamed of owning their own homes, particularly young people. Today, that dream is still very much on the agenda, so much so that when young people start out in Western Australia - whether in marriage or in a different choice of domestic circumstances - they view home ownership as a natural process. It is a good thing that young people and migrants can achieve what is still only a dream in many other countries. It is good that they can afford the construction of a quality dwelling that gives them the security of home ownership.

Home ownership, and the construction of a home, is still likely to be the biggest single investment that Western Australians will ever make. Hence, such an investment must be carried out with great caution and with a sense of security. There must also be propriety between the purchaser, the seller and the person who has been contracted to build the dwelling. Over the years Governments have moved to protect that investment by making home indemnity insurance mandatory, and by protecting people against builders who may fold during the construction of a dwelling. This has been done to protect not only the consumer, but also the industry. Governments have wanted to provide the building industry with a sense of security, and they have wanted to provide builders with the opportunity to go forward in a competitive marketplace. At the same time, Governments have sought to protect the people who are making their single largest investment of funds.

Over the years, mandatory home indemnity insurance has been introduced. In Western Australia this followed the significant crashes in the building industry, during which a large and growing number of people found that although they were in the middle of a building contract their dwelling would not be completed because the builder had folded. This left many people in extremely difficult circumstances, because the cost of completing their dwellings would often be greater than the amount originally sourced. As a result of the mandatory indemnity program, and as a result of good management by the Western Australian Housing Industry, the Master Builders Association, the Housing Industry Association and various other groups, the industry has been sorted out. In today's Western Australian marketplace, building companies are proudly building the largest number of residential dwellings in the country. Moreover, they are doing so in the most cost-effective manner. Companies have emerged and expanded, and, as a result, they not only build the dwellings but also control the supply of building products. That has made it very cost effective for people to build new homes. Western Australia has had one of the lowest cost-price structures for the purchase of new homes anywhere in the country. On a brick-by-brick analysis throughout this country, Western Australia can be very proud of its residential development and the builders who have supported that development. We have had the upsurge of not only large low cost residential builders but also a number of other builders who cater to a boutique and changing marketplace in Western Australia and to people who want to build or purchase their second, third or fourth home. These builders appeal to not the first home buyer market but people who want to construct dwellings worth over \$200 000, \$300 000 or \$400 000 and up to \$1 million and above. In many ways those people are driven by some of the architectural designs that we see around Perth suburbs. Those builders have won many awards in this State for their innovative use of materials and environmentally friendly design and construction, and they have played a significant role in building and maintaining the reputation of the Western Australian building industry.

We need today to protect those builders, who are the engine room of Western Australia. There is no doubt that the building industry is one of the things that has protected Western Australia from some of the recessionary factors that have occurred around the world and in other parts of Australia. One of the reasons that Western Australia has performed better than the other States is that we have had a very vibrant building industry in which young home owners have been given a subsidy by the federal Government in the form of the first home buyers grant, and that has given them certainty in the cost ratio. That grant has been extended and increased to help an industry that has found itself under pressure because of a downturn, and also because the introduction of the GST has led to additional construction costs. That has led to a boom in the building industry. There is no doubt that

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there has been great growth in the larger companies, and new companies have come forward. Many of those companies are now significant builders and are building 10, 12, 15, 20 or 30 houses at a time. However, those builders are not the largest builders. They are not the builders who as a result of the Government's so-called initiatives will be protected. Hence today we are supporting a Bill that has been introduced by the Deputy Leader of the Opposition to protect those builders who occupy a large slice of the industry and are building projects valued at above \$200 000 and below \$10 000. We need to support those builders and give them the opportunity to continue with their construction.

As the result of the demise of HIH, there has been a shaking out of the insurance industry as a result of the competitive nature of that industry. The reality is that, although indemnity insurance was compulsory, because of some experiences in the eastern States many insurance companies imposed massive increases in premiums. Increases of between 1 000 and even 1 500 per cent were not out of the ordinary. That put a huge pressure on builders and on the building industry, and those costs were then passed on to people who wanted to construct dwellings, including first home buyers. To some degree that negated the initiative of the federal Government in trying to promote the building industry and those who wanted to buy a first home. This Bill is about temporarily exempting from the compulsory indemnity insurance program builders with projects above \$200 000 and below \$10 000. The Government has moved to protect the three largest residential builders in Western Australia. However, it has left behind a large and vital part of the building industry that is innovative and vibrant, supports a large number of subcontractors and provides a great service in helping to build up the Western Australian economy. Without the support of those builders, not only are the subcontractors in danger but so too are the thousands of small businesses that supply the building industry in this State.

We cannot have a stalling of the home building industry in any way. Those three largest builders supply the majority of the first home buyers market. However, the large market outside that area needs to be supported too. I support the initiative taken by the Deputy Leader of the Opposition. That initiative has been taken reluctantly, in the belief that this Government has dallied on this issue. It has not approached this area with any vehemence. It has moved to protect only a small part of the industry rather than give certainty to the whole of the industry and those who want to construct dwellings valued at over or below a certain amount. In protecting only the three largest builders, the Government has singled out winners and losers in the building industry. It would have been far more beneficial had the Government acted earlier and in a more comprehensive way to give all the builders in Western Australia some certainty about the contracts that they need to enter into and to give the people of Western Australia certainty that the builders with whom they are working can deliver their projects in a cost effective way.

**MR JOHNSON** (Hillarys) [4.17 pm]: I commend my colleague and the deputy leader of my party, the member for Mitchell, for his initiative in coming up with the Home Building Contracts (Indemnity Insurance) Bill. This is a superb Bill that will get the Government out of a bit of trouble and will be a lifeline to many builders throughout Western Australia. As has been said, the three major building companies, particularly in the first home buyer area, have been protected to a great extent by the Government, and I commend it for that. However, I condemn the Government for not helping the thousands of smaller builders in not just the metropolitan area but the whole of Western Australia who desperately need to be able to carry on their business of building good quality homes. As my colleague has said, this Bill will address that issue. This Bill is only a temporary Bill, because we believe it is incumbent on the Government to get off its hands and help these people. I welcome the many builders in the gallery today. These are the people whose lives are being affected. These are the people who employ people to build superb homes throughout Western Australia. It is good to see them here. The minister should get off his hands and support this Bill. This is a temporary Bill for 12 months, until he can bring in something that will help these people. I have been contacted by many small builders in not just my area but other areas who have enormous concerns and face delays of three, four or five months in trying to get insurance to enable them to carry out their work of building homes and employing people. A letter was faxed to me today from my office. It states -

Rob,

I have been speaking to a mutual friend Phil Goodes and Phil has said you could possibly assist us in the Indemnity Insurance merry go round. We were with HIH, then we were with Dexta and now we are currently applying to Sun Alliance Insurance for indemnity cover since January 2002. We were initially told it would take 3 to 4 weeks to arrange but since we are no closer to having the insures let us know if we can make a living from building which we have been doing since 1977.

This company has been building houses in Western Australia for 25 years and has never had a problem. It has obviously been registered with the Builders Registration Board of Western Australia for many years. It is unable to build homes because this Government will not get off its hands and do something.

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Mr Hyde: Is that Sun Alliance through the HIH scheme?

Mr JOHNSON: The member for Perth can have his say in a minute. I must say that I am disgusted at the lack of government members in the Chamber.

Mr Kobelke: It might have something to do with the quality of your contribution.

Mr JOHNSON: The Leader of the House always comes up with that same remark. Only six government members are in the Chamber.

Mr Kobelke: That is more than your comments deserve.

Mr JOHNSON: This is a very important issue about the building industry in Western Australia.

Mr Kobelke: You do not know what you are talking about.

Mr JOHNSON: I know what I am talking about. I am talking about the building industry in Western Australia.

The ACTING SPEAKER (Mr Dean): I ask the member for Hillarys to address his comments to the Chair.

Mr JOHNSON: Yes. I was responding to a rude interjection from the Leader of the House. The letter, which raises important issues, states further -

We are being told how many houses we are allowed to build and what time frame and when we can start the next lot of houses.

The insurance company is telling that company how it must run its business -

We are in the process of giving all our possessions as security and in the process of giving one more pint of blood (Not much more left) and even then being told how we should run our business.

That company has been in business for 25 years, and the insurance company is telling it how it should run its business. It is a disgrace. It is because the Minister for Consumer and Employment Protection has been sitting on his hands that that company is in this position. The Deputy Leader of the Opposition's Bill addresses this problem. The other side of the House should show some leadership and support it. We know that it will not because it is one of the Opposition's Bills. It will not support the Bill even though it is very good legislation. The Government should stop to think about the Bill and the thousands of people in Western Australia who are not able to do their job and earn a living. Those companies will eventually go into liquidation because they cannot get any insurance. Without insurance, they cannot work, and they cannot employ people. The letter continues -

When insurers cover your house or car or anything for that matter, they willing take a risk that nothing will happen, to make it fair the owners should be made to put up all their security, other properties etc so the Insurance companies don't loose any money in the event of a claim.

We have been knocked around by two Insurance companies and if this continues much longer we will be forced to close the doors and lay off one full time salesman three directors of the company and untold subcontractors, and various indirect trades, printers etc.

Mr Hyde: This relates to security of payments, for which your Government was supposed to introduce legislation. You were supposed to make sure that the owners at the top delivered the money.

Mr JOHNSON: No, it does not. The member should not talk rubbish.

Mr Hyde: You had the chance and you refused to do it.

Mr JOHNSON: I set up a task force on that issue, which the member took over. I did all the hard work and the member came creaming in. He will try to claim all the glory when it works out. Everything was put in place when I was the minister.

Mr Hyde: Your Cabinet refused to do it, but ours will not.

Mr JOHNSON: I have not yet seen a report from that task force.

Mr Hyde: Two have been released.

Mr JOHNSON: When were they snuck in?

Mr Hyde: One was tabled last year and another was tabled this year. We were too quick for you.

Mr JOHNSON: I will have to check that. The member was very quick. I continue -

Mr McRae: Another member of the "gunna" Government.

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Mr JOHNSON: That is from the wonder boy from Riverton. He is Mr Know-all. He sits next to his friend from Perth, and I refer to them as Dumb and Dumber, because that is how I think of them.

Mrs Martin: That is very uncharitable.

Mr JOHNSON: It is not. The member should hear what they say about me sometimes.

Mr McRae: Which one am I?

Mr JOHNSON: I think he is the dumber one! The letter continues -

We have been told that our allocation will be \$3,000,000 when approved which gives us just over ONE house per month to build, (as we are in the two story market) at that rate we would have to close the doors as it is unviable to do for four people and a office, staff and display homes to run.

The company will not be able to afford to operate, so it will have to close down. The minister sits there and pulls that supercilious grin at me. These people are hurting. What will he do about it? How will he help them? He has helped the three big companies, but he will not help the smaller companies and the individual builders. They need the help.

That company sent a letter to the Premier on 3 May and has not yet had a reply. I believe a copy was sent to the Minister for Consumer and Employment Protection. The letter is by a desperate company, and the Government has not even bothered to reply. It is very unprofessional. The Liberal Party members of Parliament are getting used to not getting replies from ministers. It took six months for the Minister for Planning and Infrastructure to respond to a letter I sent her. It was about a very serious issue. I would have thought that the Government would respond quickly to the people in this industry, because of the dire straits they are in. They need that help.

I am sure the minister has read the Bill closely.

Mr Hyde: There is only one page. You should have done more work.

Mr JOHNSON: It is a very simple Bill because it is a simple solution. It is a temporary Bill - it will last 12 months - to get the industry out of trouble and enable the builders to do their jobs and continue to employ tradesmen. That is what we want to do for those people. The Government is doing nothing. It has looked after the big three companies, but is forgetting all the others. In monetary terms, the others are collectively probably more significant than the big three companies. These people -

Mr McRae: You have no idea what you are talking about.

Mr JOHNSON: I will not even respond to Dumber. He just makes interjections all the time.

Mrs Martin: Then do not respond.

Mr JOHNSON: I normally love feeding off interjections. He is pat to me.

Mr Kobelke: He helps when you do not know what you are talking about.

Mr JOHNSON: I am not a very nasty person. I am quite a nice person. The member for Riverton's interjections mean that I can lower myself a bit and get nearer to the gutter. I am not used to being down there. Sometimes it is refreshing to get down there and respond to the sort of comments I get. The member for Perth is all right. He makes a few interjections, but he is not really nasty to me.

This problem has been around for a long time and the Government has only just done something for the three major companies in the building industry. I would have thought that this issue would be an absolute priority for the Government. It could have introduced a Bill similar to this. It did not take long to put together. It will solve the problem and give the Government a 12-month breathing space in which to get over the initial problem and put something more permanent in place. Instead, the Government's priorities have been gay and lesbian law reform and the industrial relations reform Bill. This Bill should have been its priority. The Liberal Party had to bring this Bill before the House. I think the trouble is that it is too simple for the minister. It does not say that people must use union labour or allow no ticket, no start and all that sort of rubbish. It is too simple.

Mr Kobelke: If I liked simple things, I would be very fond of you.

Mr JOHNSON: That was so witty that I might laugh in about an hour. That was wonderful; a good retort.

This is a serious issue and the people in the gallery are here because they have tremendous concerns. They are not here for the minister to make silly remarks. They want to hear the minister's response to the problem.

Mr McRae: Explain how the Bill will work.

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Mr JOHNSON: My friend would never understand because he is the second part of Dumb and Dumber. I would be wasting my time explaining it. This Bill is very simple. It is two pages. It was easy to produce. It is a temporary Bill that will overcome the problem, as my colleague has said.

Not only the builders who are building two-storey houses or houses worth more than \$200 000 but also people doing renovations are being affected. If someone wants a garage or an extension to his house, it cannot be done. The Government is putting the little jobbers out of work, because they cannot do those projects. The minister has the answer: he can vote for this Bill today, and everyone will go away from here happy. The building industry can continue to thrive and grow as it has been growing.

Mr Kobelke: It will go downhill fast. You will destroy the building industry.

Mr JOHNSON: Of course I will not.

Mr Kobelke: I will explain in detail.

Mr JOHNSON: I will be very interested to hear the minister's response, because the Bill will certainly not do that at all.

Mr McRae: Explain how it works. Just try that for me. I am sure I will understand if you explain.

Mr Hyde: Tell us how in the real world this Bill will actually work.

Mr JOHNSON: I do not think those two members will ever understand a simple Bill like this. They are a duo act. I love those two guys to bits. They make my life so easy. I love them interjecting.

Mr Hyde: He loves you all.

Mr JOHNSON: I love only those two guys because they are always feeding me lines. I love the member for Innaloo. He is a great guy. I am not that keen on the minister because the minister who has the power to deal with this will not do so. If he said that the Government would support it, those members would support it blindly. Even if they did not agree with it, they would support it because Caucus and the minister supported it. The minister has the power to get this Bill through the House today and have it put in place while a longer-term solution is sorted out. If the minister voted against this Bill today, when would he come into this House with something that would solve the problem?

Mrs Edwardes: Tomorrow would be good. Just change a word.

Mr JOHNSON: We would be happy with tomorrow. If the minister said to me that I could sit down because he will bring in a Bill tomorrow that will solve all these problems in the building industry for all those people who are affected, I would sit down and I would be happy for the Bill to lie on the Table. I am interested to know what some of the members in marginal seats have to say, because they will be affected.

Mr McGowan: It is 0.3 of one per cent.

Mr JOHNSON: The member for Rockingham has his figures all wrong. We must make allowances for him because he has just come back from Europe. Bonjour, Pierre, comment ça va? I think he has learnt to speak a little French. Although his seat of Rockingham is a fairly safe Labor seat, builders in his area will be disadvantaged if he does not vote for this Bill.

Mr McGowan: What is in it?

Mr JOHNSON: The member has the Bill. He should read it. It comprises two pages. I will read it out for him if he likes. There are no pictures in it so he might have a little difficulty understanding it. It contains only five clauses.

Mr McRae: How does it work?

Mr JOHNSON: It works by getting get people into a position where they can carry out their work. Many building approvals are sitting on desks in shire offices. Builders cannot get building permission because indemnity insurance provisions are not in place at the moment. The minister and government members have a duty to do something about it. They have done absolutely nothing. The minister should get off his hands and not try to be a clever dick. He should make some constructive comments on this Bill. He should say that he will support it and let it go through. Let us get all those people back to work. The minister can then as a priority sort out legislation to replace this Bill in 12 months, or earlier if he can do it.

I would be very interested to hear from members opposite, particularly those in marginal and rural seats with big problems. They are obviously not taking this seriously. They will stand condemned by their constituents and the businesspeople in their electorates, not only the builders but all the tradesmen and craftsmen who live in their

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areas. The minister should do himself and his Government a favour; he should swallow a bit of pride and support an excellent Bill and an excellent answer to the problem.

**DR WOOLLARD** (Alfred Cove) [4.36 pm]: I support the Bill. I met with the minister and his advisers in October last year when I asked him to consider a similar exemption for houses costing over \$250 000. He gave me 15 points on why the Government would not at that time consider giving an exemption. However, events have moved on since then. More builders are struggling. I therefore urge the minister to reconsider the Government's position.

The Home Building Contracts Act states that any contract that falls within work valued between \$6 000 and \$200 000 must have compulsory insurance. I ask the minister in his response to say why the limit was set at \$200 000. The law was presumably to protect people who might not have financial expertise; who might not be able to look after themselves; who might not be able to afford legal advice; who might not have the ability to scrutinise their builder.

Home indemnity insurance is a safety measure. However, the current framework is not working. Many builders are struggling to maintain a living because of the controls being imposed on them. Builders are being refused insurance because of the legislative policing of the building industry. Builders are telling me that they do not want third party interference in commercial markets. They are happy if they are charged a premium that is appropriate to the risk.

Mr Hyde: Are the insurance companies doing the right thing or is it the Government's problem?

Mr Barron-Sullivan: It is a statutory requirement, so the Government must get the builders out of it.

Mr Hyde: I am listening to the member for Alfred Cove.

Dr WOOLLARD: I ask the member for Perth how many insurance companies there are now. Builders are concerned that last year there were three big insurance companies. A few weeks ago there were two insurance companies. What happens if another insurance company closes shop? Where will the builders go? The builders have plans with councils, and clients waiting for them to build their houses. Unless something is done to support builders now, people will be out of work. There is nowhere for builders to go.

I appreciate the position of the Minister for Consumer and Employment Protection, who is there to protect consumers. If the Government is willing to support the Bill, which I commend to the House, a safety measure could be provided by inserting a clause into the Bill that provides that when people sign a contract for more than \$200 000, they accept that they are aware of the absence of an indemnity clause.

The member for Perth asked about insurance companies. There are competing interests in this area. There is the interest of HIA Insurance. The national organisation is quite happy for things to stay the way they are. If things stay the way they are, insurance guidelines will be different in each State. What is happening with insurance in Western Australia is not the same as what is happening in New South Wales, Victoria or Queensland. Western Australian builders are saying that they are suffering because of what is happening and the regulations in other States. For instance, insurance claims in Victoria are made not only when a builder goes bankrupt, but also to cover warranty work following completion. The local organisation for builders, the Master Builders Association, which determines the local policy, would like the legislation to be scrapped completely. It believes that this legislation is placing undue burdens on people. It is worried that the insurance companies could close their doors completely. I support the Bill. It will help builders in Western Australia. I commend the Bill to the House.

**MR WALDRON** (Wagin) [4.40 pm]: I will speak briefly in support of this Bill, the key purpose of which is to make indemnity insurance for building contracts not compulsory if they are less than \$10 000 and greater than \$200 000. This legislation has been deemed necessary due to the announcement by Dexta Corporation Ltd, which has long provided warranty cover, that it will not insure builders. This leaves only two players in the field, and this is having a serious effect on small builders.

Some builders in the country have spoken to me about this issue and how it affects them. We have to do something now. For instance, this is affecting the business of a friend of mine in the small town of Kojonup, the people who work for him and the people in that town. It affects the whole community. That cannot continue; something must be done. It affects his confidence, his employees, his cash flow - the list goes on. This is temporary legislation. It is designed to fill the gap while, hopefully, the Government comes up with a long-term and solid solution. It is important that something is put in place to fill the gap at this stage to support small businesses. It is urgent that this legislation be passed and put in place. The onus is on the Government to vote

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for the Bill and to ensure that, with the time provided by this temporary Bill, it comes up with a long-term solution. I support the Bill, which also has the support of the Master Builders Association.

**MR PENDAL** (South Perth) [4.43 pm]: I do not know whether the legislation will work, but in the absence of any other positive activity on the part of the Government since the crisis came upon us in Western Australia, it is as good as any solution I have seen. The Bill might have a quite unintended but desirable consequence: it might put the frighteners on the insurance industry to the extent that the insurers may find that their share of and role in the market begins to diminish unless they start to get on top of some of the solutions. Their fear of a long-term loss of revenue and clientele from among builders, particularly smaller builders in Western Australia, may well be the catalyst for them to get off their corporate backsides and cooperate in a more serious way with the Government to bring about a solution.

Over the past 15 months, three builders in the electorate of South Perth have made representations to me and, in turn, I have made representations to everyone I can think of to assist those builders and prevent them from going under. The common thread linking those three builders is that all of them are long-term players in the game. The long-term small players are being pinched by greedy, voracious national insurers. Were members of Parliament to be confronted with builders who were not good businessmen and who were fly-by-nighters, the result and our activity might well be different. However, the builders in the electorate of South Perth who have come to see me are people of repute and have been in the industry for many years, some up to 30 years. The fault is not their own. For example, they have no corporate record of failing to fulfil contracts. They have no corporate record of absconding with funds or of failing in their duty to the people with whom they have entered into a contract. Their problem is with the insurers per se.

When we make the builder the victim because he is unable to get indemnity insurance and, as a consequence, is unable to get local authority approval for the project, it seems to me that we are dealing with an innocent victim. It is at all levels a display of contempt by the insurers for a sector of the industry from which they have drawn premiums for years and to which they have not had to pay a single dollar over the years. Who are the real culprits in the corporate collapse of HIH Insurance? Was it a group of small builders who sucked it dry? Of course it was not. There were a few greedy, voracious people whose conduct was as it has always been. Meanwhile, the people on the side, from whom the insurers have drawn their premium income and who have kept them alive, have received no consideration at all. Where does that leave us? Will the Bill help? I repeat: I do not know. It is not a bad effort on the part of the Opposition to say that it will help these people, because no-one else is trying anything.

I am aware that the Bill will temporarily remove the mandatory nature of indemnity insurance. Therefore, I know it makes sense for people to say that the client will then be left without protection. At the moment, they do not have any protection in any case, so they will not be the losers. If this Bill were to pass, it would be important that future clients enter into contracts with their eyes well and truly wide open, because it will be a tragedy of another order if a fresh bunch of clients are enticed into proceeding with their projects in the false belief that in that vague way they have some form of coverage. We must attempt to make it very clear to people that the rules will change for at least a year and that the previous mandatory level of insurance simply will not exist. However, I repeat that for us to go on and simply do nothing will consign that part of the building industry in Western Australia to financial and corporate oblivion.

Mrs Roberts: I thought you were talking about your own political oblivion for a moment.

Mr PENDAL: No. People have been talking about my political oblivion for a long time. I do not have any indemnity insurance.

Mrs Roberts: It was a Freudian slip.

Mr PENDAL: The minister's Freudian slip or mine?

Mrs Roberts: Yours.

Mr PENDAL: Okay. If we did nothing, we would be in the situation of Nero fiddling while Rome burns. In this case, Rome - that is, the building sector in Western Australia - is burning. Again, I do not know that this legislation is the solution. However, no-one else has come forward with a solution. If nothing else, I would love to see the faces of the insurance companies when this Bill is marched down for the royal assent, because they will know that, at law, plenty of people will take what they might consider to be a reasonable and prudent risk to have their homes built under these circumstances, and, what is more, the insurers will not get a cracker. That might well have a serious effect on the insurers so that they will start to come up with creative solutions. Otherwise they will be like the builders; that is, on the verge of going out of business. This legislation is at least

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an attempt to solve the problem. It might be a pious hope, but it is something that we are offering that part of the industry that has been denied any form of support or moral encouragement. For those reasons, I support the Bill.

**MR EDWARDS** (Greenough) [4.51 pm]: I also support this Bill. I commend the member for Mitchell for his initiative. I also recognise the people in the gallery for their appearance here today.

Having been a small businessman in my working life, I understand and appreciate the pressure that this scenario has placed on the people involved. I will also reiterate some comments made by the first speaker, the member for Murdoch, about home ownership and builders in general. It was the great Australian dream to own one's home. Most people who aspire to better themselves also aspire to build a house. In this State, we have very good expertise in the building industry. I recognise that. Over the past 20 or 30 years we have become a lot better at what we do. That is probably the situation generally across business as a whole. However, the building industry has a flair in designing and constructing nowadays, and I recognise the industry for that.

It is necessary and important for builders and owners to have insurance protection. I will refer to some comments that were made about the lack of insurance when this matter first arose and when HIH Insurance went to the wall. Dexta Corporation Ltd also collapsed, but I will deal with that a little later. Basically, I remind the House that it was said that builders who were previously insured with HIH Insurance had been unable to obtain indemnity insurance. That had prevented them from working in the housing and construction industry for up to four months at that stage. They had to totally restructure their companies to meet the new requirements of insurance companies, none of which related to their ability as builders. Of course, they did not choose to be in that position. That has been said before, but I remind the House of that. If and when those builders obtain insurance, the threshold limit is usually too low. It allows for only the first home types, most of which are built by large project builders - not the custom-designed homes or others more commonly built by local, individual builders. Clients who thought they had agreements with builders to start construction are experiencing frustration and expensive delays. Of course, as has been said earlier, many directly employed staff, subcontractors and suppliers are now out of work, or are looking at being out of work, and are experiencing financial problems. We should also remember that. This affects not only the builders themselves but also everybody else who hangs off their activities. Of course, that obviously has an enormous flow-on effect.

I am a regional member of this House who represents a country electorate that has a regional bent to it. I am sorry that the member for Geraldton is not here. He was here a little earlier. I would be interested to know his views on this matter, because some 10 to 15 builders in the Geraldton region are directly affected by this situation. I am saddened that only about half a dozen government members are in the House to hear this debate on a matter that is important to not only metropolitan Western Australia but also rural and regional Western Australia.

Mr Kucera: People in glass houses should not throw stones, member for Greenough.

Mr EDWARDS: If the minister wants to say something, I am sure he will have his turn. The minister seems to have a great propensity to interrupt my speeches, and I always give him the same reply. Therefore, when he feels like it, would he please rise, because we would be interested to hear what he has to say on this issue too. If the minister continues to handle health the way he is handling it, perhaps the building industry does not have much to look forward to.

This Government has failed the smaller members of the building fraternity on the issue of indemnity insurance. Again, I repeat that it is through no fault of those people. I understand that this situation affects mostly residential building. Government action has been limited to the big builders in the State, and we all know who they are. However, having said that, I believe that those big builders do support the smaller building contractors on this issue. I believe that there is a partnership within the building industry, and builders support each other, regardless of their size.

I gather that the scenario is different in New South Wales and Victoria. Those Governments had the gumption to provide underwriting facilities to Dexta Corporation to enable it to re-enter the market. I will be interested to hear the minister's comments on that. Maybe it was too easy - I think somebody said that earlier on. However, in the meantime, builders are now in dire financial straits, and there are a lot of them. Some are even facing bankruptcy. I will give an example. However, before I do, I should say that by underwriting that insurance, it probably gives the building industry in New South Wales and Victoria - I believe it has been the situation in Queensland for some time - a level playing field. That is not the case in Western Australia at the moment.

One of my friends in Geraldton who is a builder was with HIH Insurance when it went to the wall. Dexta Corporation stepped in for about four months, but it failed. My friend now has no indemnity insurance. He has applied to Sun Alliance and has been waiting for some two or three months for his application to be processed.



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He has submitted plans to both the Shire of Greenough and the City of Geraldton. Of course, this is affecting his business quite dramatically. It also affects all the other people who hang off his business. Members would be aware that Geraldton has been experiencing a downturn in business. This has added to the woes of those people in the general business community of Geraldton.

The other affected party as far as the insurance goes is the owner. Of course, the owner wants to build and wants insurance protection. An immediate solution is needed to help all those involved. The Bill introduced by the member for Mitchell proposes a feasible solution. As has been mentioned before, building indemnity insurance is a statutory requirement. This legislation gives an opportunity to smaller builders to continue in business and allows home owners to realise their ambitions. One very important part of the legislation that interests me - the disclosure requirement - gives some protection to builders and home owners and I have no doubt that the member for Mitchell thought hard and long about including it. That requirement will enable a builder involved in projects worth more than \$200 000 to offer insurance indemnity. It gives the builder an opportunity to approach clients with a choice of signing a disclosure stating that there is no indemnity insurance or suggesting that he take his business elsewhere. That is a good protection and will act as a safeguard to all parties. I commend the thinking of the member for Mitchell on that provision.

It has been suggested that the Bill remain in force for 12 months as a temporary measure until a more permanent solution is found. Through you, Mr Acting Speaker (Mr Dean), I say to the minister that if the legislation were to be proclaimed as soon as possible, it would be a win-win situation for everybody. The situation appears to be that of Nero fiddling while Rome burns, an expression I think the member for South Perth used.

This Bill appears to be a simple solution - I use the word "simple" advisedly - although to the people involved it is not simple. It means a lot to them, as it impacts on their livelihood and other people's livelihood. I ask that the Bill be acted upon. If the minister is willing to take a useful direction in the matter, I ask that he give the Bill due consideration because it would give everybody an opportunity to get on with their businesses and survive in a difficult world. As I said earlier, I am also aware that the legislation is supported by all members of the building industry.

Mr Kobelke: No, it is not. The majority do not support it.

Mr EDWARDS: I am interested to hear what the minister has to say because that is not what I heard. I heard that the majority of the building industry supports the Bill. Obviously the minister will tell me differently. However, I commend the Bill to the House and support it.

**MR KOBELKE** (Nollamara - Minister for Consumer and Employment Protection) [5.03 pm]: I thank the Opposition for the opportunity to discuss this very important matter today. However, the Opposition will not be surprised to hear that the Government does not support the Bill. As has been said by a number of members opposite, this is a simple solution. I have always found that simple answers to complex problems usually mean that the answers are not solutions. They do not actually solve the problems but simply shift them and sometimes create greater problems.

The member for South Perth on many occasions, including yesterday, quoted Hon Andrew Mensaros, who was in this Chamber for the first couple of years that I was a member and from whom I was poles apart politically. However, in that short time, I came to respect him as a man of considerable ability and integrity. The comment of the member for South Perth rings true: rushed legislation usually is bad legislation. I think the member for South Perth used that phrase last night but is putting it aside today by suggesting that we rush this legislation because there is a great need for it.

Mr Pental: I am not suggesting we rush it at all.

Mr KOBELKE: This Bill has been expedited; it was brought on as an urgent Bill.

Mr Pental: Yes, but that had nothing to do with me.

Mr KOBELKE: I think I can present an argument on the real problems in this legislation. Many builders are hurting and are in considerable difficulty through insurance and other matters, but insurance is the key matter currently facing them. People have correctly suggested that the Government should respond to that very real problem. However, we as members of Parliament have a responsibility to respond not only with the heart but also with an understanding of the issues.

Ms Sue Walker: You failed to respond to the matter of Skywest Airlines Pty Ltd also. The federal Government had to assist you with that matter.

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Mr KOBELKE: Last week we found Liberal members totally missing in the Legislative Council. Now we find one or two members opposite intellectually missing; there are vacant spaces between their ears. Last week in the Council there were vacant spaces across all the seats, not just between members' ears. Obviously, members opposite have either a total lack of understanding -

Several members interjected.

The ACTING SPEAKER (Mr Andrews): Order!

Mr KOBELKE: This is an important matter. I am happy to take interjections. However, I interjected only briefly because I was disappointed by the level of comment from the member for Hillarys and now from the member for Nedlands. They believe that shouting or using smart comments will impress people who currently are doing it really hard. People who listened to the debate today by the member for Hillarys and member for Nedlands, or those who take the time to read *Hansard*, will be sorely disappointed that they could not find more members opposite - there were some - who attempted to understand the problem and spoke in a constructive way about a real issue. That is a real disappointment to me and I am sure it will be a disappointment to many builders. If members want to respond to a real problem like this, it is incumbent on them to do a bit of homework and to try to understand the issue so that they can speak to it intelligently; otherwise it is a matter of playing politics. We all do that but this problem is more than that. The problem that exists in the community today and the lack of understanding of it has led to people being misled by untruths and false hopes. I am not saying that members opposite are doing that, but their comments fit with that type of misrepresentation.

I spoke on the phone to a builder today and reports have come through my office that indicate that builders are being given false information about not only this Liberal Bill but also how they can get insurance and the steps they should take to get on with their business. Some people regard it as in their own interest to mislead people and to make the problem even bigger than it is. It is therefore incumbent on all members who wish to continue debating an important matter like this either to devote time to understand the issue or be ridiculed. We have heard contributions today from two members opposite that indicate the Opposition is not interested in the issue because they could not even speak intelligently to it. I will refer to the issues in the Bill with which we must deal but I will talk about some of the more general issues before referring to specific issues.

The proposal in the Bill is superficially appealing. Last year we seriously considered the proposal in a forum because we thought it might help us to get through the problem. I will refer to the facts later, but the proposal will simply not deliver the solution that people believe it will. It is not a panacea, as suggested by some members and by the member for Mitchell in the way he presented the Bill. It will not fix the problem. It may help out a few builders in one way and create another problem for other builders. It is a simplistic view of a complex issue. We are dealing with the issue and we are aware of the importance of dealing with it as expeditiously as we can.

We need to understand the benefits that flow from home indemnity insurance. Ten or more years ago Mansard Homes collapsed. That was a disaster and would have been an even bigger disaster if one of our major builders had not stepped in and helped finish many of those jobs. There have been problems also with smaller builders, such as the so-called phoenix builders. Before home indemnity insurance, a number of small builders signed contracts, took the money and ran, and subcontractors and consumers lost out. That sort of behaviour hurt not only consumers and subcontractors, but also many builders because it resulted in a lack of confidence in the industry and affected the image of the industry.

We have a very good home building industry in this State. About a year ago, both the Master Builders Association and the Housing Industry Association said on the record how important home indemnity insurance was for the home building industry. They acknowledged that it was good for consumers. However, the main point they made was that it had helped to clean up the residential construction industry in this State, and they fully supported it. We want to make sure that as we make changes and try to overcome the problems that are besetting many small builders, we do not throw the baby out with the bath water. We do not want to undermine home indemnity insurance. We are continuing to make changes.

Mr Barnett: It has been 14 months since HIH collapsed.

Mr KOBELKE: Yes, and I will come to that. We need to recognise the importance of home indemnity insurance for both consumers and the building industry. We need to make sure that the changes that we make continue into the future and that we do not take short-term stop-gap measures like this that will undermine the continuation of home indemnity insurance in Western Australia. Builders have gone through tough times. The goods and services tax, which the federal Liberal Party colleagues of members opposite foisted upon us, has been a huge problem for builders. It is still a problem for builders. Cases about GST are still going through the

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building disputes committee and potentially through the courts in this State. That has made it very difficult for builders. Most builders were just getting over the GST when they were suddenly hit with the HIH collapse and all the things that flowed from that. On top of that, we had 11 September. That date is relevant, because part of the current problem is reinsurance. The international reinsurance market has put an extra problem in the way of builders. The main reason that Dexta withdrew from the home indemnity insurance market was that it could not get reinsurance following 11 September. A range of insurance problems is besetting residential construction and a range of other areas that I will not get sidetracked into discussing at this time.

The Master Builders Association and the Housing Industry Association have very different views on this matter. The MBA had its insurance with HIH, and it then worked with Dexta. It clearly wants the system changed, because some of its people are hurting, and it no longer has an interest in insurance. On the other side, we have the Housing Industry Association, which totally disagrees with the Liberal Party's Bill. It believes that although the current system has problems, it can be made to work better and is already for many builders providing the assurance that they want.

Mr Masters: Do you know why the HIA opposes this Bill? The answer is that it has a working relationship with Sun Alliance. There must be some financial reason that is encouraging the HIA to maintain the system as it is rather than agree with the MBA that the Government should get off its backside and do something.

Mr KOBELKE: I understand the first part, and it is part of the facts of this matter. However, the second part is mixed up with what the various associations want, as well as the interests of their members. There is a complex range of issues. I will not try to sort through them now. However, I acknowledge that the member is alluding to that. The Housing Industry Association is a key representative group of residential builders in this State, and it does not want this legislation. I will not try to put on the record its reasons for that; the member can talk about that. However, I am sure some of the reasons will be those I will give later as to why this Bill will not help the industry.

The changes proposed in this Bill will undermine the current system of private insurance. That system is very shaky. It has only two insurers at the moment: Reward Insurance Ltd, which I guess has only 20 per cent of the market - it is fairly small, because things are changing - and Sun Alliance, which has a dominant place in the market; and I will return to that later, because that is not satisfactory. If we undermine that now, we will be left with a situation in which we either sweep away home indemnity insurance - and I would never allow that - or put in place a centralised government scheme. I thought members opposite, who are supposedly members of the party of private enterprise, would prefer to try to keep the private system afloat. That is my commitment. I do want to have to go to a centralised government scheme. That is an option, but it is not what I want to go to. I want to make sure we do everything we can to make the present system work, and that is what I am seeking to do.

Mr Barron-Sullivan: There is another option: a mutual fund.

Mr KOBELKE: I will come to that.

Mr Barron-Sullivan: You said there are only two options. There is another one.

Mr KOBELKE: That is still a private sector fund.

Mr Barron-Sullivan: Do not point to us and say we will support only something that is centralised. We also fully support a mutual fund.

Mr KOBELKE: The member has not thought through what he is offering, because it has the potential to lead to the collapse of the whole system. The member cannot come in once the system has collapsed and say we will put in a mutual fund. I want to keep the system working so there is the potential for mutual funds to come into this system. This Bill will jeopardise that effort to keep the private system working. I admit it is not working as well as we would like it to work.

Mr Barnett: Will you take an interjection?

Mr KOBELKE: I am trying to get through a range of detailed points and I have limited time. There is currently a lack of competition from insurers. When HIH collapsed, we tried very hard to encourage others to come into the insurance industry. We had some success. However, with Dexta moving out, we are now left with only two players. That is not adequate to enable us to have a competitive insurance market. On top of that, we have a situation in which, through a range of matters that I will not detail now, all insurers, and these two in particular, are taking a very conservative approach. If they are to stay in the area of home indemnity insurance, they want to minimise their risks and make sure they are doing good business. I accept that is the way they will do

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business. I would like to try to push them, and we will, to make sure there is more competition and, therefore, they are not as conservative in their prudential margins and do not take extreme profits out of the industry. We need to understand that home indemnity insurance in this State has generally been profitable. The home indemnity insurance companies in this State have not had the big hits that the companies in other States have had. The difficulty that Western Australia has is that insurance is a national industry and tends to be judged nationally. Therefore, if the companies in New South Wales and Victoria have problems, as they have had in the past, that easily flows on to their attitude to the business in Western Australia, which is a very small part of the national market. The difficulty in both New South Wales and Victoria was that their system of insurance was not the last resort to the fund. A person could go to the insurer if the builder was not fixing a particular job. The system had a higher cost structure and bigger losses; therefore, the insurance premiums were higher. The national companies have tended to flow on to Western Australia the bad experiences that they have had in the eastern States, even though Western Australia did not have the same problems.

My understanding is that the insurers have done reasonably well in Western Australia in the past year. However, the difficulty is the lack of competition. A range of prudential issues is also affecting the insurance industry nationally and internationally, causing reinsurance and prudential levels to be higher than they used to be. That puts up the cost of premiums and means that the checking of builders that the companies do in order to offer indemnity insurance is very strict. I suggest that it is too strict. We need to understand that on average six or seven builders go under every year in Western Australia. That is the best estimate I was given. Insurers obviously want to check whether a builder is a good risk. If builders have lost out on a couple of jobs and look a bit shaky to the insurance companies, the insurance companies make it very difficult for those builders. We have tried to put in place consultation, because we believe those builders should be given insurance. We have given a clear undertaking to set up a review group with a major insurer so that we can try to drive that harder to help those builders get the insurance that they need. We are working on that. We recognise that a lot more needs to be done.

The first problem the builders face is that their work is held up. Their overheads increase if they cannot keep the work rolling quickly. It is a cost problem for builders if they have delays. That is why I get back to the issue of misinformation. I have been speaking to builders on the phone and encouraging them to put in the paperwork and try to get indemnity insurance. However, such a negative attitude has been created in some circles that they have assumed that they will not be able to get insurance and therefore have not even done the paperwork. I understand also that the paperwork is particularly burdensome and that the insurance companies are putting a huge load on builders by requiring them to submit financial statements and to do a lot of other work. We will try to move toward a reduction in that paperwork. However, that is another problem for builders, because most builders are not accountants and many do not have expertise in that area. It is a huge cost if they have to employ accountants. They want to get on with building. That is what they are good at. They do not want all these hold-ups. That is not only a personal problem for them but is also very irksome and frustrating. I am certainly urging builders to push the process. I am also urging them to work with the Government to apply pressure on the insurers so that the approvals can be made more quickly. When the Government took on the cases and pushed them forward - even before the collapse of Dexta Corporation - the approval time was shortened by several weeks.

The second main area of concern is the high level of surety that is being asked of some builders. The letter that was flashed around by the member for Mitchell stated that builders had to provide \$1 million surety to obtain \$2 million worth of coverage. That is quite extreme. The Government wants a process in place that will not put builders in an impossible situation. If builders are a bit shaky, the insurer has to try to sort them out. Insurers will not back a builder who is about to go under.

We must streamline the processes. The Government has already conducted programs for builders to help them understand the type of financial information required by insurers. It is happy to extend that program so that builders can present their books in a way that will result in a lower level of surety for the amount of work they will undertake. A misrepresentation was made about the quantity of work for which builders can get coverage in order to obtain their licence. It has been suggested that some builders who undertake work worth \$3 million a year can get cover to the value of only \$1 million. However, that is what we have now and, as builders complete their work, that amount can be rolled over. It is not as easy as that because the system is not working effectively or efficiently. It is a misrepresentation to say that because a certain limit exists at the moment, that limit will extend for the whole year. The system must work better so that the cover can be rolled over, enabling builders to secure other work. I am happy to take interjections.

Mr Board: The Opposition accepts the difficulties outlined by the minister. The minister is saying that we should concentrate on finding a long-term solution. However, in the meantime, many people are in financial

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difficulty and some people cannot get their houses started. The Government and the Opposition must find a resolution to this problem.

Mr KOBELKE: I will try to provide members with an understanding of the issues. I was quite disappointed with the level of debate - I do not refer to the member for Mitchell - as members opposite did not seem to understand the issues. There are both short-term and long-term issues. One of my concerns with the Bill before the House is that the short-term solutions will undermine the long-term ones. Consequently, the process will go backwards. The Government is carrying out a range of short-term measures, and it is trying to put them in place as quickly as it can. However, it wants to implement short-term measures that will assist in the long term. With regard to Dexta Corporation, members opposite have asked why the Government has not taken similar measures to those taken in the eastern States. A few days ago, I was told that although the offer has been made the details have yet to be tied down. It is no good saying that New South Wales and Victoria have made a deal; they have done it in a press release, but the deal has not been signed on the dotted line, and is therefore not working. Such measures cannot be carried out easily. Western Australia is not behind the other States. Rather, it is level with the other States, and, in some respects, it leads them on this issue.

Last year the Government provided a \$6 million rescue package to assist people who needed help after the collapse of HIH Insurance. That package is still in place. The Government also established a forum in which it worked closely with industry, insurers and consumers. A range of measures were suggested, and one such measure has been included in the Opposition's Bill. However, the Government believes that that measure will not serve the long-term interests, and, in the short term, it is of limited value. A number of measures that were raised at the forum have been implemented. For example, the Government has removed the requirement for indemnity insurance on three-storey and above residential constructions. We have also given a clear undertaking that the Government's legislation, which is now the subject of consultation with the key stakeholders, will be introduced. The Government's Bill will allow for the suspension of home indemnity insurance. I am not in favour of suspending home indemnity insurance. However, if the two current insurers exited the industry tomorrow, we would have a major problem. Such a problem would be further complicated if Parliament were in recess. Therefore, the legislation will allow me, as the minister, to stop the scheme in dire circumstances. I would not use that provision if some sectors were badly hurting; it would be used only if we had to rescue the whole system. The Government also intends to remove the requirement on developers so that a small builder who is developing his own property has to take out indemnity insurance only after he sells the house, and not during the construction phase. This will make the system much easier for developers and builders.

The Government is also committed to mutual insurance. The Opposition has already stated that mutuals will take a long time to set up; however, I have been advised by the Master Builders Association that it can establish a mutual insurance company fairly quickly. The Government has given a clear undertaking to do this. The Government will not offer a benefit to one group without providing the same benefit or support across the whole sector. I have said this right from the start. The Government will not help prop up or fund mutuals. It will do whatever it can to support mutuals by providing legislation and advice, and it will also work cooperatively with them. However, if the Government does something for the mutuals, it must be even-handed with the private insurers. I am committed to making the private insurance market work in this area. Mutuals are a way of introducing competition into the market when there are not enough private insurance companies. I am keen to see mutuals up and running. However, they must compete equally with the private insurance companies. If they return profits to their own members only, that should be an internal advantage, rather than having the Government provide the advantage.

The Government has announced a \$10 million cap. Members opposite have stated - almost as an aside - that this measure will look after only the three big companies. Yes, it will look after the three big companies. However, if that measure had not been implemented, chances are Sun Alliance would have left the market. In order to keep the market going, the \$10 million cap was necessary.

Mr Masters: Did we support that legislation?

Mr KOBELKE: The member is jumping the gun; the legislation has yet to be introduced.

The accusation is that the Government is looking after the big end of town only, and that is totally false. The Government is trying to maintain home indemnity insurance, with private companies providing that insurance.

I turn now to the specific provisions of the Bill. The Home Building Contracts (Indemnity Insurance) Bill 2002 proposed by the Opposition seeks to suspend for 12 months home indemnity insurance, as it is described in the Home Building Contracts Act 1991. The Opposition's proposal is a short-term measure and, as I have already indicated, this will create problems in the long term. It also has a potential to undermine the ongoing success of

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the scheme. The Bill intends to ensure that the builder has furnished to the owner a disclosure notice in accordance with regulations that are to be prescribed. In addition, the Bill intends to suspend section 25C of the Act, and to make home indemnity insurance non-compulsory for contracts that are less than \$10 000 or more than \$200 000. That is a commendable measure. It reflects what the Government has already stated; that is, if home indemnity insurance is not needed, the consumer should be notified so that he is aware of that before the contract is signed. I am not sure why the Opposition chose the figure of \$10 000, because currently the Act only provides for \$12 000 and above. The Opposition has misjudged that technicality in the Act.

There are a range of definitional issues in the Opposition's Bill that I will not cover in this debate. Such definitions can be fixed; however, if members sat down with me and discussed the details of this issue, they would realise its complexities. This might seem like a simple Bill, but the definitional issues open up a range of problems. They can be fixed, but we would have to go through draft corrections.

Mr Johnson: Let's fix them tonight.

Mr KOBELKE: If the member listens to me, he will realise why the Opposition's Bill will not help the home building industry. I will go through a number of points to drive home the fact that this issue is not as simple as members opposite might think. There are no transitional provisions for a contract signed prior to the commencement of the work. What happens when a person immediately signs a contract for a \$205 000 house? There is also the absence of any reference to owner-builders. This may mean that a person who is an owner-builder for a house over \$200 000 would still need to obtain housing indemnity insurance even though a builder would not. We have not covered that particular point. I could go through a range of issues, each of which could be fixed. However, I raise them to make the point that it is not as simple as some members opposite would put. We must address these matters if we want to make this work for builders and consumers. When people look at the totality and complexity of the issue, they will conclude that this Bill will not solve the problem. As I have already indicated, the Housing Industry Association has advised that it strongly opposes the proposal to exempt home builders doing work over \$200 000 from being required to obtain home indemnity insurance.

The Government does not support the Bill, and I will go through some of the reasons for that and some of the problems that would arise if it were to be put in place. The exemption from insurance for builders doing home building work over the value of \$200 000 would remove a very important consumer protection mechanism for a vulnerable section of the market. It may be that the member who proposed the Bill thinks that if someone can afford a house worth more than \$200 000, he must be a smart operator and can protect himself. I do not think that is true. People who own houses worth more than \$200 000 are in some cases in greater jeopardy than other home owners, and I will go through the various reasons for that. It is very difficult to justify the exclusion of owners of these higher-cost homes, or their successors in title, from the consumer protection afforded by home indemnity insurance. Such a move would arbitrarily reduce the level of protection provided to consumers by imposing a \$200 000 cut-off. That would create problems for people buying houses. They would have to ask whether the house was worth \$195 000 or \$205 000 when it was built, and whether an ongoing home indemnity insurance policy applied to it. All those difficulties would arise from the introduction of this Bill. There is no evidence to support any theory that people buying higher-cost homes are more able than people buying cheaper homes to assess the likelihood of the builder either dying, disappearing or becoming insolvent during the six-year period for which insurance cover is provided. The finishing stages of higher-cost homes often include costly work such as high-quality cabinet work and the installation of expensive fittings. Home indemnity insurance is particularly beneficial during that stage of construction. There is a misunderstanding that people building \$200 000-plus homes do not need the indemnity insurance because the maximum payout is only \$100 000. In a moment I will cite some estimates, based on a review, which indicate that people with houses worth more than \$200 000 generally make larger claims than other home owners. More things can go wrong in the construction of an expensive house, and bigger repair costs are involved. If this proposal were put in place, a person who built a \$210 000 house and who was extended to his limit would be left without any support at all. The larger and more expensive the home, the more can go wrong, both with the workmanship and contractual matters. Higher-cost homes tend to be two or more storeys and often of complex design, resulting in a higher potential for structural problems during the six-year warranty period. Those are the people the Opposition is saying do not need home indemnity insurance. The protection provided by the \$100 000 indemnity cover is of benefit to all consumers. Even someone building a very expensive house is covered for up to \$100 000. Although the maximum home indemnity insurance claim that may be made is \$100 000, the benefits of home indemnity insurance for the more expensive homes have been demonstrated to be considerable.

A national competition policy review of the Home Building Contracts Act ascertained that the average home insurance payout during 1999 was \$10 592. Even though the maximum that can be claimed is \$100 000, the average was estimated to be about \$10 500. Even allowing for inflation and the cost of the goods and services

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tax since that date, it is clear that the majority of claims for more expensive homes are covered by the existing limit of liability, and that the cover afforded by the insurance is valuable to all home owners. The national competition policy review of the Act also identified that the trend towards higher-cost homes has increased rapidly over the past decade. The HIA estimates that the proportion of higher-cost homes, including units, in the new home market represents about 18.5 per cent. That is 3 700 new homes every year. About 3 500, or 20 per cent, of homes being built are worth more than \$200 000. They would be affected by this Bill.

Imposing an exemption from indemnity insurance for \$200 000-plus homes would induce negative distortions in the market, but would not help the other 80 per cent of people building homes. I spoke to a builder today who thought he was supportive of the Bill, but then said that he supported it only because he thought it might help someone else. He said that he built very few homes worth more than \$200 000. This Bill would not help him. The cut-off point is a problem and would create confusion about what is put into which category. There might be a small number of builders who only build houses worth more than \$200 000, and this Bill would be an advantage for them. However, issues would arise for the many builders who cross that barrier. The Bill is basically saying that builders who normally build houses worth more than \$200 000 cannot build a \$95 000 home, as they would have to get insurance. An insurance company would want some detail about the builder's other projects, even though it would not be covering them. The company would want to know the financial substance of the builder, and that would involve disclosing details of the other houses he or she is building. In doing an assessment, an insurance company would still need to know about all the homes being built by that builder, not just the ones under \$200 000, for which coverage would be required.

Although we do not have any claims statistics for Western Australia, figures from Queensland show that home indemnity insurance claims in that State for homes valued over \$200 000 represented 13.3 per cent of all claims, and 23.1 per cent of the total value of all claims received. Although Queensland's system is different from ours, I think similar figures would apply here. The value of claims over \$200 000 is greater than the proportion of claims.

The artificial barriers proposed by this Bill would induce people to move into the other area of work to keep their business going. The Bill might encourage builders to work on houses in a higher price bracket than that in which they had previously not been working or doing only a small amount of work. That would represent a new form of business for them and open a range of new risks. Limiting the home indemnity insurance to lower-cost homes would encourage some of those low-cost category builders to concentrate on building homes worth in excess of \$200 000, resulting in more problems for consumers and the broader community. There might be a high rate of failure by builders who suddenly move into the new market bracket. The requirement to obtain insurance provides a mechanism that prevents builders overextending their capabilities. Setting a compulsory cover ceiling of \$200 000 would prevent this mechanism from operating in the area in which there is arguably the greatest risk. A common reason for the failure of builders is that they underestimate the value of a project. The higher the value of the project, the more chance there will be of underestimation, resulting in builder insolvency. Home indemnity insurance cover during the construction period is therefore a particularly important consumer protection mechanism. The higher the value of a project, the more credit terms are extended to the builder by subcontractors and suppliers. There is considerable danger that if there is insufficient capital and a slowdown in the market, affecting future work, funds will not be available to pay debts. In these circumstances, the consumer protection mechanism also protects subcontractors and suppliers.

As I indicated earlier, if home indemnity insurance was not necessary for homes worth more than \$200 000, it would be difficult to stop the very small number of shonky operators - the old phoenix builders - re-entering the industry. We could try to do other things, because we do not want that to happen; however, the indemnity insurance mechanism has worked effectively. Both the Master Builders Association and the HIA are on the record as saying how important that provision has been in cleaning up the industry. If this Bill is passed, a shonky operator could set up a small building company, work on houses worth more than \$200 000 and create havoc in the industry. Even if there were only two or three of them, we would have to police them and try to get them out of the industry. This Bill would leave the door open.

Mr Masters: You are scaremongering.

Mr KOBELKE: The member is speaking in ignorance of what happened in the industry 10 to 15 years ago. It was a major problem. The HIA and the MBA went on the record 18 months ago to say that home indemnity insurance had had a major impact in cleaning up the industry and getting rid of that small number of shonky operators. It will be an open door for them. We will have to run around examining a lot of other consumer protection mechanisms in an attempt to shut the gate after the horse has bolted. We do not want to have to do that.

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Insurers will take work in excess of \$200 000 into account when they are covering a builder for work that costs below that. It is not a matter that if builders do some work above that figure and some work below it, they will not have to worry about the work above that figure. They must take that into account when getting indemnity insurance for work below \$200 000. The potential is that builders will get locked into doing work above \$200 000 or below \$200 000. That would be an artificial restriction of the very dynamic, competitive, high-quality construction industry of Western Australia. We want to see the quality of the industry retained, and at the same time we recognise that real problems currently exist for a whole range of builders.

Homes valued at greater than \$200 000 would fall outside the Home Building Contracts Act and the protection that it provides - that is, the prescribed contracts and the other things that go with it. The general consumer protection provisions of the Act apply only to contracts for home building and associated work valued between \$6 000 and \$200 000. If the amount of home building and associated work exceeds \$200 000, these general provisions do not apply and the parties are free to contract under agreed terms, although home indemnity insurance is still required. For work below \$200 000 there is currently indemnity insurance plus a whole range of other provisions that give support under the Act. For work above \$200 000 there are not those provisions and builders no longer have indemnity insurance, so they are really left out in the cold. The Act currently does not cover work above \$200 000. If indemnity insurance is not retained, builders will be left with no cover.

Because the provisions of the Act cover only work that costs more than \$200 000, builders of homes valued over \$200 000 have a considerable opportunity to seek from consumers large deposits and excessive progress payments that exceed the true value of the work performed. As a consequence, the potential for financial problems to occur during the construction period is considerably increased. That whole issue is about fixing the periods for which progress payments are to be made, so that if the builder runs into a problem the cost can be kept to a minimum. The amending Bill does not pick up those provisions. That double jeopardy would exist if this Bill were to be enacted.

As I have already indicated, the Government is looking for a long-term solution. It has opted for maintaining private insurance companies in the market. Along with that it has opted for bringing in mutual insurance companies, which are termed "mutuals", because clearly we are having difficulty getting enough private insurers to participate. I see mutuals as a private industry response. The Master Builders Association is quite keen on this. A smaller group of builders could put together its own mutual. If it met the limits we required, the small group of builders could run a mutual to look after themselves.

Mr Board: Do you have a timeframe for those objectives?

Mr KOBELKE: The draft Bill containing those provisions has gone out for consultation with the industry.

Mr Board: The Bill is one thing, but getting the mutuals into the marketplace and making those things happen is another.

Mr KOBELKE: The requirement to be able to do that is currently out for consultation with the industry. Depending on what we do with the other aspects of that, I am hoping to be able to share the outcome of that consultation with the member in a couple of weeks, so we can have a look at it.

Mr Board: On your own admission, as you used the eastern states example, you can say that something has been arranged, but it will take a long time to implement. How long will it be before people on the ground are protected?

Mr KOBELKE: I have covered that, but I will cover it very quickly again for the member. The Government is undertaking a whole range of initiatives, some of which we undertook last year, including the \$6 million undertaking. The provisions for the ability to offer mutuals are already drafted. The Bill containing those provisions is out with the industry now. We hope that in a couple of weeks it will be ready, together with other provisions. We are committing to a cap and matters associated with it. We are still finalising those aspects and have not started drafting provisions because we are still negotiating with insurers and peak bodies on the fine detail. We have made a clear commitment to the \$10 million cap. On that basis, Sun Alliance is offering insurance policies. We have made a commitment to follow through with that, but the provisions have not been drafted yet because we are finalising the detail. We have finalised the detail and drafted legislation on the mutuals. We are now consulting with industry so that we can bring legislation into Parliament.

If we are to get a long-term solution and not push everything aside, it is important that we do not destabilise the insurance market, which is a bit rocky at the moment. That has been reflected in the tough time that builders are being given by insurers. We understand that, but do we throw out the baby with the bath water, or do we try to manage it?



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Mr Bradshaw: You are not managing it too well.

Mr KOBELKE: Many builders are getting planning permission. An examination of local authorities shows that there is not a backlog of applications for building permits. That does not mean that builders would not put in an application if they were able to get insurance.

Mr Bradshaw: They are not getting any insurance, so there will not be a backlog.

Mr KOBELKE: The member does not understand how many of the companies work. Some small companies with high-cost work probably wait until they get insurance, but many builders submit plans and then seek home indemnity insurance. They do not pay the home indemnity insurance until they are ready to start the job. That means that a queue is waiting. If builders are moving quickly, there might be a short waiting period. If they do not want to move too quickly because of inclement weather or they have a lot of work on, they might let the application sit there for a few weeks. Part of the market can be judged by whether licences are approved by local government authorities. It is an imperfect indicator, but our inquiries have not found any indication of a problem at that level.

We need to be careful of the potential to destabilise the insurance market. No insurer has indicated that exempting homes worth over \$200 000 will assist the overall availability of home indemnity insurance. On the contrary, if homes worth over \$200 000 were exempt, the number of constructions would be reduced by up to 20 per cent. Because it would affect the high-value end of the market, an even bigger percentage of the premium take would be based in the pool. If those homes were made exempt, the pool would be reduced and it would be made more difficult to attract another insurer into the market. If a current insurer finds it difficult, that may be a disincentive for it to stay in the market. There is a real potential when a short-term, stop-gap measure like this is taken, that the longer term outcome is determined; that is, that potentially the industry will move away from private insurance altogether. If the major insurer moved out now, the Government would have to put in place a centralised government scheme. That is not what I want to do. However, if insurance were unavailable to that sector of the market, it could be a problem. Insurers have advised that the cover for work worth over \$200 000 has not been an issue for reinsurance.

The other issue I mentioned was reinsurance. Dexta Corporation left the business simply because it could not get international reinsurance. We are advised by the insurers that reinsurance would not be impacted upon if the requirement to insure work worth more than \$200 000 were removed. There is therefore no positive for the insurer but a big negative in the reduction of the pool that is part of the market.

Mr Masters: Did you say that there is no problem for the reinsurer or the insurer with buildings worth over \$200 000?

Mr KOBELKE: It is a problem for both. The insurers have said that they do not particularly consider work worth more than \$200 000 to be a difficult part of the market for them. They do not see the removal of work above that value as a help. Our advice is that when they go to reinsurers, who examine their business to assess reinsurance, the reinsurer's view will not be changed as a result of the exemption of work worth over \$200 000.

Mr Masters: Can I assure you that the smaller builders in the Dunsborough area, particularly those in my electorate, are saying something completely contrary to what you have just told me. They are saying that they are having enormous trouble with insurers.

Mr KOBELKE: I think the member has misunderstood me. I am talking about insurers and reinsurers. Any insurance company takes only a certain amount of debt on its books. It reinsures internationally.

Mr Masters: I appreciate that. If the insurers are having no trouble reinsuring, why are they causing such problems for those builders when they ask for insurance?

Mr KOBELKE: I will clarify that misunderstanding. We are saying that currently there is a range of problems with reinsurance for a number of forms of insurance, particularly those that have a tail. A six-year tail is involved in this area, because there is cover during construction and for the six years after construction is complete. International insurers are very reticent to issue reinsurance policies in this area. It is not an area in which I have expertise. We asked whether, if we took only the lower end of the market and insurers did not have to provide cover for contracts worth more than \$200 000, that would help them with their reinsurance. The answer we received was no; it would not help them with their reinsurance.

Mr Masters: Would it hinder them with their reinsurance?

Mr KOBELKE: No, not to my knowledge. The point is that it is a disadvantage to their business in Western Australia, because there is a smaller pool from which they can draw.

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Mr Barron-Sullivan: I will address those points later, because that is hogwash.

Mr KOBELKE: We want to make this system work, and a range of measures will enable us to do that. First, we need to ensure that insurance companies offer policies. We have done a number of things to ensure that they continue to do so, and I have already outlined them. Secondly, we want to encourage more insurers to enter the market. If there is a viable market with the biggest possible pool, there is more chance of that happening, particularly with the assurance we have given to provide cover for over \$10 million. Thirdly, we have opened mutual insurance companies, so that if the insurance company gets cold feet on this form of insurance, groups in Western Australia can establish their own insurance through mutuals as a private market. We are keen for mutuals to provide some competition. Further, we must ensure that we protect consumers because of the dire consequences they will suffer otherwise. I am sure some members recall the collapse of Mansard. It was a huge issue not just for the many people who had scraped all their money together to pay their deposits and lost the opportunity to own their own home. Although they might have lost only \$10 000 or \$20 000 in progress payments, it meant that they could not own a home. That had consequences for those individuals and their families, as well as for the contractors who lost money because they were not paid for the work they had done. Huge consequences are suffered when insurance companies back out and there is no form of home indemnity insurance to protect consumers. That relates to subcontractors as well.

The building industry needs confidence and certainty. Currently, there is uncertainty about insurance. That has repercussions throughout the industry; that is, for the players who are hit directly and for their employees and subcontractors. If we put in place a measure such as this, although the form of the insecurity will be different, that insecurity for the industry will be even greater. Subcontractors will not be sure whether they will be covered in a particular area, and consumers will not know whether their investment will be covered. If the amount of the contract is over \$200 000, builders might take out indemnity insurance, but they do not have to. The Bill creates a complex issue in a genuine attempt to help people who are doing it tough. I understand that it is a genuine attempt to help people, but it does not. It will not succeed in delivering the simplistic answer that members opposite think it will. I hope that members recognise that substantial issues need to be addressed. A complex problem cannot be fixed with a simple answer such as this. If I were convinced that this would fix the problem in the long term, I would be very keen to take it up. We would have continued to work on a solution such as this. We initially worked on it last year, because at the time we were keen to look at all the measures. A list of umpteen things was suggested. We did a lot of work on half a dozen measures at the top of the list. This measure was at the bottom, but we did not rule it out straightaway; we thought it was worth a look. Obviously the Opposition thought so as well. When we went through the reasons and spoke to players in the industry about how we could make it work, we came up with the view that it was not a real solution to the problem and that it had the potential to undermine the maintenance of home indemnity insurance on the current basis or a basis similar to that which would involve the use of mutuals. We opted for mutuals and the continuation of the current system. On that basis, we do not want a move such as this to undermine home indemnity insurance in this State. For that reason, the Government cannot support this Bill.

**MS SUE WALKER** (Nedlands) [5.54 pm]: I commend the Deputy Leader of the Opposition for having the initiative and the imagination to introduce this Bill into the Parliament. The Government, which should have the imagination, initiative and wherewithal to deal with this problem facing small businesses, has not got off its hands, as my colleagues have said, and put anything in place at all. From what I have heard during the debate, it put something in place for three large companies, but nothing for small business. A lawyer once said to me that the law is a slow-moving beast, like a glacier. This Government has moved slower than a glacier in relation to a lot of things that have gone on in this State, and this is one of them.

On Monday night I attended a Law Society of WA function about hypotheticals. Today we have heard a series of hypotheticals from the minister about the short-term solution that the Deputy Leader of the Opposition has come up with by putting pen to paper and introducing this legislation to the House, which is more than the Government has done.

When the Deputy Leader of the Opposition first said that he would introduce this Bill to the House, I raised with him my concerns about consumers. I have read his second reading speech in which he addressed that issue. I will deal with the builders and their situation in a moment. I was concerned about the way consumers would be dealt with in the Bill, but the Deputy Leader of the Opposition has ensured that clause 4 protects certain people in the industry; that is, first home buyers and people carrying out renovations. I appreciate that this is a short-term Bill that will be in place for 12 months. It is a stopgap measure. At least members of the Opposition have had the temerity and the tenacity to speak on behalf of builders and put something together.

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Over the past month, many builders in my electorate have spoken to me about the crisis they are facing. My father worked in the building industry, so I grew up knowing subcontractors, builders and plumbers. I am very used to building sites and what goes on there. Myriad people have been affected by the crisis brought about by the collapse of HIH Insurance and, more recently, the withdrawal of Dexta Corporation Ltd from the market. It is important to address the situation for the sake of not only subcontractors and builders, but also the other people who work for the builders; that is, the people they employ in the office - their families, receptionists, secretaries and the people who put the contracts together.

We heard from the minister all sorts of insurmountable obstacles to his supporting this Bill. Clause 4 of the Bill deals with consumers. Some initiative could be shown by the Government when forming regulations in this regard. For instance, I cannot see any reason that a regulation could not stipulate that if a person wanted to build a house worth over \$200 000, he could see a lawyer first so that his rights could be explained to him. I do not see why the Government could not provide lawyers for the 12-month period to assist or advise the myriad people involved in the building industry in Western Australia, not just those in Nedlands, about their rights. This reminds me of the tourism crisis. When the Minister for Tourism and small business operators were looking for short-term, medium-term and long-term solutions to the problem, this Government could not come up with one solution. It did not know what to do. The reason for that is that very few government members, if any, have ever run a small business. For the minister to say that members on this side of the House do not understand the industry is beyond my comprehension.

I support the Bill. I would like to see regulations to protect consumers, but I congratulate the Deputy Leader of the Opposition for his initiative in introducing this legislation.

**MR SWEETMAN** (Ningaloo) [5.59 pm]: I support the Bill presented to this Parliament by our deputy leader and shadow spokesperson for consumer and employment protection. It was interesting to listen to the minister's presentation to the Parliament. He spoke for approximately 51 minutes. For every minute, we were given a reason that the Government could not do anything about this matter. You might be surprised to hear, Mr Acting Speaker (Mr Dean), that I hung on every word he said, because I was waiting for him to offer at least one solution. In all those negatives and reasons that the Government cannot do anything about this problem, there was no light at the end of the tunnel, or, if there was, it is certainly well over the horizon at this stage.

The minister should be aware that a problem is looming outside the insurance problem, and it is probably not far over the horizon. The minister will be aware that we have enjoyed very low interest rates for a long time. Rates have been at 25 and 30-year lows. About a week or so ago, the Reserve Bank of Australia increased interest rates by 25 basis points. That increase is already flowing through to the lending institutions. I am sure that there will be more increases over the next months or quarters. In addition to that, to offset some of the negative impacts of the goods and services tax on the building industry, which the minister adequately spelt out, the Government introduced the first home buyers grant, and actually doubled that for a time to \$14 000. That \$14 000 grant was discontinued just prior to Christmas. Since 1 January, the grant has been \$10 000 - \$7 000 plus \$3 000. However, I believe the \$3 000 will drop away from 1 July this year, so it will again be a \$7 000 grant. The industry has had incentives to gear up and work at full pace, but they are now disappearing. The amount of the first home buyers grant will effectively be halved on 1 July this year. There has already been a 25 basis point increase in interest rates. This problem with insurance at the moment must be overcome, and quickly, because within 12 months the residential building industry will be feeling the pinch.

In a previous life as a registered builder, I had some immunity from the fickleness of the residential building industry that some of my counterparts in Perth had to roll with and work through. In the country, the dynamics of the building industry are slightly different. Builders shift from residential to commercial to industrial building, and they are prepared to travel around the regions hunting for work when things slacken off a bit. Therefore, they are able to weather the bad times much better than many of the Perth builders are able to do. If it will be 12 months to two years from now before the minister has a final resolution to this insurance problem, many builders who are currently in Perth will not be around to enjoy the benefits of whatever the minister puts in place. He must be aware of that. He must be aware that, whatever he does or does not do from today onwards, over the next 12 months to two years the residential building industry will suffer severe ructions.

The minister adequately made the point that rushed legislation is bad legislation. Our deputy leader has been careful in the way he has presented this Bill to the Parliament. I agree with the minister that this is a complex issue. However, I do not believe that it is as complex as the minister has made out and been led to believe by all the people who are giving him advice.

I understand that Governments in the eastern States have been able to negotiate with insurance companies - in particular, Dexta Corporation Ltd and Sun Alliance - to get a temporary respite that will enable the industry in

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those States to get by until about 30 June. The minister may ask what those States will do after 30 June. I guess they will cross that bridge when they come to it and probably renegotiate to get another six months. From the minister's presentation, it seems that he has not been negotiating with the insurance companies. I am staggered that no-one who represents the Government has negotiated with any of the insurance companies to ascertain whether there can be some respite while something permanent, which will be of consequence to the industry, is put in place. I encourage the minister to do that. I am sure it is not too late. I appreciate that some of the minister's comments give us hope that he will put something in place eventually. However, I encourage the minister to look at what is happening in the industry and to do something about it now to give it some temporary relief, so that those in the industry can start building again.

In my area, this has not been an overwhelming issue. Builders have not been beating their way to my door to tell me that they are going out of business because they cannot get builders indemnity insurance. In many cases, a person who has wanted to undertake a development has been able to go to the shire and get a building licence issued in his name. Therefore, he is an owner-builder. What is the difference between offering temporary exemption and owner-builders being able to walk into the shire to get a building licence to allow a builder to build their house for them? If one is of a mind to be a little creative in solving this issue, there are ways around it.

I will conclude because I know that our shadow spokesperson wants to make further points on this Bill. If for no other reason than the minister has a mind to do something about this, he must have some regard for how good the building industry has been for the coffers of the State Government during these boom times. Some interesting points were made in a briefing note that was provided during debate on the First Home Owner Grant Amendment Bill 2002. That briefing note states -

Gallop Labor Government has benefited greatly from the FHBG -

That is, the first home buyers grant -

through increased revenue from stamp duties on conveyances and generally through increased employment and economic activity in the building and construction industry.

That point should not be lost on the minister and the Government. They have received almost windfall revenue that I am sure they could put to good use to ensure that these builders get some comfort. That should be used to underwrite to some extent the premiums that insurance companies may want to be able to carry the industry through until the minister and the Government are able to put in place legislation that offers a lasting solution to this problem.

**MR MASTERS** (Vasse) [6.06 pm]: Last Saturday night I had the good fortune to attend the Master Builders Association south west branch annual building excellence awards night. I congratulate the MBA for putting on a very good show, but, more importantly, I congratulate all the builders who took part in the event, as well as the suppliers, sponsors and others. When large companies such as J-Corp Pty Ltd won awards - it certainly won more than its fair share, I am happy to say - they certainly showed great enthusiasm. However, the small builders who won awards really showed their enthusiasm and dedication to the industry. The applause and the squeals of delight from both men and women who supported those small builders were excellent.

I do not think the minister appreciates that because this Government has so far done so little to assist small builders who are having housing indemnity insurance problems, the Government is almost sounding the death knell for these people. Members on this side of the House are not prepared to support that. We are prepared to support any worthwhile legislation that the Government puts forward. That is my view. I have not canvassed the issue with my colleagues. However, this is certainly a problem in my electorate. For that reason, I am sure that the Government would get strong bipartisan support if it were prepared to do something constructive.

While I was at the dinner on Saturday night, representatives from the MBA confirmed that, to date, the Government has not done a great deal to help the small builders. The decision of the Government to provide assistance to the large builders was very much welcomed by the small builders. They did not have any problems with it. On the contrary, they offered their strong support for that. In my electorate, many small builders are surviving very happily - they are more than surviving; they are thriving - by building houses, wineries, chalets and other buildings that are valued at \$200 000 or more. My estimation - from what I am told, this is supported by people in my electorate - is that this Government has not done anything to help them in their times of trouble. Because of the circumstances that the industry faces at the moment, the danger is that if the Government does not act soon, only the large companies will survive in the medium and long term.

The difficulties experienced in gaining access to housing insurance will force many small builders out of the industry. The minister might not think that this is a big deal. I do not think that that is his view, but that idea

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might be hidden in the back of his mind. The reality is that small builders fill an important niche in the building industry in Western Australia and, I daresay, around the world. Those small builders do not build project homes. They build houses that are larger, different from and more complex than the houses built by project builders, who have no real interest in trying to target that market. Small builders build houses that the large builders are not interested in building. Just as important, small builders are prepared to embrace innovation and build houses that have architectural complexity, unusual aspects to their design, or the sorts of things that would never be seen in project homes. If those small builders were prevented from operating, it would create uniformity in houses which, to be honest, would be bland, dull and boring for the industry. There would also be less competition. That argument might not carry much weight with the minister, but in my part of the world there is healthy competition between small, medium and large builders. If any part of that segment were removed, the industry as a whole would suffer.

The longer these problems continue, the more difficult it will be for new people to get into the industry and start up as small builders. For example, a good brickie, plasterer or someone who has been working for a large company might think that he or she had enough experience to follow what I guess is everyone's dream; that is, to start a small business. If the requirements forced on those people by insurance companies were such that they must supply \$500 000 or \$1 million in collateral or some sort of bond or security, small businesses would not start up. Someone in his mid to late 20s would simply not have the financial ability to provide that sort of security or surety to a bank or insurance company in order to start a new business. If we are not careful, over the next few years we might see the number of small builders decline. That would be detrimental to the industry as a whole.

I repeat the important point that the Housing Industry Association has a vested interest in not agreeing with the legislation that has been put forward by the Opposition. It could be argued that the HIA has a conflict of interest because of its involvement with Sun Alliance. I cannot provide details of that involvement, but I understand that HIA and Sun Alliance have some sort of agreement in place. I am not sure whether HIA receives a financial benefit from that, but it would not surprise me. Nonetheless, it is beholden upon the minister to find out what that relationship involves. If there is a conflict of interest - if financial considerations are clouding the judgment of HIA and its advice to the minister - the minister needs to make a decision and perhaps give greater consideration to the view of the Master Builders Association than to the view of the HIA.

The minister made a number of statements with which I strongly disagree. I will leave it to the mover of this Bill, the member for Mitchell, to explain our point of view and detail our concerns. The bottom line is that this legislation is designed to give the Government and the minister some breathing space. I agree with the minister's statement that this Bill will not solve the problems in the longer term. The Opposition is trying to give the minister some short-term breathing space and the industry some time to come up for air. The Government has been charged by the electors of Western Australia with the responsibility to solve important and serious problems such as this and to come up with medium to long-term solutions. At the moment, the minister seems primarily to be saying that this Bill does not provide long-term solutions. The member for Mitchell may correct me, but I believe that to be a fair statement. However, the minister is focussing on the wrong end of the argument.

Mr Kobelke: The member is saying that it is a short-term solution and so am I. The key issue is whether the short-term fix will undermine the long-term fix. That is where we may have a difference of opinion.

Mr MASTERS: I thank the minister for his comment. Nothing that the minister said in his earlier presentation to this place suggested to me that the problems that this legislation might create are insurmountable. To the contrary, everything that I have been told by the MBA and small builders in my electorate is that this legislation will go a long way to solving the short-term problems without compromising the long-term solutions on which I hope the Government is actively working. On behalf of small builders in my electorate, I strongly support this legislation.

**MR D'ORAZIO** (Ballajura) [6.15 pm]: This issue is important to not only the building industry but also the whole community. On first reading the Bill, a person might think that it contains a short-term, sensible solution.

Mr Sweetman: Stop right there. You are dead right so far!

Mr D'ORAZIO: Let me add that we, as a Parliament, need to remember why home indemnity insurance was introduced in the first place. Members of this Parliament decided that it was important that this protection be provided because there were problems within the industry with people who did not have the wherewithal to make decisions or an understanding that they would get into a predicament. This legislation takes the onus off the industry and puts it back on the consumer. By exempting builders from the need to have home indemnity insurance, it puts the onus back on the poor old consumer, who must make a decision. It is okay for a builder to

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tell someone that he does not have indemnity insurance and that it is the consumer's choice whether to build with him, but is that really a choice? If there is a price difference of \$10 000 or \$20 000 between a builder who has insurance and one who does not, and the person who does not have the insurance assures the consumer that he is a wonderful builder who has built many houses, how will the consumer know that the builder is reputable or financially secure?

Mr Pental: You don't, but you then make the decision not to go down that path.

Mr D'ORAZIO: The first time that happens and a builder falls over, we, as politicians, will be blamed. We will be asked why we allowed that to happen.

Mr Barron-Sullivan: That is exactly what happens with cars at the moment. You can knock out your warranty if you want to. Do you want us to legislate on that?

Mr D'ORAZIO: I get back to the point that we, as a Parliament and a community, decided that we wanted this protection. A situation has now arisen because there is a problem with accessing insurance. That problem does not exist only in the building game. This week I tried to get public liability insurance for a simple fashion parade at the Westfield Galleria Shopping Centre in Morley. We have never had a problem doing this before. Now, not one company will give us public liability insurance. We are in danger -

Mr Barron-Sullivan: If your Government took some action, you could fix this problem. It is a state government responsibility.

Mr Brown: Rubbish. You know that is a lot of rubbish.

Mr D'ORAZIO: Since 11 September and the collapse of HIH Insurance, there has been a change of culture. We need to recognise -

Mr Barron-Sullivan: Fourteen months ago there was nothing about public liability or public indemnity insurance.

Mr D'ORAZIO: The Deputy Leader of the Opposition can talk as loudly as he likes, but in the end it does not change the facts. It is very difficult to get insurance. In the past four days I contacted some small builders. As members probably know, my background is in small business. I made a lot of contacts with small builders during my local government and Western Australian Planning Commission days. I asked four builders whom I know personally to tell me whether this was an issue. I had heard the minister and the Opposition tell the House about these problems, so I decided to find out for myself whether they were occurring. The builders told me that the situation is a nightmare. Not only have premiums gone up, but also the paperwork is a nightmare. The builders said that it is a nightmare putting together everything that is requested of them in order to get insurance. The minister is correct. The insurers want to know what a person had for breakfast every day for the past 20 years. In addition, the security required is much greater than it used to be. That is a problem for some builders, because many have their business affairs arranged in certain structures to protect their interests. That is good business sense. Because of that, their security is unacceptable to insurance companies and they must make changes.

I was told that they could get insurance, but it was difficult and the system was hard to negotiate. I asked them whether they would like a system that involved no home indemnity insurance. They said they would not because that would create a problem. Fly-by-night builders would come into the industry.

Mr Barron-Sullivan: That is not what this is about. You are misrepresenting it.

Mr D'ORAZIO: It is.

Mr Sweetman: The Builders Registration Board has had as much to do with cleaning up the industry as indemnity insurance; in fact, I would argue that it has done more.

Mr D'ORAZIO: That is probably true. I have seen a couple of examples of it doing that with builders in my electorate. That is great. However, insurance also has an effect. Insurance companies will not provide insurance to people who present too great a risk. They must manage risk and they do not want to pay out if they can avoid it. That provides extra protection for the consumer. It is important that we do not throw out the baby with the bathwater. We must have those protections. This is a stopgap measure.

Several members interjected.

Mr D'ORAZIO: It is a stopgap measure. It will remove a component that provides a premium for the rest of the industry. As the minister said, this could undermine the entire industry.

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Today I was visited by a former colleague who is involved in the building industry. He said that building standards have reduced dramatically in recent times and that it is a nightmare. I do not think it is that bad. He said that the level of training and the ability of some tradesmen has decreased enormously. Tradespeople are saying that we should introduce a registration system because of the problems experienced with some builders. He quoted the example of a tiler who renovated a bathroom. Although his handiwork looked fantastic, he forgot to install an impregnable layer between the tiles and the wall. The bathroom had to be completely retiled at a cost of \$20 000 because he could not match the tiles. If builders use contractors who do that sort of thing, it will compound the problem.

We should forget about scoring political points. We must come up with a system that provides protection for consumers and builders. Home indemnity insurance also protects builders. More importantly, we should ensure that the industry is sustainable. The minister is doing that very well. The issues are not as simple as members opposite say they are. Supporting this legislation would be a retrograde step. There should be no exemption for buildings costing more than \$200 000. If we were to impose that limit, would we have to decide whether the figure was \$199 000 or \$201 000? What would be the difference? It would be that one building would be exempt and one would not. Why has this artificial limit suddenly appeared? Members opposite have plucked it out of the air. Those who are building houses valued at more than \$200 000 will still be vulnerable. If a consumer can save a few thousand dollars, he will do so. We never believe that bad luck will visit us and that ours will be the dud builder who goes broke. To whom will consumers turn when builders go broke - the Opposition or the minister - to ask why it was allowed to happen? We must solve this problem quickly. I support the minister's stand in trying to ensure that we find a long-term solution. We must introduce competition in the insurance marketplace. Insurance companies are charging astronomical premiums given the risks to which they are exposed.

At the end of this process, we need a sustainable building industry, protection for consumers and an insurance system that provides not only home indemnity insurance but also public liability insurance. That is the other big issue facing this community. If we do not achieve those goals, we will face severe problems. I commend the minister for his stand and strongly oppose this legislation.

**MR BARRON-SULLIVAN** (Mitchell - Deputy Leader of the Opposition) [6.26 pm]: I acknowledge those people in the gallery who have come to witness the debate on this legislation. I thank them for their patience.

I raised some specific examples during the second reading speech. One in particular was moving. Just last week a builder telephoned my office in tears. I leave members with that thought. There is a human cost to this situation. While we have this political debate, the livelihood of some families is on a razor's edge. I am aware of a number whose cashflows are affected and whose businesses are on the verge of bankruptcy because of this situation. They are predominantly in regional Western Australia. The minister and I had a meeting the other day at which I alerted him to the extent of the problem. This legislation is designed to tackle that situation.

I said in my second reading speech and at the meeting with the minister that the Liberal Party is hoping to break through the political barriers and to work with the Government to achieve a solution for the building industry. I will talk out of school and recount what I told the minister. I said that if the Government wanted to take over this legislation, if it thought there were technical faults or if it wanted to be seen to be taking action, the Liberal Party would back off and work with him. I think I said, "If you want to take the kudos, go for it. We just want the result."

Several members interjected.

**Mr BARRON-SULLIVAN:** The member can laugh. I will address every point he and the minister have raised.

The Liberal Party has worked with the building industry for 12 months. Members on this side have been waiting for a solution from the Government since the collapse of HIH Insurance in June or July last year. That is when the full extent of the problem became apparent. We raised the issue in August and started pushing for measures such as a mutual benefit fund. Nothing has happened. That is why we have tried to force the Government's hand.

A fax I received epitomises the view of many small builders. I say "small builders", but some have a turnover of as much as \$8 million or \$10 million a year. The fax was from a builder in a regional area who simply begged for help because home indemnity insurance was sending him broke. That fax summarises the situation better than anything else I have received.

I am pleased that the minister has acknowledged the problems in the industry. I am also pleased that the member for Ballajura has accepted that extensive delays are being experienced by builders trying to get indemnity insurance.

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Members must bear in mind that this insurance is obtained job by job. It was not only the smaller builders who were caught out when Dexta Corporation Ltd pulled out of the market; larger builders have also suffered. They suddenly realised that they did not have an annual policy. As the new jobs came on stream, if they had been insured with Dexta, they could not get new policies. I have been inundated with correspondence from many people, including some from the electorate of the member for Ballajura. I suggest that he consult other builders. One building company stated -

We now have 7 current residential buildings that will be held up by the withdrawal of Dexta from the industry. This work is worth approximately \$2.8m

Another company told me that since the collapse of HIH Insurance it had experienced several problems, including delays in evaluating the company and then in issuing policies. That caused considerable delays in managing the company's work. It was assessed as exceeding the limit by \$40 000 because it won a contract to build a large home that took it over the \$1 million limit. The company was still waiting for insurance cover. I could relate a number of examples like that. Members are aware of many examples of builders who, unfortunately, are being offered insurance cover for an amount lower than their total project capacity. Put simply, I have been told about builders with projects worth \$6 million who were offered insurance worth \$3.5 million. Those are real life, typical cash flows of businesses, which obviously have flow-on effects to their subcontractors, businesses and employees.

Mr D'Orazio: Why have you picked on one candidate with \$200 000-plus?

Mr BARRON-SULLIVAN: I will answer the member's questions later.

Mr D'Orazio: You are picking on one category.

Mr BARRON-SULLIVAN: The member should settle down. He will have answers to all of his questions later.

I will give a stark example of the problems in the industry. A small business with building operations in a couple of different States is doing \$1.7 million worth of residential building in Queensland. The business was assessed by Queensland's centralised system and offered insurance worth \$1.7 million. The business was assessed for home-owners' warranty in the other State in which it operates but it was not given approval for \$1.7 million worth of insurance. A form I have with me states that the maximum total value of all residential building works in any 12-month period is \$1. I am not joking - it is \$1. That is the nonsense that builders are having to put up with. Insurance companies in the past 12 months have been playing God; a couple of members on this side of the House have alluded to that in no uncertain terms.

Mr Kobelke: Are you willing to provide me with a copy of that form?

Mr BARRON-SULLIVAN: Yes, if the business is willing to do so. I will give any information to the minister that the builder tells me is publicly available. I have told builders to contact the minister and the Premier. Some builders have said they are reluctant to do so, for whatever reason. However, if they are prepared to make documents publicly available, I am more than happy to do so.

Mr Kobelke: Will you seek to get me a copy of that document?

Mr BARRON-SULLIVAN: Yes.

I have a series of dot points in another document that summarise a range of builders' situations. One had a \$300 000 limit put on construction projects in Broome after the collapse of HIH Insurance. I might be giving this away a little by saying it occurred in Broome. However, that effectively meant that the builder could build only one house at a time. The people I am referring to have been in the building game for more than 30 years. As I said, we are dealing with builders who are not shonky, fly-by-nighters or so-called phoenix operators. They are the salt of the earth of our small business community. Many of them have been involved in the industry for between 20 and 40 years and have very good reputations. These are the people who are affected by the current situation.

Another builder has said he has \$2 million worth of work that he cannot start if the problem is not solved now. He was asked for a bank guarantee of \$1 million to increase his indemnity cover. That may or may not be the example referred to by the minister. I have been given a couple of examples with those exact figures and other examples that point to a similar situation.

Another aspect that members have heard about since the HIH collapse, not just since the withdrawal from the home indemnity insurance market of Dexta Corporation Ltd, is the huge increase in costs. A leaked copy of the departmental report that we obtained last year indicated that costs had increased by as much as 1 400 per cent; I assure the minister that nothing has changed.



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Another builder said -

Indemnity insurance premiums have skyrocketed from under \$300-00 to \$1,400-00 per policy for contracts of \$200,000-00.

A crazy aspect of this issue is that two different builders give two different figures for similar-size projects. It is clear that in the past year major project home builders have been charged fairly low premiums and smaller builders have been charged loaded-up premiums. The current situation is not creating a level playing field and is putting the small business sector at a commercial disadvantage against larger home builders. The problem affects not only building but also renovations. The Opposition accepts that there are a couple of weaknesses in this private members' Bill. I will refer to that in a moment because one weakness relates to builders who do renovation work predominantly.

There is another builder who was hit with a premium of \$820.50 for additions worth \$30 000. Those additions were for a family whom the builder has known all his life, so there was no risk. The family did not want any indemnity insurance arrangement. Another builder with a \$30 000 improvement contract had a comparable insurance premium. Another crazy aspect is that a builder who wants to build his own home must pay indemnity insurance; in other words, if he shoots through, he is covered for the loss! Can members imagine that? A builder must provide indemnity insurance to build his own home.

There are many such examples and I know from talking to the minister and from listening to him tonight that he acknowledges that. However, he is on the record much earlier than today acknowledging the potential for problems in the indemnity system.

I take members back to 1996 when the then coalition Government introduced the home indemnity insurance legislation. At that time HIH Insurance was in the market and an abundant number of insurance options were available with very low premiums. At that time it was envisaged that premiums on an average job would be about \$200 to \$300, which proved to be true. I believe the member for Kingsley brought the legislation into the Parliament. However, the current minister flagged some problems and I quote from *Hansard* of 17 September 1996 in which he said -

We will need to watch that carefully.

The current minister was referring to the cost of indemnity insurance. He continued -

I say that not from the point of view of insurance companies profiteering in this area. It is an area of some complexity and forces may come into play that could push up the price of indemnity insurance. I am not sure what role the Minister of the day will be able to play to try to control that.

I do not think the minister even knows now. He continued -

Obviously the market will be the guiding influence on the cost. However, we will have to monitor it to ensure it remains a small component of the overall cost of building a home.

The minister went on -

In many instances, people who are not fully conversant with all the factors that they should consider when weighing up their decision on what builder to employ have chosen not to insist on indemnity insurance and that has led them into a great deal of heartache and financial loss because they have contracted a builder who could not complete the contract. This legislation will place all builders on the same footing.

That may have been the case when the legislation was introduced - no-one disputes that - but it is not the case now. Builders are not on a level playing field. Some cannot get insurance, others have to wait weeks and months to get it and others have had to take a cocktail of insurance between Dexta and Sun Alliance. Now that Dexta has gone, they cannot get enough insurance. Some builders are paying \$850 for a premium on a project, whereas others are paying slightly more than \$100 for a project of the same size. There is therefore no level playing field.

In 1996 the minister went on to say -

However, we know that these things must take place by some bureaucratic means where assessments are made based on standards and criteria. In establishing that mechanism for assessing builders, insurance companies may use criteria which are useful for the actuaries and the insurance company, but which do not reflect the realities of the building game.

Wow, he got it in one! That is exactly what is happening. The minister continued -

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Through a process of developing the criteria by which they offer insurance, they may exclude some reputable builders who build good quality homes.

The minister recognised back in 1996 that all this could happen. The collapse of HIH occurred 14 months ago. We could allow for some lag time for everyone to realise the implications, but the minister must have heard the Opposition in this place in August saying what needed to be done, yet here we are next May still waiting for some action. The matter has got to the stage that the Liberal Party is making inquiries - leaving aside private members' Bills - about whether the matter can be referred to the Australian Competition and Consumer Commission. There is not a level playing field and small builders are being screwed. Frankly, it is not an acceptable situation and we may have to get federal intervention if the minister is not prepared to act quickly on the matter.

Mr D'Orazio: Why don't you see your federal colleagues?

Mr BARRON-SULLIVAN: I beg the member's pardon, but this is a piece of state legislation. I suggest the member get a copy of the legislation that passed through this Parliament in 1996.

Mr Kobelke: Yes, but the Commonwealth looks after insurance and the Commonwealth doesn't want to do anything.

Mr BARRON-SULLIVAN: I assure the minister that we will debate public liability another day. The Home Building Contracts Act places a statutory requirement on builders. Government members may not understand the principle that when the Parliament and the Government say to the small business sector, "Thou shalt do something and we are going to pass an Act of Parliament to make sure you do something" but the system falls in a heap, the onus is then on the Government and the Parliament to fix the problem. Many builders have no choice in the situation. They say that Parliament has forced them to take out home indemnity insurance and, because that industry is now in a mess, Parliament should do something to get them out of that hole.

Mr Bowler: Who did nothing about the HIH collapse? Your colleagues. Did you criticise them or did you criticise Johnny Howard? You did nothing. You are playing politics.

Mr BARRON-SULLIVAN: The member should crawl back into his hole or support the builders in his electorate and provide them with an immediate solution by dealing with this state legislative problem. It is interesting that the member for Eyre interjects like that, because the next point I was going to make is that the areas most affected tend to be out in the regions. A number of builders in the Kalgoorlie region are directly affected by this situation. Builders in regional areas have indicated what the impact will be. I could refer to any of the regions, but I will pick Albany. The Master Builders Association - not us - has surveyed builders in the Albany area. Guess what, half the builders in that region are directly affected as a result of the problems that we are talking about here tonight. Although the member says I am playing politics, I did not go down to Albany and survey the businesses and ask them if they had a problem and work up the issue. The MBA representatives surveyed the builders and asked if there was a problem. By God, there was a problem! The builders and the subcontractors in that area account for one-third of the employment. The Government is damaging the interests of half the builders in Albany. I leave it to members to work out what effect that might have on a regional centre. I have firm examples from Geraldton showing businesses that are now struggling because of this situation. I have examples from Bunbury and the south west, to which the member for Vasse referred. The member for Ningaloo has pointed out the situation in Karratha and Broome.

Members might say I am making a political issue out of this. We made a political issue out of this last August - if the member wants to put it that way - so that his miserable mob would get off their backsides and do something for the industry. I am a politician; yes, I make political issues out of things. I come into Parliament and I represent my constituency. That is what I will continue to do until the minister wipes the Cheshire grin off his face and takes some action. I was not going to take this approach tonight -

*Point of Order*

Mr KOBELKE: It is a fine point in terms of impugning a member, but the Deputy Leader of the Opposition obviously has a guilt complex about HIH donating huge amounts of money to the Liberal Party and then allowing it to create the biggest corporate collapse in Australia's history. The member therefore assumes that my grin is somehow supercilious. I am just grinning at his stupid performance. The Liberal Party did nothing to protect consumers from APRA and HIH.

The ACTING SPEAKER (Mr McRae): There is no point of order. If the Leader of the House felt that he had been maligned, he is now on the record as having corrected that.

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*Debate Resumed*

Mr BARRON-SULLIVAN: I am sorry to have upset the minister's sensitivities. Later I will specifically address the points he raised. The lack of action in this State is forcing a lot of builders to go underground. We are aware, as I am sure the minister is, of a number of things builders are having to do to keep working and to earn a dollar. I will use New South Wales as an example, because I do not want to impugn builders in this State in any way. I am not saying that builders should do anything that is against the requirements of the Builders Registration Board or anything like that, but I can understand the situation in which they find themselves. There is a lot of illegal work going on in New South Wales because consumers want homes built and renovations done and they do not want to bother with indemnity insurance for whatever reason - maybe they know the builder personally or whatever. It has been estimated that prior to this problem occurring approximately eight per cent of residential construction work was accounted for by owner-builders. That is now up to 35 per cent. That ain't no coincidence! We are aware of what is happening in the industry. I will not go into detail. It is grossly unfair on builders and their families when, in order to earn a living and keep their cash flow ticking over, they have to look at these means to carry out their business.

Before I go through the issues raised by the minister, I point to the feedback we have received concerning this private members' legislation. We get branded as playing politics and, while the minister is saying that not everyone in the industry supports this legislation, we have worked with the industry for 12 months.

Mr Kobelke: The inquiries we have made in Albany in the past few days show there have been no increases in applications for building licences and there have been no increases in the number of owner-builders. There is a potential problem in Albany. We heard the complaints in Albany and we have checked out a few things. I have spoken to an Albany builder and there is a problem. The member is grossly overstating some of those problems.

Mr BARRON-SULLIVAN: Has the minister spoken personally to the representatives from the MBA in Albany?

Mr Kobelke: Yes. I have met with them.

Mr BARRON-SULLIVAN: They would not be giving the minister that story. I take my hat off to the builders in Albany, because they are obviously not attempting to foist the problem onto people as owner-builders and so on, which I know is happening in other regions. The MBA conducted a survey in Albany and released a statement last week saying that 50 per cent of the builders are affected by this problem. That is one of the dilemmas. If the minister were serious about this issue he would get his department to contact all the builders and find out the extent of the problem; he does not need us to give him anecdotal evidence or for us to come into this place with wads of information. The minister has acknowledged there is a problem, I commend him for that, but there has been a very positive reaction to what we are doing. Having said that, some builders have pointed out that there are some deficiencies in our Bill. I will come to those in a moment. We also knew we would have to draw a line in some areas, and that could create problems. I will touch on those issues in a moment. There is a solution for every one of those problems.

Our Bill may need to go a little further than we have set out, particularly for those builders who do a lot of renovation work and to cover some anomalies, such as where builders build their own homes. The other day we discussed the option of giving a bit more flexibility to the minister so that he could take individual circumstances into account. The BRB has a very extensive audit and regulatory capacity in that respect and it would not be difficult for a builder to say, "I do all my work as renovations; I am having huge problems". By amending this legislation the minister, in a very easy way, would then have the power to apply an exemption arrangement in that case. Where the minister knows that the builder has a good background and the BRB is certain and so on, he could mop up the situations that this legislation does not take into account. Nine out of the 10 builders who got back to us said that this legislation would fix their problem.

I now want to go through the key points raised by the minister. I acknowledge and thank the National Party and the Independent members for South Perth and Alfred Cove for their support for this legislation. I have seen a copy of the amendment that the member for Alfred Cove had in mind and I have no problems supporting it, because it tightens up the disclosure requirements and that is a perfectly good thing to do. The minister has said that this Bill will damage the prospects for a mutual fund. He is basically saying that by taking people out of the compulsory indemnity arena he will reduce the pool from which the equity of the mutual funds could be increased. If builders go broke or move out of the market, they will not be there to contribute to the pool anyway. If the minister does not take instant action and find an immediate solution, he will definitely jeopardise the potential for a mutual fund in the future.

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I make one simple point. Does the member for Ballajura know who is pushing the strongest for a mutual fund? It is the MBA in this State. Does the member know who is firmly behind the Bill before us tonight? It is the MBA. The people who want to get this fund up and running and who are doing all the legwork are saying that they think this is a great temporary measure to put in place so that a mutual fund can be established. They would then have the best of both worlds, good consumer protection and every builder able to access insurance at a competitive rate and so on.

It would not be our Bill, if it went into law, that would hold up a mutual fund; it would be the need for government action. The minister said earlier that he has drafted the legislative changes that will be required to enable a mutual fund to be established. We on this side are not convinced that we need legislative changes. The minister is aware that there is a legal opinion that legislative changes are not required to get a mutual fund up and running. However, assuming the minister is correct and legislative changes are needed, there are two requirements. The first is that legislation will have to be brought into this place. We have heard talk about that legislation for some time now, but I have not yet seen it.

The second requirement is that the legislation will have to get through both Houses of this Parliament. I hate to disillusion builders, but if that legislation were to get through both Houses of this Parliament in a year and half from now, I would be surprised. An example is the motor vehicle dealers legislation that we debated in this place in November. We on this side said we so supported the industry and wanted to do the right thing by it that we would have only two speakers - the member for Kalgoorlie and me. Other members wanted to speak on that Bill and support the small businesses in their area, but we said we would have only two speakers and would not even go into consideration in detail. We said we would rush the Bill through this Chamber and get it into the upper House, because the Government had indicated to the industry that it would get that Bill through the upper House in December. Guess what! That Bill is still bogged up there in the queue.

Mr Kobelke: Along with 40 other Bills.

Mr BARRON-SULLIVAN: That is because of the priorities of this Government.

Mr D'Orazio: Whose fault is that?

Mr BARRON-SULLIVAN: Who brought in the gay and lesbian reform legislation? Who brought in the legislation to look after the Government's union mates? The Government could have set that legislation aside and looked after all these other people.

Several members interjected.

The ACTING SPEAKER (Mr McRae): Order, members! We were going so well.

Mr BARRON-SULLIVAN: Thank you, Mr Acting Speaker, even though I do not take that interjection personally.

The other thing we will need is a reinsurer. We can have a mutual fund, but we will still need to have an insurance capacity. I am very keen to know whether the minister would support a proposal that the Government provide an underwriting facility for a mutual fund. In principle would the Government underwrite a mutual fund established by the industry?

Mr Kobelke: Not on the basis that we would not do the same across the field.

Mr BARRON-SULLIVAN: At the moment the Government is underwriting over \$10 million for Sun Alliance.

Mr Kobelke: If the mutuals want that offer for over \$10 million, we will give it to them as well.

Mr BARRON-SULLIVAN: I appreciate getting that on the record. That may be of some interest. I am aware the minister is involved in discussions on that matter. Those are the things that are needed. It may even be necessary to have an underwriting at a lower amount, but that is undoubtedly something that the minister will be discussing directly with the industry.

Another criticism is that this Bill is limited to 12 months. The Bill makes specific scope for the duration of its operation to be amended by regulation by the minister. It gives the minister broad powers. The minister said there are definition issues and we have put in an amount of \$10 000 instead of \$12 000, and so on. The point we made to the minister the other day is that we are bringing in legislation that our lawyers, in conjunction with advice from the industry, have put together. We know the minister has the heavy guns and all the big lawyers. Therefore, we hope that if this Bill passes this stage, the next stage - for the benefit of those people in the gallery who are not aware - is that I will sit at the Table and have an adviser, and the minister will sit over there with his advisers, and we will go through the Bill clause by clause and tidy it up. That is how this process works. With a

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Mr Mike Board; Mr Rob Johnson; Acting Speaker; Dr Janet Woollard; Mr Terry Waldron; Mr Pandal; Mr Jeremy Edwards; Mr John Kobelke; Ms Sue Walker; Mr Rod Sweetman; Mr Bernie Masters; Mr John D'Orazio; Mr Dan Barron-Sullivan

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two-page piece of legislation, we could knock it off in no time at all. We would have good expert advice, and technically the legislation would go out of this House shiny and absolutely perfect. However, it will then go to the upper House. Guess what? A lot of people think the upper House plays the role of a House of Review. The upper House may go through the Bill again and say it has found a spelling error or a definition problem, or whatever, and it can tidy it up. All that means is that we put the politics aside and work together. It is absolutely dead easy.

I have to touch on the arbitrary \$200 000 limit, for the benefit of the member for Ballajura. If the minister wants to make the limit lower, I am more than happy to do that. I accept it is difficult. We have to draw a line in the sand. We can draw it a bit lower or a bit higher. There are arguments for both. The industry has told us that a limit of \$200 000 is about right. However, we accept that some builders will still be caught out. I spoke to one builder who predominantly builds homes in the \$120 000 mark. He told me he loves what I am doing and it will help loads of other builders, but it will not help him. I raised this matter with the minister and said we are happy to make provision in this Bill so that the 10 per cent or five per cent of builders who will not be helped by this legislation may be helped on an individual basis. The minister has said he will have a review process. There is no reason that he cannot build that into the Bill as well.

Another issue is consumer protection. The members for Alfred Cove and Vasse, and others, made the point that we can make the disclosure requirements as specific as we want. We can have a piece of paper that says in bright orange writing that there is no indemnity insurance on the contract that people are about to sign. It can explain the ramifications. It can even contain information about progress payments and so on. The consumers can then make up their own minds. We accept that this Bill is not a permanent solution. This Bill is not what we really want to do. Last August we said to the minister that we would prefer another course of action. However, even if the minister were to agree tomorrow morning to set up a mutual fund or a levy-based system such as the system in Queensland, it will take a long time to get to that stage. The minister has looked after the top end of town. He has looked after BGC, J-Corp and Dale Alcock, and I commend him for taking action on their behalf, but he needs to look after small businesses as well. I am prepared to sit down with the minister or anyone on that side to work through this Bill again. The minister has said he will oppose it.

I know where this Bill will go tonight. We will work with the Government on this Bill. We will give it another go if the minister wants. We will address every point the minister has raised tonight. I have written down all the points and I have written the solutions opposite. I think most of them are the sorts of things that will come out of the consideration in detail stage, as they do in other legislation. The simple fact is that we cannot wait any longer. We need an immediate solution while a permanent solution is put in place. We have offered the minister a bipartisan approach. Two of the independent members of Parliament have spoken, and I hope the others will be sitting on the same side if this Bill comes to a vote. I am delighted that the National Party has supported the Bill. All we are asking is for the minister's cooperation on behalf of builders and their families throughout the State.

Question put and a division taken with the following result -

Ayes (17)

Mr Ainsworth	Mrs Edwardes	Mr Masters	Dr Woollard
Mr Barnett	Mr Edwards	Mr Pandal	Mr Bradshaw ( <i>Teller</i> )
Mr Birney	Ms Hodson-Thomas	Mr Barron-Sullivan	
Dr Constable	Mr House	Mr Sweetman	
Mr Day	Mr McNee	Ms Sue Walker	

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Mr Mike Board; Mr Rob Johnson; Acting Speaker; Dr Janet Woollard; Mr Terry Waldron; Mr Pandal; Mr  
Jeremy Edwards; Mr John Kobelke; Ms Sue Walker; Mr Rod Sweetman; Mr Bernie Masters; Mr John D'Orazio;  
Mr Dan Barron-Sullivan

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Noes (25)

Mr Andrews	Ms Guise	Mr McGinty	Mrs Roberts
Mr Bowler	Mr Hill	Mr McGowan	Mr Templeman
Mr Brown	Mr Hyde	Ms McHale	Mr Whitely
Mr Carpenter	Mr Kobelke	Mr Marlborough	Ms Quirk ( <i>Teller</i> )
Mr Dean	Mr Kucera	Mrs Martin	
Mr D'Orazio	Mr Logan	Mr Murray	
Dr Gallop	Ms MacTiernan	Mr Quigley	

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Pairs

Mr Trenorden	Mr O'Gorman
Mr Grylls	Mr Watson
Mr Johnson	Mr Ripper
Mr Waldron	Ms Radisich

Question thus negatived.

Bill defeated.

*House adjourned at 7.00 pm*

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