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## **INSURANCE, INDEMNITY PROBLEMS**

### *Matter of Public Interest*

**THE DEPUTY SPEAKER** (Ms Guise): Today I received a letter from the Deputy Leader of the Opposition seeking to debate as a matter of public interest the following motion -

That this House condemns the Minister for Consumer and Employment Protection, the Minister for Housing and Works, and the Minister for Small Business, who have failed to resolve serious indemnity insurance problems confronting Western Australian builders, subcontractors and the broader community almost six months after the HIH Insurance collapse, and demands that the State Government take responsibility for the urgent development of immediate and long term solutions.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The DEPUTY SPEAKER: The matter shall proceed on the usual basis.

**MR BARRON-SULLIVAN** (Mitchell - Deputy Leader of the Opposition) [2.40 pm]: I move the motion.

Six months after the collapse of HIH Insurance, the repercussions are still being felt throughout the national economy, but nowhere more so than in the building and subcontracting industry of Western Australia. Whereas within weeks of the HIH disaster we saw action being taken by other State Governments to assist builders and to alleviate the problems in the residential building industry, to date we have seen no concrete action by this Government.

The Liberal Party has known for some time that the building industry is facing a major problem. Members on this side have been inundated by builders, subcontractors, new home buyers and others detailing the negative impact this is having on them. We have suggested that urgent action be taken. Hon Barry House, the opposition spokesperson for housing, has raised the matter with the Government a number of times. However, every time the issue is raised, the concerns fall on deaf ears.

The Government's response so far has been to provide some support for consumers. It has done nothing to tackle the cause of the ongoing problem in the residential building industry. Builders cannot get indemnity insurance, they have to pay too much for it or the conditions are too onerous. The Government has left it to the industry to come up with solutions. It has heard the crisis call from the building industry and put it on hold. It has left it to the industry to establish a review and to get the stakeholders together. Six months have elapsed since 15 March and we have seen no action from this Government.

The building industry is highly efficient and vitally important for the ongoing economic wellbeing of this State. We now know the full extent of the problems in the industry. The Department of Consumer and Employment Protection has carried out an extensive survey of builders. The Liberal Party has obtained a copy of the as yet unreleased report on that survey. I believe it will be presented to the minister on Friday - perhaps this matter of public interest debate has expedited that process. The report's key findings are worth noting. The information collected is the product of an extensive survey of builders throughout the State. It indicates that 68 per cent of builders who had previously been insured by HIH said that they had been significantly or severely impacted upon. In addition, 90 per cent of builders who were insured with HIH as at 15 March had tried to obtain home indemnity insurance with another insurance company, and 35 per cent - more than one-third - had been unsuccessful. These are the minister's figures that he has not yet released - if, indeed, he has seen them. Another 46 per cent said that projects had been delayed due to the HIH collapse. The total value of delayed projects affecting the respondents to this survey was more than \$266 million. That would be a conservative figure, because others who did not reply would also have been affected.

Mr Barnett: That would involve many jobs.

Mr BARRON-SULLIVAN: This is one of the most labour-intensive industries in the country. The projects delayed were worth, on average, over \$1 million, and one builder had a project worth \$40 million delayed. On average, 56 per cent of every builder's work has been held up. The average delay has been more than eight weeks.

Without a doubt, insurance companies are in a position to pick winners. The Builders Registration Board of Western Australia is supposed to determine who can and cannot hold a licence to carry out work. Much to the dismay of builders throughout the State, the insurance industry is now fulfilling that role. In fact, 56 per cent of builders previously insured by HIH have been required to provide personal guarantees as a condition of obtaining some form of indemnity insurance.

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The minister's report has found that indemnity insurance costs have skyrocketed by up to 1 400 per cent. The average increase in costs is 97.4 per cent. Building indemnity insurance costs have almost doubled since the HIH collapse. In spite of that, we have seen no concrete action by the minister. It is interesting to note that the Minister for Small Business is not in the Chamber, despite the fact that he is mentioned in the motion and that he should be playing a key role in resolving this matter. That demonstrates the arrogance of this Government and its real attitude to small business.

Mr Barnett: We have just witnessed his ignorance about local content in the south west.

Mr BARRON-SULLIVAN: That is a key small business issue.

The average delay in processing insurance applications is 16 working days. This is important for builders who want to get on with the job. If they were previously insured by HIH, they can expect an average delay of 20 days. It is no wonder that the builders did not simply fill in the survey questionnaire - they also included a range of comments. The draft report states -

Almost every comment was negative and pointed to the need for an overhaul of the system, which appears to favour the insurer.

One builder said -

The situation is ludicrous. The builders' registration board says we are fit to operate as builders. We have not had a problem or a claim against us and now some insurance company is holding us to ransom.

Another builder responded -

The whole situation has been unbelievable and has added extra stress unnecessarily.

Yet another said -

This is a complete monster giving 3 insurance companies control over the building industry in Australia.

Another builder said -

Time has been lost and extra cost setting up home indemnity insurance. We have cut firewood and timber to keep men employed. If it was not for the firewood and timber we could not have continued in business.

Ms MacTiernan: Is Mr Prosser doing anything?

Mr BARRON-SULLIVAN: This Government should be doing something about this.

Ms MacTiernan: Have you told Mr Prosser about this?

Mr BARRON-SULLIVAN: This Government is sending builders out to cut firewood to earn a living because it is not prepared to help them. The minister responsible has not even bothered to come into the Chamber. I hope that he is listening and that we will see him in the Chamber shortly. It is time for urgent action. One minister is in here and one acknowledges the problem. In the short term, the Liberal Party demands that the Government underwrite the risk that is being taken on by builders who cannot obtain indemnity insurance, who are finding it hard to obtain or who are being charged too much. It is imperative that the Government find an immediate, short-term solution. A long-term solution also is required.

The minister will be presented with an options paper this Friday. It contains 19 options, two of which are viable for this State. One option involves the establishment of a mutual indemnity group and the other a discretionary mutual fund. They have both attracted industry and Western Australian Municipal Association support. If the Government were prepared to assist by underwriting the risk or by providing financial support, one of those schemes would be up and running very quickly. Importantly, one of those schemes could be operating alongside the existing private insurance arrangements in this State. It would be difficult to consider a system such as that in place in Queensland, because the flat indemnity insurance fee for each project imposed by the registration board would override existing private arrangements operated by the Housing Industry Association and others. The report contains two viable options. The Liberal Party is seeking a firm and urgent commitment from the minister that the Government will run with one of the proposals. More importantly, the Government should put its money where its mouth is. To date we have not seen one skerrick of government support for builders.

Mr Kobelke: That is absolute nonsense.

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Mr BARRON-SULLIVAN: We have established the truth of the situation. The full extent of the problem has been revealed in this report. The minister did not reveal it; the Liberal Party has had to make this information public six months after the collapse of the HIH Insurance conglomerate.

On behalf of the building industry, members on this side demand that the minister act. The minister could commit within a week of receiving the report - it should not take any longer than that because his department has done the work - to an immediate underwriting arrangement for those builders who are still suffering. That would have an enormous economic impact across the State by freeing up the contracts that have been held back and by stimulating activity in the highly labour-intensive residential construction industry. Most importantly, within one working week the minister should be able to commit his Government to provide a long-term solution to the problem in the way that was described earlier on.

Two other members will speak on this matter. One in particular will elaborate on some of the personal problems that the situation has caused to date. However, I want to quote again from the report we have obtained, which canvasses a number of comments from builders throughout the State. The comments by one builder sum up the whole matter. He says -

I have been prevented from earning a living while I wait for government to do something and I am going broke.

Minister, for God's sake do something.

**MR SWEETMAN** (Ningaloo) [2.50 pm]: I will make a small contribution to this debate. In taking a position on these builders who are adversely affected, I first wanted to know what revenue the premiums generated in this State. I have been able to ascertain that between \$7 million and \$10 million worth of premiums are paid per annum for builders indemnity insurance. The further notation is that generally Western Australia has been very profitable for insurance companies. I understand that is not the case across Australia, though, because generally, and particularly in New South Wales, the fund has lost money. As my colleague mentioned previously, there is a dire need in this area. It is imperative that the Government urgently do something to alleviate the problems for many builders in Western Australia, particularly small builders, who are most affected as a consequence of the problems in obtaining builders indemnity insurance.

For the sake of the House, I indicate that the purpose of builders indemnity insurance is to cover the death, disappearance or insolvency of a builder, as well as structural defects extending to six years. There are various proposals within the review committee's recommendations. I would be reluctant to see the Builders Registration Board of WA take on the responsibility for this insurance. I am an advocate of builders indemnity insurance. In some ways I would support a broadening of the concept to ensure that contractors and builders got their money from clients. It must be a two-way arrangement. Subcontractors, wages people and the builders must get their money. No-one should be disadvantaged by the collapse of a builder, and the builder and associated tradespeople should not be affected by the collapse of a client or owner.

For that reason, I support something along the lines of a mutual fund. Perhaps that mutual fund could be set up like a compensation-type fund, along the lines of the banana growers compensation fund in Carnarvon. Under that fund, there is a levy per annum on the growers. The money from that levy goes into a fund that is managed by another person. In recent years they have been able to obtain insurance. When premiums are paid at the time a building licence is granted, it has the advantage of equalising the premiums. I am concerned that large builders are getting a competitive advantage over small builders.

Mr Pandal: I think you might be right.

Mr SWEETMAN: I have heard stories about large builders who are able to demonstrate that they are viable and therefore pose less risk to the insurer, and they are able to cover a house for a premium between \$100 and \$200. A smaller builder might have been in business for only three, four or five years. The business may be viable but -

Ms MacTiernan: Look at what happened to small businesses under the previous Government. One building company went ahead in leaps and bounds because it got such an enormous proportion of the State's business under the previous Government.

Mr SWEETMAN: The minister interrupted my train of thought. I was not taking interjections.

The insurer must extrapolate. It must look forward six years and decide whether a person is a reasonable risk for that time and whether the insurance company is likely to get caught and have to make good some structural defects in the event that the builder goes broke. In the event the builder is still operating, the builder must cover that through his general insurance. Therefore, the builders indemnity insurance is not called on. It is only in the event that the builder goes broke that that indemnity insurance is called on.

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I think my colleague, the member for Vasse, will refer to the draw down by the liquidators on the pool that the premiums have created, because the liquidators take a disproportionate share. There must be more circumspection on the part of local government authorities, the architects or the quantity surveyors - those who sign off on progress payments. If a builder is building a \$200 000 house and he has drawn \$100 000, in the event he goes broke the books are ruled off and the work completed is valued. There could be a discrepancy, particularly the wrong way. Let us say \$100 000 worth of work is paid for, but only \$70 000 or \$80 000 worth of the work has been done. The indemnity insurance covers that gap; it pays out that cost.

I am pretty sure that in most cases the insurance companies would launch an action and claim against whoever certified the last progress payment. In Exmouth, Alf Fernihough Builders went broke, and many suppliers and contractors were owed a lot of money. It was clearly demonstrated that the progress payments had exceeded the value of work done. When the quantity surveyor valued the work, approximately 50 per cent of the work was done, yet a little over 60 per cent of the work had been paid for.

There was a dilemma regarding a Homeswest project. I remember having a discussion with Greg Joyce at the time about who would be sued over it. There was a clear demonstration of negligence, in that the architect who ruled off the progress payments had an idea that the builder was not travelling too well and had cash flow problems. That architect got into the spirit of things. He tried desperately to help this builder out. However, in the end it backfired. Who was liable? If the insurance companies were privy to all that information, I am sure that they would be reluctant to pay out from the fund if they could avoid it by suing the person who validated the progress payment.

Another aspect of this matter is that people are able to sidestep. Although I appreciate the problems my colleagues are experiencing in their areas with their local builders, I have not had problems with builders in my area. A few houses are being built in different places in my electorate. The builders who knew about this matter first up simply got the owners to apply for the building licence. Only one builder has asked me to help him out because he has a problem. I suggested to him that perhaps he should approach the shire council with the owner, and get the owner to apply to be an owner-builder so that the building licence will be in the owner's name. When builders do that, they are under no obligation to take out builders indemnity insurance.

Mr Kobelke: You realise that there is a problem with that for the owner.

Mr SWEETMAN: That is right. That scenario cannot continue. However, if the Government is not able to step in and make an interim arrangement to get all the builders working again on an even keel, that is a reasonable escape route, as unpalatable and unacceptable as I feel it may be.

I support the member for Mitchell in saying that the Government must do something urgently about this problem, because it is affecting many of the smaller-tier builders. It is important that those builders survive and that they be able to offer a quality product at a competitive price to home owners in the first instance. In addition, they should be able to apply some pressure to the large builders, who at the moment are in a unique and fairly fortunate position in the building industry. I urge the minister to do something about it as quickly as possible. I am not able to offer all the solutions to him. However, I am happy to work in a bipartisan way through a range of options that may offer us the best way out of this.

Mr Kobelke: What is the most recent complaint you have had in your area in respect of housing indemnity insurance? Was it last week, last month?

Mr SWEETMAN: In my area the most recent complaint was made some four months ago. However, I know that other members have had a different problem. There is not as much building in my area, and we have solved our problem another way.

Mr Kobelke: The advice is that the intensity of the problem is decreasing. The problem still exists, but not to the same extent.

Mr SWEETMAN: The problem still exists in many areas, and has intensified in some. Premiums have gone through the roof. That is not appropriate. I think the insurance companies have decided that the collapse of HIH Insurance provided a good opportunity to scare the daylights out of the public by saying that building companies have been doing work on the cheap for far too long and that the insurance companies need a reasonable return so that they do not go the same way.

I encourage the minister to do something about the problem, and I look forward to being able to assist him.

**MR MASTERS** (Vasse) [3.00 pm]: One of the reasons our Government lost office after eight years was that a small number of ministers had lost touch with their constituencies.

Several members interjected.

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Mr MASTERS: They were mainly National Party ministers. I am being serious. After eight years, some ministers had lost touch with reality. I am disappointed to discover that this minister has lost touch with reality after only six months. It is important that the minister understand that some serious problems and consequences have arisen from the collapse of HIH Insurance and the Government's lack of action.

My comments relate to a number of discussions I have had with local builders in my electorate, most of whom are based in the Dunsborough area.

Mr Kobelke: Have you checked with the Shire of Busselton?

Mr MASTERS: No, I have not. I am far more concerned about the impact on the builders. The Shire of Busselton is simply a regulator.

Mr Kobelke: The problem is getting a licence from the local authority. The authority will not issue a licence if a company does not have insurance. Asking the authority is a way of checking if a problem exists.

Mr MASTERS: The problem is getting the indemnity insurance.

Mr Barron-Sullivan: Council officers around the State are advising clients to become owner-builders to get around this problem. That should not be happening. The Government must do something about it.

Mr MASTERS: This Government's lack of action has resulted in nine consequences for the local building industry. I bring these to the minister's attention. The first consequence is that Dunsborough and, to a lesser degree, Busselton are experiencing a downturn in building activity that has resulted in the postponement of \$6 million worth of building projects. That has all sorts of implications.

Mr Kobelke: Our phone call an hour ago revealed that no work was held up by the Busselton shire.

Mr MASTERS: The minister is again demonstrating that he is suffering from the Doug Shave syndrome - he is remote from his responsibility.

Mr Kobelke: I am more up to date than you, because we rang an hour ago and were told that nothing was being held up.

Mr MASTERS: How would the Busselton shire know?

Mr Kobelke: It issues the building licences.

Mr MASTERS: That is the problem. The shire will not issue building licences until the builder has insurance, and the builders will not go to the shire until they are reasonably confident they can get indemnity insurance. The minister is putting the cart before the horse.

The second consequence is that the flow-through nature of the building industry means that the \$6 million worth of building projects that have been withheld from builders in Busselton and Dunsborough have also been withheld from associated businesses throughout the south west, which are also hurting. The third consequence is that individual builders face lengthy delays in obtaining indemnity insurance or, in some cases, are refused indemnity. The builders tell me that they must wait an average of six weeks for a home indemnity insurance policy. Some builders have had to wait three months. The fourth consequence is that, especially immediately after the collapse of HIH, the premiums charged by the three remaining players increased by between 200 per cent and 300 per cent. One builder advised me that prior to the collapse he generally paid \$340 for an insurance policy. After the collapse, the average cost rose to \$1 240.

The fifth consequence is that some insurance companies are now demanding that builders provide a security of 25 per cent of the value of each project. That may not sound unreasonable to the casual observer: it is an insurance policy that forms part of a housing indemnity policy. However, the typical Dunsborough builder may have four houses on the go at any one time. The projects in Dunsborough, Eagle Bay and surrounding areas are not \$100 000 spec-built homes but valuable houses worth between \$300 000 and \$800 000. A small builder could be required to pay a bank security of more than \$1 million, which can be obtained only at some cost. The sixth consequence is that the difficulties faced by small builders mean that the large insurance companies favour the big builders. It is a problem. The minister, and members on this side, must agree that competition is an essential part of the building industry. Competition is needed to ensure it remains healthy. Competition between small and big builders results in competition on price, design, quality and materials. There is nothing wrong with the large building companies, but we need the small builders to ensure that the industry is thriving, healthy, competitive and sustainable. The big builders did not have any significant problems meeting the changed conditions. One large builder down south simply took \$1.2 million from its bank account and made it available for the security required by the insurance company.

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The seventh consequence of the Government's lack of action is that barriers are being placed in the way of start-up builders. I use the example of a young employee who is a good carpenter, electrician or brickie and who wants to leave his or her existing employer and start his or her own building company. With minimal assets and little or no reputation, he or she will find it very difficult to jump over the hurdles imposed by the insurance companies. The eighth consequence is a large increase in paperwork. No builder likes to spend time on paperwork, because time is money. The ninth consequence is that many small builders are now forced to go through brokers rather than deal directly with the insurance companies that have taken over from HIH.

All these things are causing small builders in my electorate serious problems. I believe these problems are occurring throughout Western Australia. As a general rule, I do not believe it is appropriate for home owners to apply for building licences.

The Leader of the National Party asked me to mention an issue relating to the costs of the liquidator. I understand that even though the federal Government is coordinating the liquidator's costs, each State Government has some responsibility. I am told those costs are blowing out.

**MR PENDAL** (South Perth) [3.08 pm]: I support the motion. The Minister for Consumer and Employment Protection earlier this year acted with commendable speed to introduce amendments to the workers compensation legislation following the collapse of HIH Insurance. It is a shame that we are not seeing that same speed in the case of builders' indemnity insurance. I will bring two cases to the attention of the House. The real victims of the HIH Insurance collapse, as it is now unfolding, are the reputable small businessmen, most of whom have had an annual turnover in previous years of between \$0.5 million and \$1 million, for building two, three or four houses. The sad thing is that those people are not the culprits. They are the people who have spent a lifetime in the building industry in a relatively small way.

I will now cite a case. One builder I am dealing with, who was the subject of a letter I sent to the minister on 21 June, had been in business all his life. When I asked him whether he was being offered a reduced insurance indemnity and whether he had been in some sort of trouble or his financial circumstances were dubious, he said no. He said that they prided themselves in their business that they actually operated in the black. This business in more recent years has not relied on a bank overdraft, and yet it is being told by the alternatives to HIH that it will have its indemnity cut back by something like two-thirds. That was the case of Mr S.

The second builder who contacted me, and then prompted me to put some questions on the Notice Paper in the past few days, I will identify as Mr F. Mr F has been in the business for 37 years. He has now been given an indemnity insurance limit that effectively cuts his business in half. In response to my letter of 21 June, the minister stated in his letter of 26 July - I can understand the logic behind it - that this was a transitional arrangement and that the businesses were being given the indemnity for a particular job. The insurance company would then give further indemnities for the second or the third job in that year. However, that does not allow a business to plan. That is a most erratic system, and it is actually a recipe for sending people to the wall to say they must plan their year over the space of the first three or four months of the year, and only then will the facilities of the indemnity insurance be extended.

In the final analysis, because my time is limited like everyone else's, the Government has the option to open up this industry. It is currently restricted, as I understand it, to three players. Why should it be restricted to three players? There must be a whole new ball game out there for the entire insurance industry to offer those facilities to middle-class Australia and builders. I do not know the percentage of the market that smaller builders cover but it must be very significant - maybe 15 or 20 per cent of the market - and yet these people are effectively being dealt out of the equation. In recent days, one of these builders came to see me and said that there is no way in the world that young people going into the industry are able to meet all these commitments. Therefore, I ask that the Government act accordingly, and I support the motion.

**MR KOBELKE** (Nollamara - Minister for Consumer and Employment Protection) [3.14 pm]: I thank the Opposition for moving this matter of public interest in order to have this important matter debated. It is one that does cause me concern. However, I do have serious concerns with the form of the motion, and the way it was moved by the Deputy Leader of the Opposition. When people make outlandish claims, it shows that the problem is not being taken seriously. Although a number of speakers on the other side of the House have made very sound comments and contributed to the debate, the Deputy Leader of the Opposition, in his oafish and outlandish statements and the framing of this motion, has clearly shown that he will do anything to try to score political points. He will mislead the House and totally misunderstand the issue, because this Deputy Leader of the Opposition does not give a fig for builders. He will use and abuse people in whatever way he can to try to score cheap political points.

This motion suggests in part that the Government has failed to resolve serious indemnity insurance problems confronting Western Australian builders as a result of the HIH collapse. That is the crux of the motion before

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the House. Let us remember what we are talking about. Just this week, in putting the company into liquidation, the liquidator indicated that HIH's estimate of liabilities went to more than \$5 billion. That is a big cost to industry consumers and ordinary people in Australia. That happened with an insurance company regulated by the federal Government, through the Australian Prudential Regulation Authority; it was not a state government responsibility. The Howard Liberal Party got hundreds of thousands of dollars from HIH Insurance, and its regulator, APRA, turned a blind eye to the activities of that company! As late as last year, APRA gave HIH a clean bill of health when we now know that it was going down fast. This Liberal Opposition and their mates in Canberra were being funded by HIH, under a federal Government regulator that let it get away with it. We must now somehow cover the hurt to builders and a range of small businesses that have been bled to the tune of approximately \$5 billion.

The Deputy Leader of the Opposition made totally false statements, and accused the Government of not fixing the problem. This Government, having put on the record that this is a problem, is now dealing with it. There is still a lot more to be done, and I take it very seriously. The members for Ningaloo, Vasse and South Perth quite correctly raised their concern in a considered way, and they made a very valuable contribution to the debate. However, if the Deputy Leader of the Opposition wants to be taken seriously, he must stop seeing other people's problems and discomfort as an opportunity for him to score political points, without any understanding of the issue and without any attempt to speak honestly about what is happening.

I think I have made it clear that in this particular debate, the Deputy Leader of the Opposition has no credibility at all. His credibility is totally shot by the motion he moved and the way he spoke to it, which indicate that he will use troubled builders who are hurting for political advantage but he does not give a fig about them. He is not interested in helping them; he cannot speak the truth.

Let us now get to the substantive issue that we really need to debate; that is, housing indemnity insurance was put in place by the last Government, and I congratulate it for that as it was a very good move -

Ms MacTiernan: It was done by us actually.

Mr KOBELKE: The Labor Government started it, but the Court Government put it into action and it deserves full credit for that. However, it was fully supported by the peak bodies in the building industry. They asked for indemnity insurance when we were in government, they asked for it when the Court Government took over and they fully supported it throughout the process. When I became the minister earlier this year, I got very positive feedback from builders and a peak body saying how important the housing indemnity insurance had been, not only because of the consumer protection it provided but also because it had provided very good discipline on the builders themselves. It had ensured that good builders, who always met a range of appropriate standards, were not losing business to weaker companies that had much lower standards, because it helped to set minimum standards in some areas. Therefore, the peak bodies were very supportive of the indemnity insurance. However, that all changed when HIH Insurance collapsed in March, at which time Western Australia had only two insurers. After it had gone under, only one insurer was left, which left a monopoly. More problems were created because of the way HIH had operated. The information provided by the news and the *Four Corners* program about what had happened to HIH over the past few years gives us an understanding about the way that HIH operated its housing indemnity insurance.

I stand to be corrected on the detail because I am not trying to go into the fine detail. However, there was no prudential control over the way in which HIH operated. It gave builders a book of insurance forms that the builders filled out and handed to their local government to show that they had housing indemnity insurance. At the end of each month, the builders sent a notice to HIH to inform it that they had taken out a licence for \$2 million and they would pay the percentage on the premium. It was a simple system for the builder, which is great, because simple systems are good; however, there was no prudential control.

Mr Pental: Does the minister acknowledge that if that was extreme slackness, it might have now gone to the other extreme?

Mr KOBELKE: I want to say a few things about this issue first, and then the member can comment. It was a simple system for builders, and that was good; however, there were no prudential controls, which meant that the other insurer, who may have checked on the builders and examined their financial situation in the proper way, was at a disadvantage.

The other matter members must keep in mind, as we now know, is that HIH had a major cash flow problem; it was buying its business. I accept that the rates it charged were not sustainable; they were below the proper market rates, which brought down its competitor's rates because it had to stay in business. That factor suppressed the rates of housing indemnity insurance.

After the collapse of HIH, the Government moved quickly to encourage other insurers to enter the market, and we were successful in doing that. As soon as the other insurers came forward, the Government rushed through

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the checks that had to be made. I was able to sign off on getting the Dexta Corporation, operating through the brokers, Jardine Lloyd Thompson and Reward Insurance, operating through the brokers Savill Hicks Corporation, to enter the market. We now have three insurers in the market. However, they have had to raise their rates, quite rightly, because the old rates were not sustainable. In addition, they have been more conservative because of the collapse of not only HIH, but also other insurance companies. The new companies have increased their premiums to reflect a more conservative coverage of the risks that they face. In some cases they may have gone beyond that and have been profiteering. One or two members have suggested that that is the case.

Mr Pental: That is not the complaint coming to me. You keep defending the insurers as though the status quo were good.

Mr KOBELKE: I am not doing that. I am trying to explain the facts. Accusations of overpricing have been made that may be justified; however, there is also a justification for the increase in prices to some extent. I am not in a position to judge whether those prices have increased to the level of exploitation, or whether they are meeting the other two factors to which I just referred.

There is more to it than that because the insurers also wish to make sure that they are not covering bad risks; therefore, they have restricted the amount they will insure for. If a new company wants insurance, the insurance companies want to run prudential checks and examine the books of the company before they offer to provide insurance. If that means a delay of a month - although the insurance companies claim it takes only two weeks, I know that in many cases it takes longer than that - that is a month that a builder cannot continue his work. Time is money to the builder, and that delay puts the builder at risk; it is a problem. Although that was a major problem in the system, the delays have been worked through.

The problem that still exists is that the insurance companies will generally insure only up to five times the asset value of the company. Bigger companies or small companies that have a large asset base do not have a problem. Some companies have always run on thin margins and have not ploughed assets back into their company. Other companies have grown at a huge rate and have used a huge part of their profits to expand so that they have no assets. Those companies are currently having problems with insurers. Some operators, who, for their own purposes, have put all the company's assets outside of the company into their wife's name or somewhere else, are having trouble getting full insurance. Many good builders who have been in the game for a long time are having great difficulty getting the level of insurance they need for a range of reasons. That is a huge problem.

A builder may do \$8 million worth of business a year and the company may have an office, factory units and other overheads. If the insurer gives the company insurance to do only a half or a quarter of that work, what is the company supposed to do to meet its overheads? They are put in a situation in which they cannot continue to operate at that level. That could make some of those companies become uneconomic, or they would have to lay off staff. That restriction by the insurers has created problems.

Mr Pental: I can tell you that the insurance companies are selling you a pup. The two people who have been in touch with me are not on the category described by the minister. They are long-term small players in the building game. They do not operate on overdrafts, yet their businesses have been restricted and they are told either to take it or leave it.

Mr KOBELKE: That is why some months ago I set up a forum.

Mr Pental: The forum has not solved the problems for my two constituents.

Mr KOBELKE: It might pay for the member to listen. The forum brought builders, insurers and consumers together and those issues were discussed. Builders came to me and said that they could not get insurance in a particular area. In some of those cases, the insurers examined the matter and later gave those builders insurance. Some individuals have also come to me and I have negotiated with the insurers. However, I am not saying that we have got rid of all of the problems. I have already outlined the nature of some of those problems. However, a range of builders do not operate their books in a way that would enable the insurer to give them the form of insurance that the builders require. There are reasons for that.

The Government has set up a series of seminars to help builders understand how their books must be presented in order to speed up the insurance process and to maximise the insurance they can get. Four seminars have been set up and many builders have signed up to attend them. We are trying to address that issue. The Government wants to ensure good communication so that we discuss a specific problem that a builder may have and try to get the insurers to address it. Some of the intrinsic problems have not been solved. However, we have addressed some of the extreme problems. I have been told of cases in which a builder who has been in the industry for 30 years and who has a fantastic financial situation could not get adequate cover. Those problems have been fixed.



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Mr Pandal: No, they have not.

Mr KOBELKE: I will be happy to talk to those builders for the member and to sit down with the insurers and negotiate the issues. I attended only one of the forum meetings and I know that some of these issues can be resolved. There is a degree of misinformation, not only from the Deputy Leader of the Opposition. One building company said that it went bankrupt because it could not get housing indemnity insurance because of the collapse of HIH. That seemed to be a serious issue. We checked on that company and found out that it had operated for some years but had never insured with HIH. The building company had always insured with the other company, yet when it collapsed it blamed the collapse on not being able to get indemnity insurance from HIH.

The issue has been misrepresented from areas other than from the Deputy Leader of the Opposition. We must take out of this issue the hyperbole and misrepresentation and deal with only the real and substantial problem. That is what the forum will do. Members of the forum, in consultation with me, did not think that it was appropriate to lay down guidelines for the medium to long term without giving appropriate time to work through the issues. Back in June or July I was told that it would present a report to me at the end of August.

The Deputy Leader of the Opposition claims to have the report. I have not seen the report. It is an open group; it can be attended by any of the builders through their peak bodies. All the insurers are there; consumers are there. It is an open group that consults with the department to provide me with advice. If draft copies have gone around the table, and they have been used as a basis to go back and talk to people, I am most happy with that. It is effrontery for the Deputy Leader of the Opposition to claim that it is a report, that I will have it on my desk next week, and that I had better respond in a week or I am not doing my job. That shows a total disregard for the problem by the Deputy Leader of the Opposition or a lack of willingness to do anything about resolving it. The Government will take up the matter and work on the advice of the builders, the building industry and the insurers so the matter is taken forward.

The level of the problem has been reduced. It is still there, but it has been reduced. The problem is being fronted by Liberal members of Parliament in the same way as they fronted problems in the south west. A large part of the problem is the lack of understanding by the builders of how they have to work under the new regime. There are major problems in the Busselton and Joondalup council areas, as there are in other areas where a lot of building is occurring. We telephoned the Busselton council offices today, as we know it is a hot spot. We were told that two or three weeks ago it was still a major problem but, as of this week, they are finding that most people who come in with licences are able to get indemnity insurance and there is no longer any significant hold up. However, there might be a hold up next week. At the moment, the problem has dissipated in the Shire of Busselton. The problem has not gone away, but let us not overstate it. We need to know how we can deal with it. The Government put in place a rescue package and it has been acknowledged by the building industry. A range of complimentary statements have been made as to the beneficial effects on the industry and how it is enabling builders to get on with the job. It was only targeted at those people who were insured with HIH Insurance prior to 15 March and who have continuing problems. There is only a small number of builders who submitted their plans before 15 March and whose licences were not granted by that date. They now have their licences and they are conditional on the relevant council agreeing. I cannot quantify the number as the figure has not come through.

The situation affecting workers compensation has been addressed; it affects all employers, not only builders. The Government has reopened the review of the Home Building Contracts Act, which contains the home indemnity insurance provisions. The review has been reopened so the Government can take another look at the issue in the light of the HIH Insurance collapse.

The Deputy Leader of the Opposition said a number of nonsensical things about no action having been taken and about builders not being given any support. In addition to his huff and puff, he demanded that the Government underwrite the risk of insurance for builders who cannot get coverage. I do not know if all members of the Opposition believe it is something the Government should be doing.

Mr Bradshaw: Yes.

Mr KOBELKE: The Opposition thinks the Government should simply underwrite them? It would require a blank cheque. We do not have the power to set up our own insurer.

Mr Bradshaw: I am talking about respected builders who have a creditable reputation. Some have been in business for 30 years.

Mr KOBELKE: Let us assume that the member for Murray-Wellington has a friend called Fred. Fred is a good builder who has been in the game for many years and is a sound person with reasonably good financial management. We tell Fred that he cannot get indemnity insurance or he can only get half of what he needs; that

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he must get on with his work so the Government can indemnify him. Let us assume my friend Bill is getting most of the insurance he wants and he is building in the same market as Fred. The member is saying that the Government should step in and give a clear financial advantage to his friend.

Mr Barron-Sullivan: That is not what we are saying at all.

Mr KOBELKE: It is. The housing construction industry in Western Australia is of world standard. It is of good quality and highly competitive. If I put in place a scheme that affects builders who work in the same range - \$100 000 for example - and I give an indemnity to one so he does not have to pay for insurance but not to the other, then I am giving advantage to one player over the other in a highly competitive market.

Mr Masters: Which member of the Opposition suggested or implied that?

Mr KOBELKE: I will paraphrase what the Deputy Leader of the Opposition said. He demanded that the Government underwrite the risk of housing indemnity insurance for builders who cannot get coverage.

Mr Barron-Sullivan: There are a number of ways of solving the problem.

Mr KOBELKE: That is the request - that is the demand being made of the Government. It seems like a nice, simple quick fix. When one thinks it through, one can see real problems. Another proposition was to get rid of indemnity insurance. I am not willing to do that.

Mr Masters: The Opposition's request is to get the report and take some action.

Mr KOBELKE: That is something else. Do not shift the heat from the Deputy Leader of the Opposition because he got it wrong. He demanded that the Government step in and underwrite the industry. If that is done, it will help one builder in an unfair and biased way against another builder who, because he is performing at a financial level that is acceptable to the insurance company, is able to get insurance if he pays for it.

I am trying to take points from the other side as they can be constructive, but I am running out of time. While there have been some sound comments from members opposite, they have not thought through the issues. They do not understand what they are talking about. The request by the Master Builders Association several months ago to have a moratorium is not workable. There are legal problems. There could be a partial moratorium but I cannot go into all the technical details. When the moratorium is lifted, builders have to take out insurance before they can sell their properties. That would put builders at more of a disadvantage. They would have spent hundreds of thousands of dollars or even a million dollars on properties that could not be transferred until they got indemnity insurance. The insurers would have the builders over a barrel. They would have nowhere to go. They would have buildings that they could not sell until they got insurance. They would be in a worse situation. There is not a simple fix. We are working through it and making progress and we will make more progress. We do it on the basis of understanding the facts and being willing to front people. I fronted some very angry builders a few months ago. I have done it on more than one occasion. The Government sits down with people and listens to them earnestly. Where consultation and communication between the different players can be achieved, the Government does it. In some cases problems are resolved, but not in all cases. The Government is carrying the matter forward. It will be resolved as a result of the working group, but it will not happen overnight. It is falling away and we are getting on top of it, bit by bit. There is still more work to be done. The Government welcomes the contribution of members opposite who take the matter seriously, do their homework and report honestly on behalf of their constituents. If the Opposition wants to play politics with this and make outlandish and false statements, it can play its dirty little games, but it should realise that it will have no credibility with a lot of builders who are doing it tough due to the collapse of HIH Insurance. That collapse has to be sheeted home to the Howard Government that took money for its political campaigns from HIH Insurance and did not monitor the company properly. It will cost this nation something in the order of \$5 billion. The Government rejects the motion.

**MR HYDE** (Perth) [3.40 pm]: I also oppose this motion. I commend the ministers in this Government for the immediate action, and more importantly, the long-term action they are taking on this issue. Part of the motion demands that the State Government take responsibility for the development of a long-term solution. That is an excellent idea, and is advice that should have been taken about six years ago. If the Government then in power had listened to this advice, and had set up proper procedures, this situation would never have arisen. Unless the long-term ramifications to the construction industry are addressed, it will not be HIH next time; it will be something else.

This is an insolvency issue. The previous Government set up a security of payments task force, but it was one of these Clayton's task forces, and was set up to fail, despite the efforts of the chairman, a Liberal who really wanted to get the measure through. He was being nobbled by Cabinet and other people who were listening to some very big interests - and perhaps HIH was one of those interests - that did not want security of payments

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legislation. This Government has turned the issue over, and has decided to introduce security of payments legislation, because the construction industry needs it, from the smallest operator to the largest in the industry. If payment for a job is guaranteed within 28 days, it is possible to plan ahead, and insurance and other bills can be paid on time. Once the industry is operating in such a way, insurance premiums will come down and other economies of scale that have occurred in the construction industry elsewhere in the world will be achieved. In the United Kingdom, a 30 per cent increase in efficiency has been achieved due to measures such as this. I have talked to builders from all over the State, particularly small operators in the Kimberley. They have told me that HIH was not the big impact. Other insolvency issues have had a greater impact. Every time someone goes bust, be it Alan Bond or any smaller operator, that has an impact on everybody in the chain of a construction project, from the form work to the doorknobs, the roof and the painting. If someone in that chain is not being paid promptly, the whole chain collapses. It is like a pyramid selling scheme. The system must be moved away from this pyramid scheme and into one in which there is trust, and people know that if they do an honest day's work, or tender for and agree on a price for a job, they will receive that price. Then the money will be there for insurance, the insurance industry can do the right thing, and if it does not deliver a service, then government can step in. Insolvency issues have impacted elsewhere. Members will know the stories of people with America's Cup connections, who will be tendering out, and agreeing on a deal for a housing development. The bill would be due in a month, and is not paid after eight months, and then a deal is done, offering payment of 60 per cent of the total. The alternative is to take the developer to the Supreme Court, which will take two years and cost \$200 000, and will not recover the money after all that because the developer is a shelf company.

Mr Masters: Is this relevant to the HIH collapse?

Mr HYDE: This is relevant to the motion before the House. This motion condemns three able ministers, and calls on the State Government to take responsibility for long-term solutions. The Government is not only taking that responsibility, but is also putting in place measures that will provide the solution. Instead of looking at HIH as being the cause, the HIH collapse should be seen as a result of the situation in the construction industry. If the atmosphere in the industry is changed, this can be stopped from happening in the future. It is no good for the Government to go back and cry poor, or cry wolf, that \$5 billion - some of which is in Liberal Party coffers - cannot be returned. Instead, unlike the former Government, which had the ennui of escargot on this issue and did nothing, this Government is acting, ministers are acting, and results will be achieved.

*Point of Order*

Mr BARNETT: The member for Perth implied that lost funds from HIH were in Liberal Party coffers. That is an accusation of corruption, and I would ask the member to have the good sense to apologise and withdraw the remark.

Mr KOBELKE: That is a frivolous point of order, and wastes the time of the Chamber. It is not contrary to standing orders to make accusations about political parties.

The ACTING SPEAKER (Mr Dean): I am of the opinion that it is a trivial matter, and no point of order exists.

*Debate Resumed*

Question put, and a division taken, with the following result -

**Extract from *Hansard***  
[ASSEMBLY - Thursday, 30 August 2001]  
p3482d-3492a

Deputy Speaker; Mr Dan Barron-Sullivan; Mr Rod Sweetman; Mr Bernie Masters; Mr Pendal; Mr John  
Kobelke; Mr John Hyde; Mr Colin Barnett; Acting Speaker

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Ayes (17)

Mr Ainsworth	Mrs Edwardes	Mr Pendal	Dr Woollard
Mr Barnett	Mr Edwards	Mr Sullivan	Mr Bradshaw ( <i>Teller</i> )
Mr Birney	Mr Johnson	Mr Sweetman	
Mr Board	Mr Marshall	Mr Waldron	
Mr Day	Mr Masters	Ms Sue Walker	

Noes (29)

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

Question thus negatived.