

BILL ANALYSIS

Senate Research Center

H.B. 3158
By: Hilbert (Madla)
Economic Development
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Engrossed

DIGEST

The law requires that a performance bond and a payment bond be obtained from a prime contractor prior to the start of a public works construction bond. These bonds are the statutory protection provided to the owner, subcontractors, and suppliers. Currently, the only requirement of a surety issuing such bonds is that the surety be authorized to do business in Texas. This can cause problems if the surety does not have the financial resources to complete a project or pay for the labor and materials when the general contractor fails to do so. This bill will provide regulations for certain bonds executed by sureties.

PURPOSE

As proposed, H.B. 3158 provides regulations for certain bonds executed by sureties.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 7.19-1, Insurance Code, by amending Subsection (a) and by adding Subsections (c) and (d), to authorize a bond that is made, given, tendered, or filed under Chapter 53, Property Code, or Chapter 2253, Government Code, to be executed only by a surety company that is authorized and admitted to write surety bonds in this state. Requires the surety, if the amount of the bond exceeds \$100,00, to meet certain requirements. Authorizes a party, in determining whether the surety on the bond or the reinsurer holds a certificate of authority from the U.S. secretary of the treasury, to conclusively rely on the list of companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies published in the Federal Register by the U.S. Department of the Treasury covering the date on which the bond was executed. Authorizes certain persons to conclusively rely on and be protected by a statement on a recorded bond or a sworn statement by the surety that is recorded and refers to the specific recorded bond and that states that, at the time the bond was executed, the surety met certain requirements. Makes a conforming change.

SECTION 2. Amends Sections 53.172 and 53.202, Property Code, to make conforming changes.

SECTION 3. Amends Chapter 2253B, Government Code, by adding Section 2253.022, as follows:

Sec. 2253.022. PERFORMANCE AND PAYMENT BONDS; INSURED LOSS. Sets forth regulations regarding the use of performance and payment bonds to insure against a loss.

SECTION 4. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 5. Emergency clause.