



**Maryland Joint  
Legislative Committee**

*The Voice of Merit Construction*

March 4, 2020

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**TO: FINANCE COMMITTEE**  
**FROM: ASSOCIATED BUILDERS AND CONTRACTORS**  
**RE: S.B. 801- CIVIL ACTION- SURETY INSURANCE-  
FAILURE TO ACT IN GOOD FAITH**  
**POSITION: SUPPORT**

Associated Builders and Contractors (ABC) supports S.B. 801 which is before you today for consideration. The bill adds obligee claims under surety insurance policies to statutory provisions under Section 3-1701 of the Courts and Judicial Proceedings Article authorizing the recovery of actual damages, expenses, litigation costs, and interest in first-party claims against insurers if the insurer failed to act in good faith.

The bill also expands the application of provisions regarding unfair claim settlement practices to surety insurance and obligee claims. The bill is prospective in nature with an October 1, 2020 effective date.

Surety insurers are subject to the statutory requirements and restrictions set forth in the Insurance Article of the Maryland Annotated Code. However, these insurers are excluded from the Unfair Claim Settlement Practices Act and the Insurance Bad Faith Act in the Insurance Code. The bill proposes to amend these provisions to give recourse to general contractors and owners in instances where a surety insurer fails to properly undertake its obligations under a performance bond.

The bill proposes to provide remedies to an owner or general contractor where the surety insurer fails to promptly perform its obligations under a performance bond, refuses to perform for an arbitrary or capricious reasons, fails to act in good faith, or forces the contractor to institute litigation to compel the surety to perform or recover amounts due for

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performance.

There is a compelling public policy underlying the need to apply these provisions to construction industry surety. The purpose of these performance bonds is to guarantee that construction will be completed. On a public contract, it is essential that construction be timely completed in the most efficient manner, as delays and increases in costs directly affect the taxpayers of the state of Maryland.

At last count, there are 11 other states that impose statutory liability. On behalf of the over 1,500 business members in Maryland, we respectfully request a favorable report on S.B. 801.

Robert Zinsmeister, Director  
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