



Licensing Reform Task Force

Construction Subcommittee

COMMERCIAL/GENERAL LIABILITY REQUIREMENT*

The Construction Subcommittee has asked DLI to investigate requiring contractors to check or attest to maintaining appropriate commercial liability insurance. This requirement would need to be added statutorily in [37-45-201, MCA](#). There is no single database of commercial liability policies which DLI can quickly verify individual or corporate policies. As a result, verification of compliance is manual and would be done on a case-by-case basis through DLI staff.

A state policy requiring minimum commercial general liability insurance for construction contractors could improve public protection and market stability, but it raises issues around cost burdens, data privacy, enforcement, and equity that need to be managed carefully.

Policy context and typical structures

Many states tie contractor licensing to proof of general liability insurance, often with minimum limits in the range of \$50,000–\$300,000 for basic licensing and much higher limits (\$1M per occurrence / \$2M aggregate) for commercial work. These requirements are usually embedded in licensing statutes, bid specifications, or standard public-works contracts, alongside workers' compensation, auto liability, and sometimes professional liability for design-build work. Commercial projects commonly treat \$1M/\$2M as a baseline, with larger public or institutional projects requiring umbrella limits of \$5M or more.

In Montana, under [28-2-2201, MCA](#), there already exists a requirement for residential construction contracts. Those contracts must contain a disclosure that the contractor has a general liability policy and workers' compensation insurance or is an independent contractor. This contractual requirement does not prohibit the Subcommittee or Taskforce from moving forward, should it choose, with a requirement to maintain a commercial or general liability policy as a requirement for licensure and renewal of a construction contractor license. Importantly, this section of code only applies to residential construction of a new home.

Benefits of mandatory minimum insurance

Public protection from contractor-caused harm

Mandatory liability coverage helps ensure that third parties injured by contractor operations—through bodily injury, property damage, or personal injury have a realistic path to compensation, rather than relying on the contractor's assets alone. This can reduce uncompensated losses for homeowners, businesses, and the public, and can lower downstream burdens on courts and social safety nets.

Market professionalism and risk management

Requiring insurance tends to filter out undercapitalized or high-risk operators who cannot qualify for

coverage or who are unwilling to invest in safety, documentation, and compliance practices that carriers demand.

Licensing and consumer confidence

When proof of insurance is a licensing condition and publicly verifiable, consumers gain a straightforward signal of minimum financial responsibility. Online tools, like our licensee lookup, can allow homeowners to check contractor license status, bond, and workers' compensation filings, which increases transparency and trust.

Alignment with contract and financing norms

Minimum insurance rules harmonize state licensing with what lenders, large owners, and public agencies already require in contracts, reducing confusion and disputes over coverage expectations.

Drawbacks and trade-offs

Cost burden on small and emerging contractors

Even modest liability limits can be expensive for small firms or sole proprietors, especially in higher-risk trades, which may discourage entry or push them into unlicensed or informal work. If minimum limits are set closer to commercial norms (\$1M/\$2M), some small residential contractors may struggle to afford coverage, raising equity concerns and potentially shrinking the pool of legal contractors in rural or low-margin markets.

One-size-fits-all limits vs. risk-based tailoring

Static statutory minimums can be misaligned with actual risk: too low for complex commercial or public projects, and arguably more than necessary for low-risk residential service work. Overly high uniform limits may force small, lower-risk contractors to pay for coverage they seldom need, while underestimating risk for specialized high-hazard work unless contracts or regulators add bespoke requirements.

Administrative and compliance complexity

State agencies must define acceptable forms of proof, manage renewals, enforce noncompliance, and coordinate with insurers—adding administrative workload. Poorly designed processes (e.g., relying only on certificates without verification) can lead to gaps, like cancelled or non-renewed policies that the state or consumers don't discover until after a loss.

Potential coverage gaps and false sense of security

General liability policies can have exclusions and gaps—for example, limited coverage for professional errors, subcontractor work, or certain property damage scenarios—that laypersons may not understand. If the state's message is simply "contractors are insured," consumers may assume broader protection than actually exists, unless education and disclosure requirements accompany the mandate.

Privacy and data-protection implications

Increased collection and sharing of contractor and client data

Insurance requirements drive more systematic collection of personal and business information about contractors and, indirectly, their employees and clients (names, addresses, licensing details, financial data, claims histories). When states centralize verification tools or databases and when owners routinely obtain additional insured endorsements and verify coverage with carriers, more entities hold and exchange sensitive data.

Managing privacy concerns in policy design

Limit and purpose-bind data collected for compliance

State policy can specify that data collected to verify insurance (e.g., policy numbers, limits, insurer names) be used only for licensing and enforcement, not for unrelated surveillance or commercial purposes. Keeping personally identifiable information out of public-facing tools, while still allowing consumers to see key compliance indicators (e.g., “insurance on file and current”), helps balance transparency and privacy.

Related topics: enforcement, equity, and market effects

Enforcement and monitoring

Effective policy needs mechanisms to detect lapsed coverage—periodic attestations, random audits, integration with insurer reporting, or automated alerts—without excessive intrusion.

Consumer and worker education

Policy effectiveness increases when workers and consumers understand what liability insurance covers and what it does not. States can provide simple guidance explaining the role of general liability versus workers’ compensation, auto, and professional liability, helping both contractors and clients make informed decisions and avoid misunderstandings.

Verifying Insurance

The most effective approach is a layered system: tie insurance verification to licensing and renewal, require standardized proof (COIs). An additional layer, although staff heavy, is to require COIs to be backed by direct carrier confirmation. Further still could be the development of a verification database for companies and the state; although, any database development will require significant investment by the State.

Satisfaction of this direct verification could be done through a randomized audit, which would be more cost effective than requiring direct verification of every COI that DLI receives. This audit would likely require additional staff time; although, the expense would be insignificant compared to other options.

Core verification

Licensing-based proof of insurance

Require proof of insurance as a condition of issuing and renewing a contractor license, so no one can legally operate without meeting minimum limits. Licensing systems can store policy numbers, carriers, effective and expiration dates, and minimum limits, and block renewal if proof is missing or out of date.

Digital and platform-based tools

Online verification portals for consumers and agencies

Similar to existing license look-up tools, states can offer portals where users can confirm that a contractor has current insurance on file, without exposing full policy details. This improves transparency and helps project owners and local governments independently check compliance before issuing permits or awarding contracts.

Process controls and monitoring over time

Structured review checkpoints

Verification should happen at predictable points: initial license issuance and renewal. At each stage, staff or automated tools verify that policies are active for the full expected work period and meet the mandated minimum limits.

Continuous monitoring for cancellations and lapses

Regulations can require that insurers or licensees notify the state (or its platform) of cancellations or non-renewals when policies are filed as proof of compliance. Coupled with system alerts, this allows regulators to suspend licenses or issue stop-work orders quickly when coverage lapses.

Audit and enforcement programs

Periodic audits of a sample of contractors—comparing COIs to actual policies and confirming with carriers—help validate the integrity of the system. Clear enforcement tools (administrative fines, license suspension, public notices) provide incentives for contractors to maintain continuous compliance. These enforcement tools already exist in general licensing statutes for all occupations and professions.

Verifications/Public Visibility

It's important to limit public visibility of detailed insurance policy information because it often contains sensitive business and personal data, and broad disclosure can create security, competitive, and misuse risks that go beyond what the public needs to assess basic compliance.

Why limit public visibility?

Protection of sensitive business information

Insurance documents can reveal limits, specific endorsements, exclusions, and carrier relationships that give insight into a contractor's risk profile and financial posture. Public, open-ended access to full policies could allow competitors or adversaries to infer vulnerabilities, target litigation strategies, or exploit gaps in coverage.

Privacy of individuals associated with the business

Policies and supporting documentation often list names, addresses, and other identifying information for owners, officers, and sometimes employees. Publishing these details in a licensing database or public portal increases the risk of unwanted contact, identity misuse, or harassment, especially for small businesses where home and business addresses may be the same.

Avoiding misinterpretation and overreliance

Insurance policies and even certificates are complex documents, with limitations and exclusions that non-experts can easily misunderstand. If the public sees detailed policy terms in a state system, they may assume the state has vetted every endorsement or that "insurance on file" equals full protection, which is rarely accurate.

What information the public should see

Compliance status and basics

Most regulatory models strike a balance by letting the public confirm that a contractor is registered/licensed and has required insurance on file at or above the statutory minimum, without exposing full policy documents. For example, a lookup tool might display: license status, registration number, general liability "current" with minimum limit met, and workers' compensation status.

Overall, the public should have enough information to confirm that a contractor is properly insured and legally eligible to work, but detailed policy content is better handled in controlled, project-specific or legal contexts rather than posted broadly.

Bonding or Insurance?

Requiring commercial general liability insurance is more effective for protecting the public against **accidental** bodily injury and property damage, while requiring bonding is more effective for guaranteeing **contract**

performance and compliance—they solve different problems, and in construction the best practice is usually to require both, but insurance is the universal baseline.

What each requirement does

Commercial general liability insurance

General liability insurance for contractors pays for third-party bodily injury, property damage, and related claims arising from accidents or negligent operations—falls, fires, water damage, defective installations, etc. It protects the contractor’s business from the financial impact of claims and indirectly protects customers and the public by ensuring there is a funded mechanism to pay for covered losses.

Surety bonding (performance/payment/license bonds)

A construction bond provides a third-party guarantee (from a surety) that the contractor will perform and complete the project according to the contract and comply with applicable laws. If the contractor defaults—fails to finish, goes bankrupt, or seriously violates terms, the surety steps in to fund completion or compensate the owner, and then seeks reimbursement from the contractor.

Broadly, insurance restores the contractor after a covered loss; bonds restore the owner/public if the contractor fails to perform or comply.

Where insurance may be more effective

Everyday accident and negligence risk

Most losses in residential and many commercial projects involve property damage, injuries, or other tort-type claims rather than outright non-completion (e.g., a worker injures a passerby, a pipe burst damages a home). Liability insurance directly addresses these risks and pays damages without requiring the contractor to reimburse the insurer, making it a practical tool for routine protection of the public.

Breadth of coverage and frequency of use

General liability responds to a wide range of unplanned events and is designed with the expectation that claims will occur; surety bonds are underwritten with the expectation that claims will be rare. As a result, insurance is a much more frequently used risk-transfer mechanism and requiring it for all contractors creates a broad safety net for common, high-frequency losses.

Affordability and universality as a licensing baseline

General liability policies exist at many limit levels and price points, making them relatively accessible to small contractors compared with large performance bonds. Because insurance protects both the public and the contractor’s ongoing viability, it is typically seen as the more appropriate licensing requirement.

Where bonding may be more effective

Protecting against non-performance and financial failure

Performance and payment bonds specifically protect owners and suppliers if the contractor fails to complete the job, fails to pay subs or suppliers, or ignores critical contractual obligations. In those situations, liability insurance usually doesn’t respond, because non-performance itself is not “bodily injury or property damage,” while the bond is designed precisely for that risk.

Public works and large commercial projects

Governments and large owners routinely require contract bonds on significant public or commercial projects because they need assurance that the work will be finished on time and within spec even if the contractor encounters financial trouble. Bond underwriting also screens contractors for financial strength and capacity, which can improve quality and reduces default risk on large projects.

Compliance with laws and regulations

License and permit bonds are often mandated to ensure contractors comply with licensing laws, codes, and

consumer-protection rules, offering specific remedies if they don't. For regulators, bonding can thus be a targeted tool to enforce compliance and protect consumers from fraud or misconduct, beyond accidental harm.[\[nfp\]](#)

Policy effectiveness: which should a state require?

From a regulatory perspective:

- If the policy goal is to ensure **compensation for accidents and negligence** (injuries, property damage), requiring commercial general liability insurance is more effective and better aligned with the risk.
- If the goal is to ensure **project completion and code-compliant performance**, requiring bonding (especially performance and payment bonds for certain projects) is more effective.

That's why many public-sector frameworks treat insurance as the **baseline** requirement for all licensed contractors, and then can layer bonding on top for:

- public works above specified dollar thresholds,
- large commercial jobs, and
- specific high-risk trades or situations where non-performance would have major consequences.

For state-level licensing, a practical structure requires general liability insurance for all licensed construction contractors.

Errors & Omissions Policies

Most states that require contractors to carry minimum commercial general liability **do not** also universally require errors and omissions (E&O) / professional liability for construction contractors; E&O mandates are usually limited to specific licensed professions or to certain public or high-risk projects.

General liability vs. E&O in state law

General liability is the common statutory requirement

State contractor licensing boards typically require proof of general liability and often surety bonds as the core "financial responsibility" requirements for construction trades. These protect against bodily injury, property damage, and some personal injury arising from ongoing operations or completed work.

E&O is usually not a blanket requirement for contractors

For construction contractors, E&O (or contractor's professional liability) is more often a contractual requirement (imposed by owners or GCs) than a universal legal mandate. State licensing rules for general construction trades usually stop at general liability and bonds, leaving E&O to market and project-specific demands.

Where E&O is required by states

Profession-specific licensing requirements

States do commonly require professional liability/E&O for certain licensed professions: architects, engineers, home inspectors, real estate agents, lawyers, and similar advisory or design roles. These requirements reflect the nature of the risk, primarily financial loss from professional negligence rather than physical injury, so the legal mandate targets those professions rather than all contractors.

Construction roles with a design or advisory component

Contractors who provide significant design or consulting services (design-build contractors, specialty firms with engineering services) may be subject to E&O requirements by their licensing board or by project owners, especially on public or high-value projects. Some states and agencies incorporate E&O expectations into

licensing or qualification criteria for such hybrid roles, even though “plain” contractors remain subject only to general liability rules.

E&O through contracts and government projects

Contractual E&O requirements

Even when not mandated by statute, many owners and general contractors require E&O coverage in contracts for higher-risk or complex projects.

Government and federal projects

Federal Acquisition Regulations require contractors on federal projects to carry insurance for “the perils to which the contractor is exposed,” which can include E&O when professional services or design work are part of the scope. Some states mirror this approach for certain public contracts, using procurement rules rather than broad licensing statutes to push E&O coverage in specific contexts.

Practical takeaway for policy design

If a state already mandates minimum commercial general liability for construction contractors, adding a universal E&O requirement would be a significant expansion and is not the prevailing norm in other jurisdictions.

Potential Draft:

The draft below allows DLI, who manages the licensing program, the ability to set appropriate limits rather than a set amount in statute. By allowing the amounts to be set in rule there is added flexibility to utilize a tiered system. Requiring a one size fits all approach negates the effectiveness of the requirement in addition it can penalize small businesses by imposing unattainable limits. The draft below allows for administrative flexibility, stakeholder input, as well as legislative oversight through the Economic Affairs Interim Committee.

Construction Contractor License Required – Application

37-45-201. (Effective January 1, 2026) Construction contractor license required – application. (1) An individual or business entity may not engage in business as a construction contractor without a current license from the department. The license must include the following information:

(a) the applicant's social security number;

(b) proof of compliance with workers' compensation laws;

(c) proof of general commercial liability insurance minimums as set by the department by rule;

~~(d)~~ (d) the internal revenue service employer identification number, if any; and

~~(e)~~ (e) the name and address of:

(i) each partner if the applicant is a firm or partnership;

(ii) the owner if the applicant is an individual partnership;

(iii) the corporate officers and registered agent if the applicant is a corporation; or

(iv) the manager of a manager-managed limited liability company or the members of a member-managed limited liability company and the registered agent if the applicant is a limited liability company.

(2) Section [37-1-137](#) applies to all persons listed in subsection (1)~~(d)~~(e) of this section.